

The complaint

Ms B complains that Casualty & General Insurance Company (Europe) Ltd declined her claim for her dog's treatment under a policy exclusion as her dog was overweight. She thinks this is unfair as her dog's injury wasn't related to her weight and she wants them to pay her claim.

What happened

Ms B has insurance for her dog with C&G. In November 2021 the dog sustained an injury to her left hind hock after falling, or jumping, off her sofa and landing awkwardly. Ms B's vet describes the injury as 'a minimally-displaced medial malleolar fracture with near-perfect reduction, and a subtle distal fibula fracture'. Ms B has told us that her dog made a complete recovery from her injury without needing surgery.

Ms B made a claim for the cost of her dog's treatment which C&G declined. They said the claim wasn't covered as the policy excludes any claims resulting from the dog being overweight.

Ms B complained to C&G about her claim being declined. She provided a letter from her vet saying her dog's injury wasn't related to her weight. The vet said this type of injury isn't unusual in dogs of normal weight and was a result of landing awkwardly. So he thought the claim should be covered.

C&G said that from the dog's veterinary records it was clear Ms B had been told the dog was overweight at appointments from 2018 to 2021. And on 21 October 2021 it was noted that she was weak on all limbs due to being overweight. C&G said that an overweight dog can experience issues with joint mechanics and with 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.

And as the dog was noted to be weak on all her limbs due to her weight, they believe this increased the likelihood of sustaining an injury after falling off the sofa. So they maintained they'd been correct in declining Ms B's claim despite her vet's comments.

Ms B wasn't happy and complained to our service. Our investigator considered the case and said that although Ms B doesn't dispute that her dog is overweight, he was persuaded by the evidence from her vet that her injury was one any dog could have sustained. So he said C&G should pay Ms B's claim for the cost of her dog's treatment, which is £888.25 after deduction of her £90 policy excess and the 15% co-payment due to the dog's age. He also said C&G should pay Ms B £150 for the distress and inconvenience she suffered as a result of her claim being wrongly declined.

Ms B was happy with our investigator's opinion, but C&G weren't so the case has come to me for a decision.

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.

The veterinary records for Ms B's dog confirm that she is overweight, and Ms B doesn't dispute this. But she says this isn't relevant to the injury her dog sustained. Her vet has confirmed that in his opinion the dog's weight wasn't a factor in her injury.

He's said 'We are treating her fractured/dislocated hock joint, which resulted from an awkward impact with the ground after she jumped or fell from a sofa. Injuries of this type are not uncommon in under, normal and overweight dogs and cats sadly, and result from a joint being loaded at an abnormal angle, leading to injury to its support structures – in this case the bones'.

And 'I do not consider that her overweight status is a factor in causing this injury, as I understand that she had jumped down from this sofa a number of times previously with no issue, meaning her leg was more than capable of withstanding the impact with the ground when this happened in a planned and predictable way. She broke her leg when she landed awkwardly'.

So Ms B's vet is quite certain that the dog's injury was due to an awkward landing, rather than to her weight. And he's satisfied that her leg could have withstood the impact with the ground, had she not landed awkwardly.

Ms B's policy excludes cover for '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'.

C&G refer to an entry in the dog's records dated 21 October 2021 which says she was weak on all limbs due to being overweight. They say this increased the likelihood of her sustaining an injury in a fall.

I've considered this but on balance I'm persuaded by the opinion of Ms B's treating vet who's said that her dog's injury was due to an awkward landing, and this could have happened regardless of her weight.

I've also considered C&G's comments about the impact a dog being overweight can have on their cartilage and joints. But there's no evidence from the veterinary records I've seen of any issue with the dog's joints or cartilage, or that her injury arose from anything other than an awkward landing.

It follows that I don't think C&G acted reasonably in declining Ms B's claim for her dog's treatment.

To put things right I require them to pay her £888.25, which is the cost of her dog's treatment less the policy excess and 15% co-payment. And I require them to pay £150 for the distress and inconvenience she suffered as a result of her claim being declined.

My final decision

For the reasons set out above my final decision is that I uphold Ms B's complaint about Casualty & General Insurance Company (Europe) Ltd.

And to put things right I require them to pay her £888.25 in respect of her dog's treatment and £150 for the distress and inconvenience she's suffered as a result of her claim being declined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 30 November 2022.

Patricia O'Leary
Ombudsman