

complaint

Mr H has complained that Calpe Insurance Company Limited unfairly refused to pay a claim on his motor insurance policy after his lease car was stolen.

In bringing this complaint Mr H has been helped by a representative. But for ease of reading I'll refer to the representative's comments as being those of Mr H.

Reference to Calpe includes its agents.

background

Mr H ordered a car from a lease company. Around a week before he was due to receive it he insured it with Calpe. He gave the car's registration number beginning with "W". Shortly after he received information from the lease company indicating that his car's registration was different and would begin with "G". Mr H contacted Calpe and told it about the change in registration. Calpe updated the policy details showing the registration starting with "G". The premium didn't change and all the other details remained the same. But when the car was delivered it had the original registration beginning with "W".

Around seven weeks later, in January 2019, Mr H's car was stolen. He reported it to the police and claimed from Calpe. He told it the car which was stolen was "W". Calpe said that it didn't insure "W"; it insured "G". And as it didn't cover "W" it refused to pay Mr H's claim. It also cancelled his policy, presumably because he didn't have an insurable interest in "G" so the policy was of no use to him.

Mr H didn't think Calpe had refused his claim fairly and brought his complaint to us. I issued a provisional decision on 7 July 2020. For ease I've copied my provisional findings below. I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so it's likely I'll uphold it.

When Mr H was looking to insure his car he provided Calpe with its accurate make, model, and specifications. And Calpe offered Mr H a policy for a premium based on the risk of a car with those specifications. When it did so, it accepted that there was a risk that it might need to settle a claim for the theft of a car with those specifications in line with the policy's terms and conditions.

Mr H then phoned Calpe to say that the car's registration had changed but that all the other details were correct. Calpe updated the policy without any change in premium. So it seems it accepted that the change in registration plate didn't affect the change in risk, because if the risk had changed Calpe would have charged a different premium to reflect that change in risk.

When the car was delivered the registration was the original registration "W" and not "G", which is what Mr H's policy details now showed. So I can understand why Calpe, initially at least, said that it didn't cover the stolen car, "W", because the registration it thought it covered was for "G". But that doesn't mean it was fair for Calpe to turn down Mr H's claim.

It's now apparent that the lease company were mistaken if they told Mr H that the registration had changed from "W" to "G". So when he received the car Mr H should have

told Calpe to change the cover details back to "W". But it's apparent he didn't do that. So, on first consideration it would seem that any mistake was Mr H's not Calpe's. But after the theft it also became clear that the actual car with registration "G" (that was owned by someone else), while being the same make as "W" was a different model and specification. And that means that it would have presented a different risk - and therefore a different premium - to the car Mr H paid to insure.

I accept that a car's registration is, generally, considered to be its individual identifier, but in this case it's apparent the actual car "G", wasn't the same model as the car Mr H had insured. But "W" was. So the car that was stolen was identical in every way - save for the registration plate - to the car Calpe thought it had insured. Also, I note that Calpe identified that someone else had insured the car with registration "G". So there's no suggestion that Mr H had an insurable interest in "G". And while Calpe had accepted a premium to cover "G" it's unlikely it would ever have been asked to pay an actual claim associated with "G" as it was correctly insured on a different policy.

It follows that while I can understand the registration recorded on Mr H's policy documents were incorrect, the remaining details of the risk that Calpe had accepted to cover were the same. In other words, Calpe had accepted to cover the risks for "W" and in the specific circumstances of this case the only difference in terms of potential risk was posed by different characters on a registration plate. And, as can be seen when Mr H asked Calpe to change the registration to "G" initially, that didn't result in a change of risk or change of premium. So changing it back to "W" similarly wouldn't have presented a change of risk. It follows that, as I think that Calpe accepted to cover the risk equivalent to that posed by "W" when Mr H insured his car Calpe should settle the claim for "W's" theft subject to the remaining terms, conditions and excess applicable to the policy.

Also I'm aware that the lease company will have required Mr H to continue to pay his lease payments after the car was stolen. That wouldn't have been the case had Calpe settled the claim promptly. So to put things right, Calpe should refund to Mr H the additional lease payments he made from February 2019 that he wouldn't otherwise have had to pay. Calpe should add simple interest to that refund at a rate of 8% a year from the dates Mr H made those payments to the date it refunds him.

I think it's worth noting that at the point Calpe cancelled Mr H's policy he hadn't paid the full annual premium. And I would generally say that where an insurer settles a claim against a policy then the full premium would be due. But in this case as Calpe cancelled Mr H's policy he had to take out another policy to insure his replacement car. He wouldn't have had to do that if the policy had remained in place as he could have simply added the new car on his Calpe policy (subject to any change in premium the replacement car required). So as Mr H had to buy a second policy and didn't get the benefit of the full term of the Calpe policy I don't think it's fair to make him pay any outstanding premium.

For completeness, I'll add that when Mr H changed the cover details from "W" to "G" Calpe did warn him that incorrect details could lead to a claim being refused. But for the reasons given above, I don't think that would be fair in the specific circumstances of this case.

Similarly, I'm aware that Mr H did have a responsibility to check that the details on his policy documents were accurate. Mr H has said that he didn't ever receive the amended policy documents showing cover amended to "G". But I've seen evidence that those were sent to him, so I can't hold Calpe responsible if he didn't receive them. But whether Mr H received those documents or not doesn't change the fact that Calpe accepted a risk equivalent to that

for “W” and Mr H paid a premium to cover that risk - albeit with an amended registration. So I think Calpe should settle the claim.”

developments

Mr H accepted my provisional decision. Calpe said it would reimburse Mr H for extra lease payments subject to him providing supporting documentation. It added that it would need to investigate the theft claim in the normal way. And that Mr H would need to cooperate with that. It said that as this is a high value claim this might take some weeks.

my findings

I’ve considered again all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint. Having done so my provisional decision remains unchanged.

Calpe said that it would need to investigate the claim “in the normal way”. And given that my provisional decision was that Calpe should settle the claim subject to the remaining terms and conditions of the policy I think that’s reasonable. Similarly, it said Mr H would need to provide supporting documentation to validate the additional lease payments that he’s made. I also think that’s reasonable in the circumstances.

my final decision

For the reasons set out above I uphold this complaint. On receipt of the appropriate supporting documentation I require Calpe Insurance Company Limited to settle Mr H’s claim for his stolen lease car subject to the remaining terms, conditions and excess of his policy. It should also refund to Mr H the additional lease payments he made on the car from February 2019 onwards. It should add simple interest to that refund at a rate of 8% a year from the dates Mr H made those payments to the date it refunds him.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr H to accept or reject my decision before 5 September 2020.

Joe Scott
ombudsman