

The complaint

Mrs and Mr E complain about Casualty & General Insurance Company (Europe) Ltd's (CGICE) settlement of their pet insurance claim. My references to CGICE include its agents.

What happened

Mrs and Mr E had pet insurance for their dog, insured by CGICE. They claimed £517.82 for vet treatment for a wound on their dog's chest on 4 July 2021, which was a Sunday.

CGICE accepted the claim. It deducted from the claim amount: £90 for the excess, £56.45 for the co-payment, £22.50 for the medication over 100% mark-up and £29 for the out of hours fee. CGICE said the deductions were in line with the policy terms.

Mrs and Mr E complain that it's unfair for CGICE to make the out of hours fee and medication over 100% mark-up deductions. In summary they said:

- The vet practice their dog was taken to was open on a Sunday and included Sundays in its published opening hours, so their dog wasn't treated 'out of hours'. They asked where the definition of 'out of hours' was in the policy terms. Also, if they'd delayed treatment CGICE might have reduced their claim for their poor care if for example their dog had developed complications.
- Their dog was treated by a vet, without them being present, for an acute condition. They had no control over what medication the vet used or the price of the medication. They asked what policy term CGICE was using to make the medications over 100% mark-up deduction and the relevant medication.
- They want CGICE to pay those two deductions, a total of £51.50, and compensation for their lost time and inconvenience in making the complaint.

CGICE sent its final response letter sent to Mrs and Mr E after they'd complained to us. It detailed the relevant policy terms and said:

- The policy stated there was no cover for costs of an out of hours consultation unless the vet confirmed that was necessary to provide life-saving treatment. There was no evidence in the vet's notes that Mrs and Mr E's dog was in a critical condition. It later provided the vet's invoice which showed the vet had charged £64 for a Sunday consultation.
- For calculation of medication costs it allowed a mark-up on the consumer pricing to allow for vets' administration costs and overheads. It named the two medications that had the mark-up deduction.

Our investigator said CGICE fairly deducted £29 for the out of hours fee. Once CGICE sent us its calculations for the medication mark-up deductions our investigator said CGICE had fairly applied the deduction. He explained that as the information CGICE provided was commercially sensitive he couldn't send the calculations to Mrs and Mr E.

Mrs and Mr E disagreed and wanted an ombudsman's decision. In summary they added:

- Dictionary definitions of 'out of hours' generally say 'during the period of the day in which business is not usually conducted'. As the practice their dog went to routinely

opened on a Sunday their dog's consultation wasn't 'out of hours'. The policy terms didn't say CGICE would only cover a standard consultation fee and not any uplift for Sunday consultations.

- CGICE hadn't established that the treatment their dog had didn't prevent his loss of life. Their dog had a deep wound to his chest wall, which could have indicated deeper internal injuries, and there could have been a significant risk of infection if not treated promptly.
- CGICE ought to provide them with the medication mark-up calculations to be transparent. They asked if we had verified whether the figures CGICE quoted were the average market prices for the medication.

What I provisionally decided – and why

I made a provisional decision that I was intending to partly uphold this complaint. I said:

'The relevant regulator's rules say that insurers must handle claims promptly and fairly. And they mustn't turn down claims unreasonably.

I have to decide if CGICE reasonably settled the claim. As I think CGICE unreasonably deducted the out of hours fee I partly uphold this complaint. I'll explain why.

I've taken into consideration all the points Mrs and Mr E made to support their complaint. I'm not going to respond to each point but I'll focus on why I've made my decision.

Under the 'Veterinary Fees' section the policy says:

'What is not insured...

Any out of hours Vet Fees, except where this is life saving for Your pet'.

The vet's notes for 4 July say Mrs and Mr E's dog had a '*cut on chest from walk – wound approx 2 inch long*' which was deep to the underlying muscle. I understand why Mrs and Mr E wanted their dog treated promptly but I think CGICE fairly considered there was no evidence from the vet's notes that the treatment was life-saving for their dog.

Mrs and Mr E say their claim may have been affected if their dog's condition had worsened due to not getting prompt treatment. But that didn't happen and I don't make decisions based on hypothetical situations.

On the evidence I have, the issue is whether CGICE reasonably considered the treatment to be out of hours. There's no definition of 'out of hours' in the policy. So I think it's reasonable for me to look at dictionary definitions to see what a reasonable consumer could understand 'out of hours' to mean in the every-day use of the phrase. Dictionary definitions for 'out of hours' generally say '*a time that is not during the usual hours of business or work*' or very similar.

The invoice attached to the claim is from Mrs and Mr E's dog's usual vet practice. CGICE say that practice's website shows it's closed on Sundays, and I agree. CGICE initially understood the dog was seen at the usual practice on a Sunday, so out of hours for that practice. But Mrs and Mr E's evidence is that their dog was seen at another vet practice, which was part of the same group as the usual vet practice, which was open on Sundays. I've no reason to doubt that evidence.

Mrs and Mr E sent us evidence from the website of the vet practice where their dog was seen which shows the published opening times for the practice as 9am to 4pm on Sundays. I've had a look at the website which shows that practice offers standard consultations on Sundays during those times. I've seen no evidence that Mrs and Mr E's dog was seen outside the published Sunday opening times.

In these circumstances I don't think the dog was seen out of hours of the vet practice's opening times. So it's unreasonable for CGICE to deduct an out of hours fee. It should pay the £29 it deducted for the out of hours fee. If Mrs and Mr E have already paid that cost to the vet CGICE should add interest as I've detailed below.

Under the 'General Exclusions' the policy says:

'Vet Fees will only be paid if they are:

Reasonable; and

Essential for Your pet's health and well-being. We may limit any payment to a maximum mark-up of 100% for veterinary Treatment, medication and dispensing fees'.

Under that policy term CGICE can deduct a mark-up in excess of 100% for a medication cost. Mrs and Mr E would like to see the information CGICE used to calculate whether there'd been an over 100% mark up for the medication. As CGICE provided us with confidential business sensitive information to explain the calculation I can't share that with Mrs and Mr E. I have checked that the figures CGICE used were reasonable average market prices for the medication.

I'm satisfied that CGICE's calculation about the mark-ups on the relevant medication were reasonable and it made the deduction in line with the policy terms.

Mrs and Mr E have asked for compensation for their lost time and inconvenience in making the complaint. I don't generally award compensation for a consumer's distress and inconvenience in making a complaint and there's no reason for me to do so in this case'.

Responses to my provisional decision.

CGICE and Mrs and Mr E accepted my provisional decision. Mrs and Mr E added that they still had reservations about the 'commercial in confidence' rationale for CGICE not stating the market price of the relevant medication. They asked, if possible, I confirm that CGICE calculations for the medications were as at 4 July 2021 and the medications were available at those prices.

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.

As Mrs and Mr E and CGICE have accepted my provisional decision I've no reason to change my mind. As to Mrs and Mr E's additional comment, I've no reason to think that the medication prices CGICE used for the calculations weren't relevant to July 2021. As I've said I'm satisfied that CGICE's calculation about the mark-ups on the relevant medication were reasonable.

For the reasons I've given in my provisional findings and these findings I partly uphold this complaint. I find that CGICE unreasonably deducted the out of hours fee from its settlement payment of the claim.

Putting things right

CGICE must pay the £29 it deducted for the out of hours fee from its settlement payment of

the claim. If Mrs and Mr E have already paid that cost to the vet CGICE should add interest as I've detailed below.

My final decision

I partly uphold this complaint and require Casualty & General Insurance Company (Europe) Ltd to pay the £29 out of hours fee it deducted from its settlement payment of Mrs and Mr E's claim. If Mrs and Mr E have already paid that cost to the vet Casualty & General Insurance Company (Europe) Ltd should add interest* at 8% simple a year from the date they made the payment to the vet to the date of settlement.

*If Casualty & General Insurance Company (Europe) Ltd considers that it's required by HM Revenue & Customs to take off income tax from that interest it should tell Mrs and Mr E how much it's taken off. It should also give Mrs and Mr E a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E and Mr E to accept or reject my decision before 6 June 2023.

Nicola Sisk
Ombudsman