

The complaint

Mr G has complained that Casualty & General Insurance Company (Europe) Ltd unreasonably refused to pay his claim under his pet policy.

What happened

Mr G's policy started on 4 September 2020. In November 2021, Mr G made a claim for bi-lateral cruciate ligament treatment for his dog. Casualty said Mr G's policy doesn't provide cover if the pet is overweight, and Mr G's dog was overweight, so it declined to pay his claim.

Mr G and his vet appealed this decision, but Casualty wouldn't change its stance, so Mr G brought his complaint to us. Very sadly the operations failed, and Mr G's dog had to be put to sleep.

The investigator was of the view that the complaint should be upheld. Casualty disagreed so Mr G's complaint has been passed to me to decide.

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.

Having done so, I'm upholding this complaint. I'll now explain why.

First, I would like to extend my condolences to Mr G on the loss of his dog due the very sad fact that operations didn't succeed, which must have made this issue so much harder for him and his family.

Casualty are relying on the following detailed in the insurance product information document in refusing to pay Mr G's claim:

'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.'

This is also detailed in the policy document as follows:

*'Veterinary Fees... 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**.'*

Casualty decided that because there were references to the increased weight of Mr G's dog in the vet history on 9 October 2020, 4 June 2021, 4 October 2021, and 6 October 2021, this meant it was entitled to decline his claim.

However, in order to do this, I consider that Casualty must show the causal relationship between the need for the treatment or the operations and the weight gain. This is because the clause is clear that the exclusion only applies if the claimed treatment '**results from the pet being medically overweight**', (my emphasis).

I consider Casualty hasn't done this here, as Mr G's vet explained the following:

*'I refer you to the following articles by specialists in cranial cruciate ligament disease which discuss the current understanding of the pathophysiology of this condition: ... "Cranial cruciate ligament (CrCL) disease is the most common cause of pelvic lameness in the adult dog and typically caused by **progressive ligamentous degeneration of unknown origin**. Degeneration of the CrCL has been attributed to a variety of factors that may be broadly classified as genetic, conformational, environmental, immune mediated and inflammatory; none of these, however, have definitely been proven to be causative".*

A review of the pathogenesis of canine cranial cruciate ligament disease as a basis for future preventive strategies, Vet Surgery 2010 Jun;39(4):399-409
"Trauma accounts for a minority of CCL ruptures in dogs, whereas progressive degeneration of the ligament has been attributed to a variety of factors that may be broadly classified as genetic, conformational, environmental, immune-mediated, and inflammatory"

'[Name of dog] was overweight, but we do not believe that his weight was the cause of the cruciate ligament degeneration that was observed at surgery. Degeneration of the cranial cruciate ligament is a common condition which we see all too frequently in lean dogs as well as overweight dogs.'

I don't consider Casualty's response to Mr G's vet meets its own policy definition. It said the following:

'Whilst I appreciate that the cause of a Cruciate Rupture is multifactorial, of which I agree, the fact remains that the normal vertical force on a pet's joints is increased if the pet is overweight. Also leading to greater ground force and tension on the ligaments.

A dog, much like a human who is overweight, may not only experience issues with joint mechanics but with inflammation, as fat tissue can cause systemic inflammation throughout the body. The by-products of which can alter the enzymes that keep cartilage and connective tissue healthy, which can lead to degeneration in the cartilage and joints.

I appreciate that there have been numerous studies into the cause of a Cruciate Rupture which have all noted that there are multiple factors involved, the fact remains that these studies have also shown that weight is one such factor.'

First, cruciate ligament disease doesn't affect either the cartilage or the joints in the manner Casualty has said as the actual ligament (rather than any cartilage or joint) frays and degenerates, which then of course might damage the cartilage and then the joint. But neither the joint nor the cartilage cause the fraying of the ligament from my observation of the studies produced by Mr G's vet.

Casualty, whilst noting the varying and numerous studies into cruciate ligament disease haven't shown me any research study, which details weight being the single causative issue of cruciate ligament disease as its own policy clause demands. It's scientifically suspect, in my view, to unilaterally decide with no evidence being produced, that all overweight issues will cause inflammation too, more so when the mechanism of cruciate ligament disease is the fraying of the ligament. That isn't a scientific fact in my view relevant to the process of cruciate ligament disease as detailed by Mr G's vet, and I find it a deeply flawed argument.

Secondly, the clause in the policy demands the cause of the claim to be from the pet being overweight. And quite simply here, Casualty hasn't discharged its own burden of proof for its own clause. In fact, in cruciate ligament disease, the dog's weight is rarely a factor as Mr G's vet explained, as it can sadly happen to any dog with any type of body condition score, so that includes an lean perfect body condition score too. It is for Casualty's to discharge this burden of proof and I consider it simply hasn't done that here at all. It is singularly unreasonable in my view to trawl through the vet notes looking for any evidence of weight issues and base the claims' decision on that. That's not what this clause is about. The clause is very clear that the weight issue must be causative of the claim, properly and coherently so too.

Lastly, Casualty proffered no vet evidence of its own to counter the evidence of Dr G's vet. And obviously without that, I find the evidence from Mr G's vet far more persuasive than this view presented by Casualty, as an insurer, seeking unreasonably and unfairly in my view, to not pay a valid claim.

Therefore, I consider Casualty should now pay this claim subject to the remaining terms and conditions of the policy with interest if Mr G has already discharged these vet fees.

My final decision

So, for these reasons, it's my final decision that I uphold this complaint.

I now require Casualty & General Insurance Company (Europe) Ltd to do the following:

- Pay Mr G's claim subject to the remaining terms and conditions of the policy.
- If Mr G has already discharged his vet's fees, add interest of 8% simple from the date Mr G discharged to the date Casualty reimburses him.
- If income tax is to be deducted from the interest, appropriate documentation should be provided to Mr G for HMRC purposes.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 26 August 2022.

Rona Doyle
Ombudsman