

## **The complaint**

Miss F and Mr S complain that Royal & Sun Alliance Insurance Limited declined a claim for their dog's treatment for investigation of allergies in May 2022, as they said it was a pre-existing condition. Miss F and Mr S disagree and want their claim to be paid.

## **What happened**

Miss F and Mr S have insurance for their dog with RSA. Their cover started on 1 April 2021.

In early May 2022 Miss F and Mr S took their dog to the vet as he was scratching and licking his groin. The vet thought that this was due to allergies and recommended allergy testing. Miss F and Mr S submitted a claim for the cost of the treatment and investigations to RSA. This was declined as RSA said their dog had suffered from allergies before his cover commenced. So it was a pre-existing condition and wasn't covered by the policy.

After the claim was rejected Miss F and Mr S's vet wrote a letter to RSA stating their dog presented with otitis externa, inflammation of the ear canal, in 2020, which was treated with ear drops. And no allergies were noted or diagnosed.

Miss F and Mr S didn't agree with RSA's rejection of their claim and raised a complaint. This wasn't upheld. RSA said the terms and conditions of Miss F and Mr S's policy clearly defined what was considered to be a pre-existing condition. And they said that based on the dog's clinical records he'd had problems with his ears in 2018 and 2020 before the policy started. In August 2021 it was noted he was 'scratching++ all over'. In September 2021 he'd been given antihistamines but was noted to still be itching. Then in May 2022 he'd had further problems and the investigations into allergies were recommended.

RSA said their in-house vets had reviewed the dog's medical history and had said that allergies were the most common trigger for the ear problems the dog had in 2018. And their view was that allergies were the proximate (main) cause of the ear infections he'd had before the policy commenced. So the problem was pre-existing and not covered by Miss F and Mr S's policy.

After RSA sent their final response letter Miss F and Mr S's vet sent an email to RSA, dated 26 July 2022. In this he said that he saw their dog on 17 December 2018, when he presented with pruritic (itchy) ears. He said this episode was preceded by the dog swimming in a local water source. And although allergies can be a cause of ear infections, they're not the only cause, and he was confident swimming and wet ear canals were the cause of the problem. And he didn't see how a diagnosis of allergies four years later could be linked to otitis externa in 2018, especially as there are no clinical notes to indicate other signs of allergies at the time.

RSA replied to Miss F and Mr S's vet on 27 July 2022 saying they agreed that there are multiple causes of otitis externa. But said that there's no reference to swimming in the dog's records about his ear infections. That there are entries in his records in 2018, 2020 and 2021 showing a pattern of allergies. And they'd based their decision on the balance of probability, given the dog's history and his ultimate diagnosis.

RSA weren't prepared to review their decision to decline Miss F and Mr S's claim, so they complained to our service.

Before giving their opinion, our investigator asked Miss F and Mr S to ask their vet to confirm why he'd said their dog's ear problems were linked to swimming, when this isn't noted in his records. RSA told us they'd asked him this question and hadn't received a reply. The vet replied on 7 November 2022 saying that his comments regarding the dog swimming before his initial presentation in 2018 were based on his recollection of the events. He'd reviewed his initial correspondence, this remained the case, and he couldn't add anything further.

Our investigator then provided her opinion and upheld the complaint. She said she wasn't convinced that Miss F and Mr S would reasonably have thought that the ear infections their dog had before the policy started, were caused by an allergy and might lead to a claim for this in the future. She was persuaded by the treating vet's opinion that the cause of the ear infections was excessive moisture and that a diagnosis of allergies four years later, couldn't be linked to an episode of otitis externa in 2018.

And she felt RSA had unfairly applied the pre-existing condition exclusion. So she said RSA should pay Miss F and Mr S's claim for their vet's fees subject to any policy limits and applicable excess, together with 8% interest on any sums they'd paid from the date of payment until the date of settlement. And RSA should also pay £150 compensation for the distress and inconvenience their handling of the claim had caused.

Miss F and Mr S accepted our investigator's opinion, but RSA didn't. RSA provided a copy of an article about the causes of otitis externa. They said the dog didn't just have one episode of otitis externa, there was another episode in October 2020, before the start of the policy. And there's a further note in the clinical records on 9 August 2021 saying 'usually suffers from ear issues ... allergies likely given history'.

They say a vet is unlikely to suspect allergies based on one episode of skin problems in August 2021, allergies were suspected because of the previous episodes of otitis. And that the vets were aware the dog had ongoing issues. They say 'surlon' but mean 'surolan' is prescribed for bacterial, fungal, yeast and ear mite infections in dogs and cats. And this was prescribed in 2018 and again in 2020. And they also say the dog had issues with his anal glands in 2021 which is a known indicator of skin issues. Finally, in relation to the episodes of otitis externa they say there's no mention of swimming in the clinical records and both episodes occurred in winter.

Our investigator provided a copy of RSA's comments to Miss F and Mr S. In response they'd said the following: -

- Their dog doesn't have ear disease and their vet has never said that he has. There was no pattern of any recurring or chronic ear infections, just two episodes 23 months apart.
- In November 2018 he had wax and hair in his ears. Tests showed he had a fungal infection which was treated, and it cleared up.
- In October 2020 he had a further ear infection which their vet has said was likely to be caused by swimming. This was treated with drops for a week and cleared up.
- Cultures were taken by their vets to establish the cause of the ear infections and there's no evidence these were caused by allergies.
- Vet's notes tend to be brief. But when asked to provide further information their vet

has said that based on his recollection the dog had been swimming before each episode of otitis externa.

- They totally disagree that the issue their dog had with his anal glands was an indication of skin issues. And they've provided information about the most common causes of this problem.

The case then came to me for decision.

I issued my provisional decision on 31 January 2023 and in it I said: -

*The issue for me to consider in this case is whether, based on Miss F and Mr S's dogs' clinical records he had a pre-existing condition when his policy started in April 2021. And if he did whether it was reasonable for RSA to decline the claim for investigation and treatment of allergies.*

*The terms and conditions of their policy state that health issues, concerns, illnesses and injuries which a consumer or their vet were aware of before the policy was taken out aren't covered. The policy says these are pre-existing conditions and they are: -*

- *Signs or symptoms of diagnosed or undiagnosed injuries or illnesses.*
- *Existing illnesses.*
- *Existing physical abnormalities.*
- *Existing illnesses, injuries or physical abnormalities which lead to other health issues or injuries.*
- *Illnesses or injuries which are medically linked to existing illnesses, injuries or physical abnormalities.*

*RSA are aware of our approach in respect of pre-existing conditions. And that we consider it fair for an insurer to decline a claim where a consumer had reasonable knowledge, when taking out the policy of something that they may need to claim for in the future.*

*Prior to the policy being taken out the dog had two episodes of otitis externa. The first in November 2018 and the second in October 2020. As Miss F and Mr L have said these episodes were 23 months apart. And there's no mention in the records of any ongoing issues with the dog's ears in the intervening period.*

*Miss F and Mr S's vet is clear that he didn't consider these episodes to be related to allergies. And I accept what Miss F and Mr S have told us about the second of these episodes being related to the dog going swimming, which their vet has confirmed is his recollection of what occurred.*

*RSA have accepted that otitis externa can have many causes. But they say that in this case the cause was the allergies that the dog was later diagnosed as suffering from. So he had a pre-existing condition which isn't covered by the policy.*

*But in deciding if Miss F and Mr S's dog had a pre-existing condition, I have to consider whether, when they took out the policy, they could reasonably have known he had a condition they'd have to claim for. And I'm not persuaded that they did.*

*I don't think two episodes of otitis externa, 23 months apart, which appear to have resolved*

*quickly with treatment, would have made Miss F and Mr S think that their dog had a problem with allergies which they'd need to claim for in the future. They've told us they believed the 2018 episode to be related to hair and wax in his ears, and the 2020 episode to be related to water in his ears after he'd been swimming. This seems entirely reasonable and is supported by their vet. And I prefer the evidence from the vet who treated their dog, over the research carried out by RSA's claims handler into the causes of otitis externa.*

*The dog needed his anal glands emptied in June 2021 and in August 2021 these were noted to be bothering him again, and he was 'scratching ++ all over'. The note in his records for 9 August 2021 also says 'usually suffers with ear issues'. RSA have relied on this entry to say that the dog had ongoing chronic ear issues which were related to allergies which are first mentioned in the records on this date. I don't know exactly what the vet meant by this entry, but there's simply no evidence from the clinical records that the dog had ongoing issues with his ears. And it's noted on this date that his ears were fine.*

*The entry for 9 August 2021 goes on to say 'Skin a little chronically inflamed in groin and axilla etc. Allergies likely given history'. Once again, it's not entirely clear what history the vet was referring to. It's noted that the owner said 'always worse when hotter so likely seasonal'. They may have been referring to this, but there's still no evidence that Miss F and Mr S were aware their dogs had allergies they'd need to claim for when they took out their policy.*

*It's clear that from June 2021 the dog needed to have his anal glands emptied on a fairly regular basis. But I'm not persuaded by RSA's statement that this is a known indicator of skin issues. They haven't provided any veterinary evidence to support this statement. Miss F and Mr S have said this is a common issue with some dogs and I accept this. And even if it was an indicator of skin problems, the first time it occurred was June 2021, some months after the policy started.*

*Finally, RSA have said the policy regards pre-existing issues as those that Miss F and Mr S 'or their vet' were aware of before they took out the policy. They say that Miss F and Mr S's vet was aware that the dog had ongoing issues. I've set out above what our approach to pre-existing issues is. And I've said that I don't think Miss F and Mr S's could reasonably have known when they took out the policy that their dog had allergies they'd need to claim for. Their vets have said they'd been no diagnosis of allergies, so it's unclear why RSA say the vets knew there was an ongoing condition. And it's Miss F and Mr S's knowledge that's relevant here.*

*So I don't think RSA acted reasonably in declining Miss F and Mr S's claim for their dogs treatment in May 2022.*

*Miss F and Mr S have lifetime cover for their dog so they can continue to claim for the same or new treatment each year as the vet fee limit reinstates every time they renew their policy. So as I've said allergies weren't a pre-existing condition when Miss F and Mr S took out their policy, I don't expect RSA to raise this as an issue if there are future claims relating to this condition.*

*And I require RSA to pay Miss F and Mr S's claim for their dog's treatment in May 2022 together with 8% interest on any sums they've paid from the date of payment until the date of settlement.*

*Miss F and Mr S have told us they've suffered distress and inconvenience as a result of how RSA have handled their claim, and I accept this. And taking everything into account I think £150 is the appropriate level of compensation.*

*So my provisional decision was that I upheld Miss F and Mr S's complaint.*

Both parties have responded to my provisional decision. RSA have said they strongly disagree with it but feel they've exhausted the medical evidence they can provide, and this is being ignored or overlooked. So they say they've paid Miss F and Mr S's claim along with 8% interest and the £150 compensation.

Miss F and Mr S have told us they accept my provisional decision but have asked me to comment on the further vet's fees they've incurred relating to their dog's treatment for allergies.

### **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.

I understand that RSA are unhappy with my provisional decision but it's simply not correct that I've ignored or overlooked the medical evidence they've provided. I've considered the veterinary evidence provided by both parties. And having done this I'm not persuaded that the two episodes of otitis externa Miss F and Mr S's dog suffered in 2018 and 2020, were caused by allergies. RSA's vet may disagree, but I prefer the evidence of Miss F and Mr S's vet who treated the dog.

As I said in my provisional decision, there's no evidence in the dog's clinical records to persuade me that Miss F and Mr S would have known when they took out their policy with RSA, that they've have to make a claim for allergies in the future. And on this basis, I remain of the opinion that the dog didn't have a pre-existing condition. So RSA didn't act fairly when they declined Miss F and Mr S's claim.

I can only consider the complaint Miss F and Mr S have made to RSA. I've said that as they have a lifetime policy for their dog, I don't expect RSA to raise allergies as a pre-existing condition in relation to any further claims Miss F and Mr S submit in relation to that condition. But they'll need to submit any claims to RSA for them to assess, I can't deal with them in this decision.

### **Putting things right**

To put things right I require RSA to pay Miss F and Mr S's May 2022 claim for investigation and treatment of their dog's allergies subject to any excess and policy limit, together with 8% interest on any sums they've paid from the date of payment until the date of settlement. And to pay £150 compensation for the distress and inconvenience their handling of the claim has called.

Miss F and Mr F have a lifetime policy for their dog, and I've said that he doesn't have a pre-existing condition. So I don't expect RSA to raise allergies as a pre-existing condition in respect of any further claims.

### **My final decision**

For the reasons set out above and in my provisional decision my final decision is that I uphold Miss F and Mr S's complaint about Royal & Sun Alliance Limited and to take the steps detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F and Mr S to accept or reject my decision before 6 March 2023.

Patricia O'Leary  
**Ombudsman**