

The complaint

Miss F has complained that Casualty & General Insurance Company (Europe) Limited (CGICE) has declined a claim under her pet insurance policy on the ground that her dog's condition was pre-existing.

What happened

Miss F took out a policy with CGICE for the insurance of her dog which I'll refer to as "S" on 20 January 2021. This followed a period of free cover which was available through her veterinary practice.

The policy contains an exclusion, customary in pet insurance policies, for any claims arising from pre-existing conditions. That means the policy doesn't cover any claims where the condition or signs and symptoms were present prior to the policy start date or within the 14-day period thereafter.

In Miss F's case therefore, her policy would not cover any claims she made for conditions that were diagnosed or symptoms of which arose before 3 February 2021.

Miss F's veterinary practice's records show that she contacted it by email on 18 February 2021 wanting to discuss if S was showing signs of hip dysplasia. An appointment was made for 5 March 2021 when S was examined. The vet suspected hip dysplasia and a referral to a veterinary hospital was made where S was seen on 30 March 2021. X-rays confirmed that S had osteoarthritis.

CGICE maintains that this suggests that the condition first presented clinical signs prior to the inception of the policy or within the 14-day waiting period, ie before 3 February 2021. It says that Miss F's claim was therefore correctly denied.

CGICE has also said that when taking out the policy for S, Miss F didn't disclose any pre-existing condition. Had she done so, it says it would've added an endorsement to her policy excluding cover for any claims relating to the hip and pelvis and any degenerative disease, effective from 20 January 2021. CGICE has now applied this endorsement to the policy. Disappointed with CGICE's rejection of her claim, Miss F brought a complaint to this service.

Our investigator's view was that she wasn't satisfied that there was persuasive evidence to show that S began showing signs of hip dysplasia on or before 3 February 2021. As a result, she didn't agree that CGICE could fairly rely on the pre-existing conditions exclusion to decline the claim. She was also not satisfied that Miss F had answered the question about pre-existing conditions incorrectly when she took out her policy and in doing so had made a misrepresentation to CGICE which had resulted in CGICE adding an endorsement to her policy.

As CGICE doesn't agree with our investigator's view, it requested that the complaint be referred to an ombudsman. It's therefore been referred to me to make a final decision from this service.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'm upholding Miss F's complaint and I'll give my reasons for doing so.

I've read S's medical records from the veterinary practice. These show that Miss F first raised an awareness of S's movement problem in an email to the vet on 18 February 2021. S was then examined by the vet on 5 March 2021. The vet's record from that visit was that Miss F had "noted over the last few weeks that S was reluctant to stand up on his hind limbs and seems quite slow on walks". The reference to "the last few weeks" is vague but could equally include a period before 3 February 2021 as well as a period starting after that date.

A letter from the vet to whom S was referred makes a reference to the condition having been noticed "for the last 2 months or so". This could also potentially include a period before 3 February 2021 as well as a period starting after that date. The referral vet has stated that the reference to 2 months should not be taken literally.

My view is that if CGICE wishes to rely upon an exclusion in the policy it must provide sufficient evidence that such an exclusion can reasonably apply. In this case I don't consider it has done so. Neither vet has provided sufficient information to enable me to find that it is more likely than not that Miss F noticed the problems S was having before 3 February 2021.

I don't accept CGICE's contention that "*on the balance of probability [Miss F] took out the policy ... when there was problem with her pet*". It could equally be said that on the balance of probabilities that when Miss F contacted her vet on 18 February 2021 she'd done so very shortly after noticing S's problem rather than waiting over 2 weeks to report something she'd known about before 3 February 2021, or even a condition she'd known about before 20 January 2021.

I am similarly unable to find any basis upon which I can find any misrepresentation by Miss F when applying for her policy.

My final decision

For the reasons I've given above, I'm upholding Miss F's complaint.

I require Casualty & General Insurance Company (Europe) Limited to settle Miss F's claim for the treatment for S's condition diagnosed on 30 March 2021 subject to any other terms and conditions of her policy and to pay interest on any sums payable to her at the simple rate of 8% from the date such claim was made until the date of payment.

I also require Casualty & General Insurance Company (Europe) Limited to remove from her policy the endorsement added to it following the said diagnosis.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 2 May 2022.

Nigel Bremner
Ombudsman