

The complaint

Mr K's complaint is about the refusal of a claim he made under his pet insurance policy with Red Sands Insurance Company (Europe) Limited.

What happened

I issued a provisional decision in this matter in January 2022, the main parts of which are copied below:

"Mr K's dog became unwell in May 2021 and was treated for pyrexia (high temperature) and diabetic ketoacidosis ("KDA"), which is a serious complication of diabetes. I understand that after a few days in hospital, the dog's condition stabilised and she was able to go home. However, not long afterwards the pyrexia returned and she sadly passed away on 17 June 2021. Mr K made a claim for the costs of over £5,000.

Red Sands said the claim was a continuation of previous treatment for diabetes and was therefore subject to the policy claim limit, which is £2,000 per condition, per policy year. Red Sands paid £1,336.02, which it said was the remainder of the limit available for diabetes claims in the relevant policy year.

Mr K is unhappy with this and says the pyrexia should be treated as a separate condition. This is supported by his vet.

One of our investigator's looked into the matter. He recommended that the treatment for pyrexia should be paid (which might still leave part of the overall costs for Mr K to bear), as the treating vet had said the DKA was a secondary issue caused by the pyrexia. The investigator said this means the pyrexia had happened first, which led to the dog's diabetes becoming unstable which led to the DKA; the pyrexia was not caused by the dog's pre-existing diabetes.

Red Sands does not accept the investigator's assessment. It says that the claim in May 2021 was submitted as "*pyrexia with secondary DKA*", which means the conditions were linked; and the pyrexia resolved with the resolution of the DKA, which confirms the link between the two conditions. Red Sands also says that pyrexia is typical of DKA and scanning and urine tests didn't show any infectious reason for the dog's presentation, so it must have been caused by the DKA (and therefore the diabetes).

As the investigator was unable to resolve the complaint, it has been passed to me.

In the meantime, I asked the further information from Red Sands about the payments it has made for the diabetes claim. It confirmed it has paid a total of £1,520.80 for diabetes, having taken off the policy excess of £99 and 20% co-payments from the £2,000 limit. It says it has therefore paid the policy limit for this condition, for the relevant year. The investigator told Red Sands that the co-payment and excess should not be deducted in this way, as it means the £2,000 claim limit will never be paid.

What I've provisionally 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.

Mr K's policy covers £2,000 of treatment costs per condition, per policy year. The policy ran from 31 December each year, so a new policy limit was in place for 31 December 2020 to 31 December 2021.

The policy defines a condition as being:

"any injury sustained during, or resulting from, a single accident or any manifestation of an illness having the same diagnostic classification or resulting from the same disease process regardless of the number of incidents or areas of your pet's body affected".

Red Sands referred the claim to its own vet who said he considered this to be one condition:

"The symptoms with nausea etc are typical for DKA, which can happen for no specific reason. The temperature was quite high for an inflammatory linked fever but not impossible, in which case this was related. Despite scanning and urine cultures etc, they didn't find a specific infection focus. The workup done was typical for DKA stabilisation in terms of excluding triggers and treating. Serious GI [gastrointestinal] disease as a cause was excluded on scans and the vomiting was likely DKA triggered from what I can see. They haven't initiated or recommended workup or treatment for anything else they believe to be going on here."

Red Sands acknowledges that the initial symptoms shown by the dog were pyrexia but says this is a typical sign of DKA and the pyrexia resolved with the DKA, reflecting that these conditions are linked. Red Sands also says that no other cause of the pyrexia was found, such as an infection, so it follows that it was caused by the diabetes and DKA.

The vet who treated Mr K's dog disagrees. He stated the following on the claim form:

"[the dog] had a high temperature and was not eating and therefore her diabetes mellitus became unstable and she developed DKA. I do feel this is a new claim and not a continuation of the diabetes mellitus claim as her initial and recurring symptoms were pyrexia."

The treating vet also provided further information in response to Red Sands:

"The primary claim in question is the pyrexia that... showed on the 4/5/21. The DKA was secondary to this. You state that "the pyrexia resolved with the resolution of the DKA". This is not the case. If you read through the history you can see [the dog's]...temperature returned to 37.2C on the 6/5/21, as we had given her treatment specifically to bring her temperature down. However, the 6/5/21 is the day that... [the dog] first began showing signs of DKA. [By which time the temperature was normal.] "Of course there can be a link between pyrexia and DKA, as DKA can occur secondary to other diseases. However, to reiterate the DKA is not a primary claim, as [the dog's] ... history demonstrates."

The vet also said she was not aware of DKA being a known cause of pyrexia.

It appears it was two days after the dog was first seen for the pyrexia that she was admitted for treatment of DKA, which reflects what the vet and Mr K have said, i.e. that it was the fact the dog had not eaten due to the pyrexia that caused her diabetes to become unstable and led to the DKA.

Red Sands says nausea is a symptom of DKA and its vet suggests the pyrexia was a result of the DKA. Red Sands also provided an online guide to DKA which it says supports its position. The guide lists the most common causes of DKA and the first on the list is uncontrolled diabetes.

In my opinion, this supports what Mr K and his vet have said – that the diabetes became uncontrolled due to the pyrexia and this then led to the DKA. The guide also lists the signs of DKA and vomiting is one of the signs listed but it does not mention pyrexia at all.

The fact that no other cause of the pyrexia was found does not in my opinion establish that the pyrexia was caused by the diabetes or DKA. Mr K's vet says DKA is not known to cause pyrexia and it is not listed as a sign of DKA in the guide provided by Red Sands.

Overall, I find Mr K's vet's opinion more persuasive and it seems to reflect what happened and the order of presentation of the symptoms more accurately. I do not consider that Red Sands has established that the pyrexia was caused by the diabetes or [DKA] ... So while there is a link between the two issues, because without the pyrexia the DKA would not have occurred, I do not think this is enough to treat it as one condition and one claim. The primary issue was the pyrexia. If it had not been for the pyrexia the DKA would not have occurred but that does not mean, in my opinion, that it should be treated as being one claim all relating to the diabetes.

Having considered all the evidence, I uphold this complaint and require Red Sands to meet the claim for treatment costs relating to pyrexia, subject to the remaining policy terms (e.g. co-payment and excess etc). Interest should be added at our usual rate on any part of those costs Mr K has already paid, from the date he paid them to the date of reimbursement.

With regard to the costs relating to the treatment of diabetes and DKA, Red Sands applied the policy claim limit of £2,000 and then deducted the excess and co-payment. Doing this means that a policyholder will never receive the full £2,000 policy limit. I do not consider this fair or reasonable. The policy states clearly that it covers £2,000 per condition per policy year. Mr K therefore had a reasonable expectation that this is what he would receive if the need arose. While there is mention in the policy that Red Sands would carry out the calculation this way, it is not prominent enough in my opinion and given the policy says it will cover up to £2,000, a policyholder should not be required to read further to confirm whether this was accurate or not.

Red Sands is well aware of our approach to the application of co-payments and excesses, which means that they should be deducted from the claim amount before any policy claim limit is applied.

In this case that means that the costs for treating the pyrexia is reduced by the deduction of the £99 claim excess and the 20% co-payment, which I understand would leave £2,755.66. Applying the policy claim limit for each condition then means that Red Sands must pay £2,000 towards these costs.

In relation to any outstanding costs for the diabetes, as stated Red Sands did not apply the excess and co-payment in the way we expect but rather deducted them from the £2,000 policy claim limit. I therefore consider there is part of the £2,000 limit left. The total costs claimable as being related to diabetes was I understand £2,231.60. So the excess and co-payment need to be deducted from this total (rather than from the limit of £2,000) to determine what is payable under the policy for this condition, in the policy year December 2000 to December 2021. This means it should have paid £1,706.08 in total, rather than £1,520.80, so a difference of £185.28. Red Sands should now pay that difference together with interest at our usual rate from the date Mr K paid those costs to the date of

reimbursement.

If either party disagree with the figures I have come to, they can provide further information about that in response to this decision.

I also think Red sands should pay compensation of £200 for the additional trouble its incorrect refusal to cover these costs, and the incorrect settlement of the diabetes claim, has caused Mr K.

My provisional decision

I intend to uphold this complaint and require Red Sands Insurance Company (Europe) Limited to do the following:

1. pay Mr K the outstanding amount for the cost of diabetes related treatment, of £185.28, plus interest at 8% simple per annum, from the date Mr K paid those costs to the date of reimbursement;
2. pay Mr K £2,000 for the cost of the pyrexia treatment, plus interest at 8% simple per annum, from the date Mr K paid those costs to the date of reimbursement; and
3. pay Mr K compensation of £200 for the distress and inconvenience caused by the incorrect refusal of the claim and the incorrect settlement of the diabetes claim."

Responses to my provisional decision

I invited both parties to respond to my provisional decision with any further information or evidence they want considered.

Mr K has responded and confirmed he accepts my provisional decision.

Red Sands has also responded. It does not accept my provisional decision. Red Sands says that the policy definition of a "*condition*" is "*any manifestation of an illness having the same diagnostic classification or resulting from the same disease process regardless of the number of incidents or areas of your pet's body affected*". So, as I have accepted the link between the pyrexia and DKA (as without the pyrexia the DKA would not have occurred) the policy definition means it should be treated as the same condition. Because it doesn't matter which condition was present first, it is an illness of the same diagnostic classification and resulting from the same disease process.

Red Sands also says the policy explicitly states that the excess and co-payment will be deducted from the policy claim limit and provides examples of how this will be applied in the policy.

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.

Red Sands does not accept my provisional decision. It says the pyrexia and DKA are the same condition, according to its policy definition. Previously Red Sands said this was because the pyrexia was a result of the dog's pre-existing diabetes and the DKA. I did not agree that this had been established, for the reasons set out in my provisional decision. The

treating vet stated that the pyrexia occurred first and is not related to diabetes, and that the DKA started after the pyrexia had been treated. I have not seen any convincing evidence that pyrexia and DKA/diabetes have the same disease process. I remain of the opinion therefore that it is not fair or reasonable to apply the policy terms, including this definition, in the way Red Sands has in this case and it should have met the claim for costs of treating the pyrexia, as a separate condition.

With regard to the costs relating to the treatment of diabetes and DKA, Red Sands applied the policy claim limit of £2,000 and then deducted the excess and co-payment. Doing this means that a policyholder will never receive the full £2,000 policy limit. Red Sands says the policy sets this out clearly, including providing examples of how the excess and co-payment are applied. I do not agree. The policy states clearly that it covers £2,000 per condition per policy year. Mr K therefore had a reasonable expectation that this is what he would receive if the need arose.

While the policy does mention that Red Sands would apply the excess and co-payment to that £2,000 claim limit, it is not prominent enough in my opinion. And the full explanation and examples referred to are in the "frequently asked questions" section of the policy. I do not think it is fair or reasonable to set out prominently that there is a £2,000 claim limit but then require a policyholder to read further into the policy document to confirm whether this was accurate or not. The way Red Sands apply the excess and co-payment means a policyholder will never receive the policy claim limit of £2,000 and is therefore misleading. Red Sands is also well aware of our approach on this issue.

I also therefore remain of the opinion that it needs to pay the policy limit for the pyrexia claim and that there is a further payment due in respect of the claim for treatment of the diabetes/DKA. I calculated this as being £185.28. Neither party has made any representation about my calculations. I have also not received any further representations about the compensation I proposed, so I see no reason to change this either.

Final decision

I uphold this complaint and require Red Sands Insurance Company (Europe) Limited to do the following:

1. pay Mr K the outstanding amount for the cost of diabetes related treatment, of £185.28, plus interest at 8% simple per annum, from the date Mr K paid those costs to the date of reimbursement;
2. pay Mr K £2,000 for the cost of the pyrexia treatment, plus interest at 8% simple per annum, from the date Mr K paid those costs to the date of reimbursement; and
3. pay Mr K compensation of £200 for the distress and inconvenience caused by the incorrect refusal of the claim and the incorrect settlement of the diabetes claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 24 March 2022.

Harriet McCarthy
Ombudsman