

DRN-3842692



### **The complaint**

Mrs P has complained that Agria Pet Insurance Ltd unreasonably refused to pay her claims under her pet policy because it said the condition claimed arose during the waiting period when the policy started.

## What happened

Mrs P bought her pet policy with Agria to start on 13 November 2021 for her cat who was born in July 2021. She also appears to have had an initial four-week cover with another insurer, presumably supplied by the cat's breeder. This Agria policy had a 10-day waiting period where no claims which arose in that time would be covered. The 10-day period expired on 22 November 2021.

On 18 November 2021 Mrs P attended the emergency vets with her cat who had become lethargic, had smelly faeces, reduced appetite, and vomiting. She attended her own vet the next day who admitted her cat for treatment from 19 November to 22 November 2021. During this admission the vet sent off a stool sample for analysis. That came back with cryptosporidium, giardia, and coronavirus antibodies. Treatment primarily for giardia commenced and Mrs P said her cat improved. Some treatment was given for cryptosporidium, but Mrs P said the treatment was too harsh on her cat, so it was stopped.

Around this time Mrs P's vet warned that given the existence of coronavirus antibodies in the stool sample, her cat's condition could mutate into Feline Infectious Peritonitis (FIP).

Another stool sample was done on 17 December 2021 which then showed no signs of cryptosporidium or giardia. Unfortunately, Mrs P's cat then became ill again and was referred to a university vet hospital on 8 January 2022 where FIP was diagnosed. This condition is only recently treatable with Remdesivir. Before the availability of this medication, FIP was invariably fatal for cats.

So, Mrs P presented her claims to Agria for payment. These were as follows:

- £544.55 for gastrointestinal disorder for treatment on 18 November 2021 and from 20 November to 22 November 2021.
- £369.40 also for gastrointestinal issue dated 11 January 2022.
- £2,465.71 for FIP dated 11 January 2022.
- £8,418.39 for FIP dated 8 January 2022.

Making the total £11,798.05. Within Mrs P submissions there does appear to be some confusion as to what claims her vets made to Agria, which Agria does not appear to have clarified for her. Within Agria's files these were the claims it received however in its rejection of her claims, it never identified which claims or the amounts it was rejecting.

Agria decided on the basis of what its vet adviser said that the condition of Mrs P's cat which ultimately resulted in FIP started in the waiting period so was excluded and all her claims were declined.

Mrs P appealed but Agria wouldn't change its stance, so she brought her complaint to us. The investigator didn't think it should be upheld. Mrs P disagreed so her complaint has been passed to me to decide.

I issued a provisional decision on 22 November 2022 and I said the following:

'First, I want to thank Mrs P for the extensive research she has done throughout what must have been such a stressful time for her, which has greatly helped my understanding of the matter.

Agria's policy like almost every other pet policy has a waiting period at the commencement of the policy which precludes paying for any claims or conditions

which started in that waiting period. Agria's policy like almost every other policy also doesn't provide cover for any pre-existing conditions.

The policy specifically says the following in defining an illness in the first 10 days:

- *'An **illness** or **behavioural disorder** that first showed **clinical signs** in the first 10 days after **your policy** started; or*
- *An **illness** that is the same as, or has the same diagnosis or **clinical signs** as an **illness** or **clinical sign** your cat had in the first 10 days after **your policy** started; or*
- *An **illness** that is caused by, relates to, or results from, an **illness** or **clinical sign** your cat had in the first 10 days after **your policy** started;*

*Even if the **illness** or **clinical sign(s)** appear or happen in, or on, different parts of **your cat's** body.'*

Clinical signs are defined as:

*'Changes to **your cat's** normal healthy state, its physical appearance, its bodily functions or behaviour.'*

Illness is defined as:

*'Any change to **your cat's** normal healthy state; sickness, disease, **bilateral disorder**, defects and abnormalities, including defects and abnormalities your cat was born with or which were passed on by its parents.'*

I consider that any treatment costs which were incurred before 22 November 2021 cannot be claimed as they clearly arose in the waiting period of the policy. Any subsequent costs relating to the conditions which arose in the waiting period likewise are excluded. Therefore, I consider the costs relating to the treatment and diagnosis of the cryptosporidium and giardia which clearly was present before 22 November 2021 are excluded. This is because these parasites were found on the stool sample on 18 November 2022 but not on the stool sample dated 17 December 2021 following treatment for both.

Agria argues that because the coronavirus antibodies were found on both stool samples in November and December 2021, which would be the only reason Mrs P's cat went onto to develop FIP, that similarly means any costs in relation to diagnosing and treating FIP in her cat is likewise excluded but I don't agree it's that simple. Simply because the literature is clear that the existence of coronavirus antibodies does not mean that every cat goes on to develop FIP. I shall look at this in detail later in my decision.

First, I'm particularly persuaded by Agria's own vet expert on this which mirrors what Mrs P has discovered, as he says the following:

*'...Lots of cats are mildly affected by corona virus, usually causing a transient diarrhoea, in a small minority of cases this will mutate at a later date into either dry or wet FIP.'*

*For many years FIP was considered incurable and for that reason significant insurance claims for its treatment would have been very rare. It is only really*

*in the last year or so since a licensed product that is very effective (and costly) has come to market that the problem of what significance pre existing corona virus infection has on insurance claims will have surfaced.*

*I do have some sympathy with the client [Mrs P] when they say (paraphrased here) that if they had not consented to a faecal examination when the kitten had diarrhoea then the pre existing coronavirus infection would not have been disclosed. That would have put them in the same position as clients with FIP cases that had not had significant gastrointestinal signs and thus no disclosure of corona virus infection. Those claims would have been honoured, I assume, had signs arisen after the initial 2 week waiting period post policy inception. **In retrospect however we know that all of those FIP cases will have had a pre existing corona virus infection in order for it to mutate and cause FIP.** [My emphasis].*

***The owner does over interpret the fact that the presence of corona antibodies or faecal coronavirus doesn't act as a prognostic indicator for FIP in the future, she's right it doesn't but once FIP has been confirmed then previous coronavirus infection is obviously the precursor.*** [My emphasis]. It depends whether you are looking at that finding before or after confirmation of FIP.

***However, it does seem incongruous to deny claims where the initial corona virus was identified and to allow those where it was not, when we know in retrospect it must have been present.*** [My emphasis]

*This is I suppose a test case because the treatment of FIP is only going to increase and all of them will have had a precursor of relatively innocuous coronavirus infection either identified or otherwise.*

*My conclusion here would be that if the initial gastroenteritis signs (before there was any significant evidence of FIP) began within the waiting period then that claim should be declined in line with the terms of the policy.*

*However as:*

- 1. The development of FIP could not have been anticipated at inception,*
- 2. There were no signs consistently associated with FIP at inception or during the waiting period,*
- 3. All FIP cases whether investigated for enteric corona virus or not will have had it, and acquired it prior to transfer of ownership*

*Then it would seem reasonable to allow the claim dating from after the waiting period for those investigations and treatments that were directly related to a differential diagnosis of the FIP that was subsequently confirmed after elimination of other differentials, for instance the quite reasonable suspicion of a liver shunt or glycogen storage disease.*

*I feel this will be a very significant decision for Agria as it will set a precedent for separating enteric corona virus as an entity from the related but unpredictable development of FIP...'*

So effectively Agria's vet does agree the discovery that a cat has coronavirus antibodies does not mean it will go on to develop FIP.

It is also very clear here that Mrs P's cat did have cryptosporidium and giardia and was treated for both and did not have either on the second stool sample of 17 December 2021. Agria's vet as detailed above appears to have ignored this and indeed the symptoms which both produce in a cat as young as Mrs P's cat was at the time. I don't consider that was helpful.

By 24 November 2021 the vet history notes that the last 24 to 48 hours the cat was producing stools at 95% normal.

By 6 December 2021 the vet history notes the cat is passing formed stools but is off food since they started treatment for cryptosporidium so that should be stopped, the symptoms were more suggestive of giardia.

By 9 December 2021, Mrs P's cat is definitely better off the treatment for cryptosporidium. And by 16 December Mrs P reported her cat's stools have got softer over the last week and were watery last night. However, by 24 December 2021 it was noted there had been improvement but not 100%.

By 28 December 2021 there were solid faeces and the cat was much brighter. However, he was slowing losing weight again. At this time the vet checked for FIP ascites (fluid build-up) but none were present. I consider this to be significant notwithstanding Mrs P's cat developed 'dry' FIP as it appears at this time Mrs P's cat wasn't exhibiting any symptoms of FIP. Nonetheless a new antibiotic was prescribed. The next day Mrs P called the vet as she was concerned her cat was now turning away from food and sleeping all day. She said this was a similar reaction to the medication used to treat cryptosporidium, previously.

All medications were stopped and by 31 December 2021 Mrs P's cat was eating little and often. By 3 January 2022 Mrs P's cat had gone downhill again. Investigations for a liver shunt or glycogen storage disease started. And nothing was found, as the CT scan was inconclusive. Mrs P's cat was kept in her local vets for this time.

On 8 January 2022 Mrs P's cat deteriorated suddenly, exhibited neurological symptoms and dry FIP was suspected and the cat was referred to the university vet hospital who did confirm FIP and treatment with Remdesivir commenced.

This evidence from the vet history clearly shows an improvement with Mrs P's cat, following the end of the 10 days waiting period, which suggests he wasn't developing FIP from the symptoms he was suffering within the 10-day waiting period. In the absence of any vet evidence to the contrary, the vet history shows an improving cat. Mrs P notes that the medication used to treat cryptosporidium plus the new antibiotic prescribed on 28 December did have adverse effects on her cat, which complicates the matter. But on balance, I consider the vet history does show an improving cat given the treatment for giardia and neither it nor cryptosporidium were present on the December 2021 stool sample.

The fact of this improvement doesn't show me that Agria has shown clear enough evidence that the illness (as per the policy definition) that this cat suffered from in the first 10 days of the policy was the beginning of FIP rather than the more usual symptoms of giardia which commonly includes diarrhoea, gas, abdominal discomfort, nausea and vomiting, all of which this cat presented with before 22 November 2022 as in within the 10-day waiting period.

Mrs P has gone to some considerable effort to pull together much of the evidence and research available surrounding FIP and indeed how the very small minority of

cats with coronavirus antibodies then go on to develop FIP. I'm very grateful for her extensive efforts in this.

Agria's specialist vet agrees that cats such as Mrs P's young cat with coronavirus antibodies do not all go on to develop either effusive (wet) or non-effusive (dry) FIP. According to Mrs P the research (and I have not identified the researchers here given our final decisions are published, but the same can be made available to Agria on request) shows the following:

*'The virulence of different Feline Coronavirus (FCoV) strains when infecting monocytes did not affect viral replication; rather the monocytes themselves were responsible for controlling viral replication.'*

Mrs P says that means the monocytes within the individual cat were responsible for FIP replication rather than the existence of FCoV. She says that further research shows that:

*'Immune responses within individual cats play an important role; effusive FIP results from rapid widespread vasculitis as the cats fail to mount T cell immunity despite a vigorous B cell response. However, cats with non-effusive FIP (Mrs P's cat) have a cellular response that is partially effective, managing to contain the FIP to a relatively small number of macrophages in a few focal sites within specific target organs.'*

So, this shows me that it's down the individual cat's T cell response to FCoV as to how they cope, which Mrs P then says this means that any positive test for these coronavirus antibodies is not indicative to any FIP diagnosis, prognosis, or subsequent development. So the fact that her cat had these antibodies didn't mean anything as regards any likelihood of developing FIP later, as no test exists to have tested her cat at the time the stool sample in November 2021 was taken to have discovered what type of T cell response her cat could or would have mounted to the infection. I consider this very persuasive. Indeed, Agria's vet said, at worst for most cats it's a transient mild illness. Milder it seems to me too, than what symptoms, giardia might produce which this cat was clearly suffering from given the November 2021 stool sample result and the details of his presentation to the vet in November 2021.

Therefore although it's not quite the same, this could be classed as a similar position with certain breeds of dogs that are pre-disposed to develop certain conditions because of the way they are bred. Our stance there is that we would usually say the fact that the animal is pre-disposed doesn't mean it has the condition. Likewise, here just because Mrs P's young cat had these coronavirus antibodies doesn't mean, and according to Agria's vet too, that it has the condition, namely FIP.

I consider the very important fact that this cat tested positive for both giardia (and less so cryptosporidium) and reacted positively to the treatment so much so that in the December 2021 stool sample it had neither in his system to be extremely significant and classed legally as important intervening factor in this case. I also consider the vet history is important as, it clearly shows an improvement. So, I consider this breaks the chain of causation sufficiently in my view that the symptoms this cat exhibited in the 10-day waiting period were not sufficiently related to the existence of these coronavirus antibodies so as to be excluded under the policy's wording.

Therefore, I consider Mrs P claims in relation to the diagnosis and treatment of FIP should be paid. If Mrs P has paid any of these costs Agria should refund her with

interest. I consider Agria does not have to pay the claims in relation to the diagnosis and treatment of giardia and cryptosporidium as they clearly arose in the 10-day waiting period, which I also assume weren't covered by Mrs P initial four week free cover from another insurer.

I consider Mrs P was put to extensive and significant distress, trouble and upset here which caused her to have to undertake considerable and detailed research, which also was exceptionally helpful to me too. So, I consider that Agria should pay Mrs P the sum of £350 compensation for this.'

Mrs P said on the basis of my provisional decision she didn't think there was any need to make any further points.

Agria did agree the costs for giardia and cryptosporidium should not be paid. But it disagreed with my outcome on the FIP costs because it said as a cat can't develop FIP without coronavirus antibodies, and this cat did have the presence of coronavirus antibodies during the first 10 days of the policy starting then in view of its policy limitations for these first 10 days, it meant Mrs P claim shouldn't be paid. It referred to several sites which explained that FIP only develops in cats who have been exposed to these coronavirus antibodies. And it said the following:

*'The Illness in the first 10 days definition contains the following "An illness that is caused by, relates to, or results from, an illness or clinical sign your cat had in the first 10 days after your policy started.'*

And said I didn't consider this in my provisional 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.

Having done so again, I remain of my view that the outcome detailed in my provisional decision is fair and reasonable in the particular circumstances of Mrs P's complaint. The further referral to various internet cat care sites that Agria referred me to in its response to my provisional decision does not take this matter any further. Agria's own expert vet and indeed even Mrs P accept that FIP can't develop without the presence of FCoV. And I agree with that too. The issue Agria has to show here is that the signs of FIP (not signs of FCoV), needed to have been present during the 10-day waiting period. This is because 'clinical sign' is defined as:

*'Changes to **your cat's** normal healthy state, its physical appearance, its bodily functions or behaviour.'*

I consider the word 'changes' is key here.

The research shows that that the mere existence of FCoV does not equate to suffering from FIP, neither does it mean it's always going to develop in any cat either and neither would it normally be much of a cause for a claim given if indeed the cat produces any symptoms according to Agria's own expert vet, they would be mild and transient in nature. So for the exclusion to apply, the illness (as in changes to the cat's normal healthy state) I consider FIP must be evident during the first 10 days, not the existence of FCoV and I consider Agria is mistaken in its view.

As I explained in the provisional decision (which by and large solely focused on the term highlighted by Agria in its response to me), I found Agria's own expert vet most persuasive on the issue facing Agria in this case namely, the following:

***'However, it does seem incongruous to deny claims where the initial corona virus was identified and to allow those where it was not, when we know in retrospect it must have been present. [My emphasis]'***

And as I said in my provisional decision, *'although it's not quite the same, this could be classed as a similar position with certain breeds of dogs that are pre-disposed to develop certain conditions because of the way they are bred, Our stance there is that we would usually say the fact that the animal is pre-disposed doesn't mean it has the condition. Likewise, here just because Mrs P's young cat had these coronavirus antibodies doesn't mean, and according to Agria's vet too, that it has the condition, namely FIP'.*

So, I remain of the view that the intervening factor of giardia and cryptosporidium to be of great significance here and it's a pity for both parties, that Agria's expert vet ignored it. Given the vet history clearly shows an improving cat following the treatment for giardia, it can't be at all certain that Mrs P's cat was developing FIP during the 10-day waiting period, given the seriousness of that disease process. And the seriousness of the disease process is extremely important. Further the vet evidence shows an improving cat from at least giardia symptoms, not one sliding down into FIP symptoms.

So, I consider this breaks the chain of causation sufficiently in my view that the actual symptoms this cat exhibited in the 10-day waiting period were not sufficiently related to the existence of FCoV so as to be excluded under the policy's wording. Rather the cat's symptoms were most likely from the actual existence of giardia and cryptosporidium of which giardia raises much more severe symptoms than the usual (if any) FCoV symptoms which Agria's expert vet detailed most helpfully.

Therefore, as Agria's vet detailed above, I consider it's not fair and reasonable to pay claims where the FCoV wasn't identified in the first 10-day period and then to deny claims where it was so identified. More so here when there's no dispute Mrs P's cat was positive for giardia and cryptosporidium in November and not in December after successful treatment.

### **My final decision**

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

I now require Agria Pet Insurance Ltd to do the following:

- Pay Mrs P's claims in relation to the diagnosis and treatment of FIP.
- If Mrs P has paid any of these costs interest of 8% simple per year should be added from the date Mrs P paid those costs to the date of its refund. If income tax is to be deducted from the interest, appropriate documentation should be provided to Mrs P for HMRC purposes.
- Pay Mrs P the sum of £350 compensation for the distress, trouble and upset it caused her.



Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 4 January 2023.

Rona Doyle  
**Ombudsman**