

The complaint

Mr N complains Casualty & General Insurance Company (Europe) Ltd ("Casualty & General") have unfairly declined a claim he made on a pet insurance policy.

What happened

Mr N's dog, which I'll refer to as E, received treatment for digestive issues. Mr N made a claim to Casualty & General to cover the cost of the treatment, however it declined to provide cover.

Casualty & General said the policy doesn't cover pre-existing conditions. It referred to the veterinary history for E which states he'd previously suffered episodes of vomiting and diarrhoea. Because of this, Casualty & General thought E had showed signs of digestive issues previously and therefore the claim wasn't one it would cover.

Casualty & General also said Mr N misrepresented E's health when he took out the policy, therefore it said under the relevant law it was entitled to add an exclusion to the policy covering digestive issues. Mr N complained but Casualty & General didn't change its position.

Our investigator looked at the complaint and explained she didn't think Casualty & General had declined the claim fairly. She didn't think it could be said E had a pre-existing illness or that he had showed symptoms previously. She said the single episodes of diarrhoea and vomiting that had been referenced in the veterinary history occurred when E was a puppy, the first occasion being when he was around 6 months old. And, no further episodes were noted within the history over the next seven years. She commented on the fact the treating vet had remarked they were isolated and unlinked to E's current illness.

The investigator also explained that the question Casualty & General asked when the policy was purchased by Mr N only concerned whether he wanted cover for pre-existing conditions – which he didn't. So she didn't think he'd made a misrepresentation when taking the policy out and as such, Casualty & General wasn't entitled to add a backdated exclusion to the policy.

The investigator said Casualty & General should deal with Mr N's claim in line with the remaining terms and conditions of the policy. And it should pay Mr N £75 compensation as it was clear the decline of the claim had caused him trouble and upset.

Casualty & General disagreed and asked for an ombudsman to review the complaint. It maintained it was entitled to add a backdated exclusion to Mr N's policy and that it was correct to decline the claim based on the veterinary history and the terms and conditions of the policy.

The case 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 agree with the conclusions reached by the investigator for the following reasons:

- The relevant law relating to misrepresentation is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This sets out remedies an insurer has where a qualifying misrepresentation has been made at the point of application.
- Mr N was not asked a question about E that led him to make a qualifying misrepresentation – i.e. one which have led to the insurer taking different action regarding the terms on which it would provide cover.
- The question Mr N was asked was a factual one about if he wanted cover for pre-existing medical conditions – he didn't. So he answered this question correctly. This question did not ask Mr N to detail E's veterinary history or provide any further information about it. So Mr N did not make a misrepresentation about E's medical history and as such Casualty & General is not entitled to add a backdated exclusion to the policy.
- The definition of a pre-existing condition within the policy is “*..any diagnosed or undiagnosed **Condition** and/or **Associated Condition** which has happened or has shown **Clinical Signs** or Symptoms of existing in any form before the **Policy Start Date** or within the **Waiting Period**”.*
- The singular episodes of vomiting and diarrhoea Casualty & General have referred to happened around seven years prior to the illness the current claim relates to. These are so far removed from the current illness; I don't think it would be fair or reasonable to say they are linked to the current claim. And Casualty & General haven't provided any evidence which suggests they are so.
- The treating vet, who I would usually find more persuasive as they have assessed matters first-hand, also says E has not showed any signs of Vomiting or Diarrhoea as part of the illness so far.
- Overall, I'm satisfied E's veterinary history referred to by Casualty & General does not meet the criteria of a pre-existing condition. And so, I don't think Casualty & General have fairly declined the claim. I think it should now deal with the claim in line with the remaining terms and conditions of the policy.
- For completeness, the policy also contains a term which says Casualty & General can add an exclusion, if at the point of claim they find out about a pre-existing condition. For the same reasons as set out above, I don't think this term has been met so Casualty & General cannot apply an exclusion to the policy on this basis either.
- Mr N has been caused some trouble and upset by the decline of the claim and therefore Casualty and General should make a payment of £75 to him to reflect the impact its actions have had.

For the reasons set out above, I uphold this complaint.

Putting things right

To put things right Casualty and General should do the following:

- Assess the claim in line with the remaining terms and conditions of the policy.
- If the claim is successful, Casualty and General should meet the cost of the claim. If Mr N has made any payment towards the cost of treatment, Casualty & General should make a payment to Mr N equivalent to this amount plus interest at 8% simple per annum from the date Mr N made the payment to the date the matter is settled.
- Pay Mr N £75 compensation.

My final decision

My final decision is that I uphold Mr N's complaint against Casualty & General Insurance Company (Europe) Ltd. I direct it to put matters right as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 5 December 2022.

Alison Gore
Ombudsman