

The complaint

Mr D has complained about Calpe Insurance Company Limited's service in connection with his motor insurance policy.

Reference to Calpe includes its agents.

Background

Mr D was driving his car when he was in a minor accident with a motorcyclist. Both Mr D and the motorcyclist blamed each other for the incident. Mr D said his car wasn't damaged but Calpe settled the motorcyclist's claim for damage to his bike against Mr D's policy. Mr D didn't think that was fair and brought his complaint to us. One of our investigators looked into it. Our investigator didn't think Calpe had done anything wrong. Mr D didn't agree so his complaint's been passed to me to decide.

My findings

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 I'm not going to uphold it.

I should say at the outset that it's not my role to decide who's at fault for an accident, as ultimately that's a matter for the courts. And, like all motor policies, Mr D's policy allows Calpe to settle claims as it sees fit. That means it doesn't require Mr D's consent to decide how to settle a claim and it may make a decision that Mr D doesn't agree with. But I'll look to see if it's done so reasonably.

Mr D was turning right crossing another lane of traffic when his car and the motorcycle came together. Mr D said he couldn't complete the turn because there were pedestrians crossing the road he was turning into, so he stopped. He said the motorcyclist was filtering between the traffic when he tried to get passed Mr D's car hitting it in the process. In contrast the motorcyclist says that he was moving forward in heavy traffic when Mr D hit him from the side.

As I understand it, in line with the guidance in the Highway Code, insurers generally consider that it's the responsibility of the driver making a right turn across another lane to ensure that their exit is clear before they make their turn. And the Highway Code also gives right of way to vehicles proceeding straight-ahead and continuing in their own lane. And as that's what the motorcyclist was doing the Highway Code would appear to indicate that Mr D would most likely be at fault for the accident. I appreciate Mr D says he was stationary at the time and that the motorcyclist rode into him. But there's no independent witness or CCTV to support Mr D's version of events. And Calpe asked an independent engineer to review the damage and repair costs before it settled the motorcyclist's claim. And the damage to the motorbike, which was mostly to its silencer, would seem to support the motorcyclist's account of what happened.

Also, when considering how to handle claims, insurers like Calpe need to think about what would be likely to happen if the matter went to court. And, it's clear that having investigated the matter Calpe thought it was unlikely it could successfully defend any court action. So it decided to settle the motorcyclist's claim. And given the guidance in the Highway Code and the engineer's evidence would seem to support the motorcyclist's claim I think that was reasonable in the circumstances. So I'm not going to instruct Calpe to take any further action.

My final decision

For the reasons set out above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 22 September 2020.

Joe Scott
Ombudsman