

## The complaint

Ms C complains about Casualty & General Insurance Company (Europe) Ltd (CG) rejecting a claim under her pet insurance policy for treatment to her dog, because it was overweight.

References to CG include their agents who administer the policy.

## What happened

Ms C had a dog covered by a pet insurance policy with CG, taken out in March 2020. In June 2021 the dog experienced a problem with its leg and, after being taken to a vet, it was diagnosed as having a cruciate ligament rupture. The vet carried out an operation to treat the rupture, at a total cost of £1,956.

Ms C made a claim covering the cost of treatment, but CG declined the claim, saying the dog was overweight. CG referred to the policy not covering a condition where a pet had been deemed overweight and had a condition associated with being overweight. CG referred to the weight of Ms C's dog at various times between 2019 and 2021, together with its Body Condition Score (BCS).

Unhappy at the rejection of her claim, Ms C complained. But CG didn't uphold her complaint. In their final response they said when she took out her policy, the terms and conditions made it clear it wouldn't provide cover if a pet was overweight and had an associated condition. CG noted the dog's clinical history indicated it was slightly overweight in November 2015 and (in September 2016) the vet advised weight loss. The dog was also recorded as overweight in 2019. CG went on to say that while the cause of a cruciate ligament rupture was multifactorial, the vertical force on the pet's joints would be increased by the pet being overweight. CG also noted studies indicated that weight was one (of multiple) factors in cruciate ligament rupture. Based on this, CG confirmed their decline of Ms C's claim.

Unhappy at CG's response, Ms C complained to this service. The main part of her complaint was that CG had unfairly declined her claim on the grounds it was overweight. She said this wasn't relevant to the condition and treatment of her dog, as the vet's report stated. Having to pay for the (£1,956) cost of treatment was very distressing and causing her anxiety. She wanted CG to accept her claim and pay for the cost of treatment. She also thought CG should make clear which conditions they wouldn't cover on the grounds of the pet being overweight, so it was less ambiguous to consumers.

Our investigator upheld Ms C's complaint, concluding CG hadn't acted fairly by using the exclusion relating to a dog being overweight. She didn't think CG had explained what the definition of overweight was that the exclusion relied on. Nor did the dog's BSC recorded in 2019 and 2020 meet CG's definition of being overweight. She also noted the vet's view that the dog's weight hadn't been shown to be the underlying cause of the cruciate ligament rupture and that the dog's weight didn't have any bearing on the condition. As such, CG hadn't acted fairly in applying the exclusion to decline the claim. To put things right, the investigator thought CG should reassess the claim, without using the exclusion about the dog's weight to decline the claim. If CG accepted the claim after reassessment, they should pay interest from the date they originally declined the claim to the date accepted.

CG disagreed with the investigator's conclusions and requested an ombudsman review the complaint. In disagreeing, they referred to several published sources about the link between – and impact of - a dog's weight on the risk of cruciate ligament rupture. They also attached additional evidence of the vet referring to the need for Ms C's dog to lose weight.

### **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.

My role here is to decide whether CG has acted fairly towards Ms C.

The main issue in Ms C's complaint is whether CG acted fairly in declining her claim by applying the policy exclusion for her dog being overweight. Ms C says CG acted unfairly in applying the exclusion, as the dog's weight wasn't relevant to the condition and treatment of her dog, as the vet who treated the dog stated.

CG say it was fair to use the exclusion to decline Ms C's claim. They refer, firstly, to the dog's clinical history which they say indicates it was overweight. They also say, secondly, that while the cause of a cruciate ligament rupture is multifactorial, the force on the dog's joints would be increased by being overweight. CG also refer to published studies about the link between – and impact of - a dog's weight on the risk of cruciate ligament rupture.

I've considered both views carefully, including the relevant terms and conditions of the policy (particularly those referred to by CG in their final response) together with the supporting information and evidence, including the vet's statement and the clinical history of Ms C's dog. Looking at the policy terms and conditions first, CG refer to the Insurance Product Information Document that states:

*"What is not insured?*

*Any claims resulting from Your pet being medically overweight or underweight and this results in Your pet needing Treatment as a result of not being the recommended medical weight for its age, breed type and sex as recommended by a Vet."*

The policy terms and conditions include a similar exclusion for *Veterinary Fees* as part of any claim for illness or accidental injury.

The first point to consider is whether Ms C's dog was overweight. The dog's medical history indicates its weight has fluctuated between 8kg and 9kg from 2017 through to the ligament rupture in 2021. The BCS is variously recorded as 7/9 (2019) and 3.5/5 (also 2019). 6A report from Ms C's vet states the same weight range, and a BCS of 6/9 (which they state is slightly above the ideal of 4-5/9, but that they do not consider the dog to be hugely overweight). Based on these points, I think it's reasonable to conclude the dog was overweight – but not significantly so.

The second point to consider is whether the dog's weight led to the ligament rupture and therefore whether it was reasonable for CG to apply the exclusion to decline the claim. As a general principle, where an insurer relies on an exclusion, the onus is on them to show it's reasonable to apply it.

However, I'm not persuaded CG acted fairly and reasonably in applying the overweight exclusion to decline this element of the claim. I say that because the policy wording above (my emphasis in bold) refers to claims "**resulting from** Your pet being medically overweight

or underweight and **this results in** Your pet needing **Treatment as a result of** not being the recommended medical weight for its age, breed type and sex as recommended by a Vet.”

Given this wording, the onus is on CG to show the claim (treatment) was caused by the dog being overweight. CG say, while the cause of a cruciate ligament rupture is multifactorial, the force on the dog's joints would be increased by being overweight. CG also refer to published studies about the link between – and impact of - a dog's weight on the risk of cruciate ligament rupture. Ms C doesn't agree, pointing to her vet's opinion. On balance, considering both views carefully together with the supporting evidence and information, I'm persuaded by Ms C's view (supported by her vet). I'll set out why I've come to that view.

The vet's report, after commenting on the dog's weight, goes on to state:

*“Cruciate [ligament] disease is a chronic condition whereby the fibres of the ligament gradually weaken and then will suddenly rupture at exercise. I do not consider [the dog's] weight to have any bearing on the progression of this disease...Had [the dog] scored 8-9/9 on BCS, with a weight of say, 12kg, then weight may have played more of a factor in speed of progression of the disease.”*

I think, coming from the vet who treated Ms C's dog (and therefore knows the dog better) this is persuasive.

But I've also considered the points made by CG, including the published sources they've referred to. One of them notes that *“Obese dogs are four times more likely to rupture a cruciate than non-obese dogs.”* A second source refers to extra weight putting undue stress on the body (and refers to the same increased risk of ligament rupture). A third source refers to the two main causes of rupture being degeneration of the ligament (which accords with the statement from Ms C's vet) and trauma (which can be the result of an athletic injury, even in a healthy dog). The latter is also consistent with Ms C's vet's statement that the ligament will have ruptured at exercise.

Taking all these points into account, while being overweight will have been likely to increase the risk of ligament rupture, I'm not persuaded CG have shown enough to apply the exclusion in the circumstances of this case. Particularly given the clear opinion from Ms C's vet. So, I've concluded CG acted unfairly to apply the exclusion to decline Ms C's claim.

Given these conclusions, I've thought about what CG need to do to put things right. As I don't think they can rely on the exclusion for the dog being overweight, then they should reassess the claim in line with the remaining terms and conditions of the policy, including any limits on the costs of treatment and any policy excess (as appropriate).

If CG accept the claim following their reassessment, they should also pay interest at a rate of 8% simple on the amount accepted, from the date of their original rejection of the claim, to the date they accept it.

### **My final decision**

For the reasons set out above, my final decision is that I uphold Ms C's complaint. I require Casualty & General Insurance Company (Europe) Ltd to:

- Reassess Ms C's claim for treatment of the cruciate ligament rupture in line with the remaining terms and conditions of the policy, including any limits on the costs of treatment and any policy excess (as appropriate).

If Casualty & General Insurance Company (Europe) Ltd accept the claim following their reassessment, they should also pay interest at a rate of 8% simple on the amount accepted, from the date of their original rejection of the claim, to the date they accept it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 15 August 2022.

Paul King  
**Ombudsman**