

## The complaint

Mrs L complains that Casualty & General Insurance Company (Europe) Ltd (“C&G”) declined a claim she made under her pet insurance policy.

## What happened

Mrs L has pet insurance with C&G. The policy covers vet fees up to £4,000 per condition in each policy year.

Mrs L has a pet dog, who I’ll refer to as P, who underwent a surgical procedure in January 2022. Mrs L says P had a left lateral suture performed for left hind lameness. The cost of the treatment was over £3,000.

In April 2022 she received a letter from the Veterinary Clinic to say C&G had declined the claim on the basis the condition was pre-existing.

Mrs L says P twisted her *front right* leg while on a walk in October 2020. The vet said P had soft tissue damage to her front right leg and prescribed a week-long course of painkillers following which P fully recovered.

In January 2022 P was on a walk when she suddenly wouldn’t put any weight on her left hind leg. Mrs L says she was limping, only walking on three legs, and could only put her left hind leg down when she was standing still. So Mrs L took P to the vet who examined her and initially said it was soft tissue damage to her left hind leg. P was prescribed painkillers.

There was no improvement to P’s left hind leg so Mrs L took her back to the vet who said she would need an x-ray under sedation, which she did a few days later. The vet said P likely had cranial cruciate ligament rupture in her left hind leg which would ultimately require surgery.

Mrs L said she considered the option for surgery carefully, including checking her insurance policy and seeing P was covered for up to £4,000 per condition. Mrs L says she agreed to the option for left lateral suture to ensure the costs were covered by the policy.

P had the left lateral suture surgery at the end of January 2022 and the vet submitted the claim form to the insurer. Mrs L says the vet was aware of her insurance cover and she ensured the treatment was covered under the policy.

C&G declined the claim. Initially it said it was because the surgery was due to a pre-existing condition. But when Mrs L disputed this it said the claim was declined because P was overweight for a number of years. Mrs L wasn’t happy and so she complained to C&G.

C&G said Mrs L submitted a claim for Left Hind Lameness and when the claim was reviewed the assessor declined the claim in line with the policy terms and conditions. C&G said it didn’t provide cover for claims that arise from the dog being medically overweight – and since P had been overweight for years it wouldn’t cover the cost of the claim.

Mrs L was not happy with the response received from C&G. And so she referred her complaint to our service. The investigator looked into things for her and upheld the complaint. She said if C&G want to decline a claim based on a policy exclusion it needs to demonstrate the exclusion applies. And she wasn't persuaded it had done so. The investigator recommended C&G paid the cost of the claim.

C&G disagreed with the investigator's outcome and so the matter 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 explain why.

The issue in this complaint is whether P's weight had anything to do with the condition being claimed for.

Initially C&G said the claim was declined due to the condition being pre-existing. When challenged it agreed the condition wasn't pre-existing. P was initially seen for lameness in her right front leg. The issue was treated as a sprain and she recovered fine. So I can see why C&G changed its reasoning here.

C&G are relying on the following in declining Mrs L's claim. Under the section of the policy 'What is not insured' it says, *"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 said because there are references to P's increased weight within the clinical history of the dog it meant it was entitled to decline the claim.

However in order to do this C&G must show the causal relationship between the need for the operation and the weight gain. According to the clinical history P's ideal weight is 4.7kg. P's weight has fluctuated from 4.7kg in November 2017, to 5.6kg in January 2022. So I can see why C&G commented that P had been overweight 'for years.' But the clause in the policy goes on to say, *"and this **results** in your pet needing treatment as a result of not being the recommended medical weight."* So the term requires the issue to be wholly causative of the condition claimed. And the vet has confirmed that P's injury is not related to her weight.

I don't consider C&G's response to Mrs L's vet meets its own policy definition. It said the following:

*'The vets have confirmed in the clinical notes the ideal weight for P as 4.7kg, if the vet has not informed the owner the pet is not at ideal weight then this would be something to be discussed with the vet.'*

*The weight charts provided by the vet practice, show that P has been over her ideal weight for the majority of her adult life and her ideal weight has been detailed on two occasions, 3 years apart, so you could assume this is an accurate ideal weight for P.*

*Extensive research states nutrition and weight is linked with a higher chance of developing cruciate ligament problems. Whilst this could be because of the above normal weight on the joint, it may also be because fat cells release pro-inflammatory messages, increasing inflammation in many parts of the body."*

C&G haven't shown anything which details weight being the single causative issue of cruciate ligament disease its own policy clause demands.

C&G's argument appears to be that there is evidence to show P was overweight. But I don't think that is in dispute. And I think it's important to note Mrs L's dog was just over the top end of the normal weight for her breed, her maximum weight being 5.6kg, and so wasn't excessively overweight. The clause in the policy demands the cause of the claim to be from the pet being overweight. It is for C&G to discharge this burden of proof and I consider it hasn't done so.

It is singularly unreasonable to highlight evidence of the pet's weight and base the claims' decision on that. That's not what the clause says. The clause is very clear that the weight issue must be causative of the claim. And the expert here has said the injury isn't related to P's weight.

C&G hasn't provided any evidence of its own (aside from referring to extensive research) to counter the evidence provided by Mrs L. And I find the evidence from Mrs L far more persuasive than the view presented by C&G, who appear to be relying on the fact that P was overweight at various points in her life.

### **Putting things right**

I consider C&G should now pay this claim subject to the remaining terms and conditions of the policy, with interest if Mrs L has already discharged the vet's fees.

### **My final decision**

So for the reasons I've explained above it's my final decision that I uphold this complaint. I now require Casualty & General Insurance Company (Europe) Ltd to do the following;

- Pay Mrs L's claim subject to the remaining terms and conditions of the policy,
- If Mrs L has already discharged her vet's fees, add interest of 8% simple from the date Mrs L discharged to the date C&G reimburses her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 28 February 2023.

Kiran Clair  
**Ombudsman**