

The complaint

Miss P has complained that her pet insurer, Casualty & General Insurance Company (Europe) Ltd ("CGIC"), turned down a claim she made under the policy she has for her dog.

CGIC is the underwriter of this policy i.e. the insurer. Throughout the claim Miss P was dealing with a different company who acts as CGIC's agent. As CGIC has accepted it is accountable for the actions of the agent, in my decision, any reference to CGIC includes the actions of the agent.

What happened

I issued a provisional decision regarding this complaint earlier this month. In that decision I said the following:

"Miss P has an insurance policy with CGIC for her dog, T. She's had the policy since 2019 but the underwriter changed to CGIC in September 2021.

T had cruciate ligament surgery to his left hind leg in January 2022 which cost around £3,860.00. Miss P made a claim under her policy but it was rejected by CGIC who relied on an exclusion saying T was overweight and that this was evidenced in his medical records.

Miss P wasn't happy about CGIC's response and complained. She said there was one entry where T's weight was recorded as 16.5kg by the hospital but this was an error. She said another entry where the vet said T was potentially overweight was from a member of the vet's administrative team who had never seen T. Miss P added that she took T to a weight clinic in June 2022 and was told that he is at his ideal weight at 14.5kg. She said T had the same operation to another one of his right legs around six months before this one when he weighed 16.35kg and that was covered by her insurer so she didn't think that medical records prior to that operation were relevant. She added that the vet told her that the surgery wasn't linked to T's weight and that vets have always struggled to advise her regarding T's weight because he is a crossbreed.

CGIC didn't respond to Miss P's complaint in time so she complained to the Financial Ombudsman Service and asked for the claim to be paid. She said nowhere in T's notes does it say his weight was the cause of his injury.

CGIC responded in the meantime and maintained its decision not to cover the claim. It said T had been overweight since 2015. It added that the notes suggested that T had been limping since December 2019 and that in March 2020 the vet suspected cruciate disease and gave advice for T to lose weight.

One of our Investigators reviewed the complaint and thought that the claim should not have been rejected. He didn't agree that T was overweight and said that CGIC should reconsider the claim.

CGIC didn't agree. It said that the first operation was covered because the policy, though branded the same, was underwritten by a different insurer and the terms were slightly

different. It added that T had been overweight for some time and that there were a number of records of the vet advising Miss P to help him lose weight. It added that research shows that lameness can develop as a result of excess weight as do problems with anal glands that lead to them needing to be expressed. It said that T had some problems with his anal glands which further supports this.

Our Investigator reviewed further medical notes provided by CGIC but didn't change his view. He said the advice Miss P was given in 2015 and 2016 was inconsistent as she was initially told that T needed to lose 1.5kg and, after gaining some weight, was told to only lose 0.5 kg. He also didn't think that T's anal glands needing to be expressed was related to him being overweight and said that some dogs are more prone to it than others. He added that a comment where T was said to be overweight which Miss P said was written by someone who hadn't seen T should not be taken into consideration and pointed out that T had a weight review a few months after the operation and Miss P was told his weight was fine.

As CGIC didn't agree the case was passed to me to reach a decision.

What I've provisionally decided - and why

The policy

Under the "veterinary fees" section, the policy says it covers treatment carried out by a vet for treating an illness whilst the pet is insured with CGIC. Treatment includes consultation, examination, advice, tests, x-rays, slides, ultrasound, MRI scans, medication and surgery provided by the vet. The benefit limit under this section is £4,000 and the excess is £90.

The policy also enables the consumer to claim per condition up to the benefit limit in each and every policy period of insurance. At each renewal the benefit limit for each condition renews. "Condition" is defined as an "illness or accidental injury or any symptoms or clinical signs of an illness or accidental injury affecting your pet". It defines illness as "... any disease, sickness, infection or any change to your pet's normal healthy state, which is not caused by an accidental injury".

The policy excludes claims resulting from the pet being medically overweight when this results in them needing treatment as a result of not being the recommended medical weight for their age, breed type and sex as recommended by a vet.

The medical evidence

CGIC says that T has been overweight for a number of years. I see that vets have, at times, advised for T to lose weight and at other times said he was a normal weight, so I don't think this advice has been consistent. For example, in January and February 2020, T had a body condition score (BCS- similar to BMI for humans) of 6/9 and 6.5/9 (9/9 being obese) and around that time he weighed around 16.55kg. In August 2020 he weighed 16.4kg and was given a BCS score of 8/9. In January 2022 he had a BCS score of 5/9 and weighed 14kg and in February 2022 he was erroneously recorded as weighing 16.5kg but his BCS score was 6/9. He was then recorded as weighing 14kg in April 2022 but Miss P was told he may be overweight in June 2022. Shortly thereafter he was taken to a weight clinic and Miss P was told his score was 5/9 and was at an ideal weight – he weighed 14kg at the time.

In terms of T's weight around the time of his operation, Miss P has provided evidence from the hospital who carried out the operation which said that there was an error on the report it had prepared dated February 2022 where it said T's weight was 16.5kg. The hospital said that T's weight was consistently 14kg. This is also supported by the fact that an earlier report dated around two weeks earlier states that T's weight is 14kg. I agree with Miss P that it is very unlikely that T gained two and a half kilograms in two weeks and this is supported by the clarification the hospital provided since.

So based on the above, I don't think I've seen enough evidence to conclude that T has been consistently overweight.

CGIC referred to a note in March 2020 where the vet said that there is subtle osteophytosis of the distal pole of the right patella (lumps around the kneecap). The vet added that they suspected early stage of cruciate disease (damage to the ligaments in the knee) which could be managed conservatively with weight reduction as well as other things like hydrotherapy and some pain relief. But this note was in relation to the right leg whereas the claim was made in relation to the left one. And, in any case, the vet didn't say that T's weight caused his right knee condition. In any event, as I said above, at the time of the operation to the left knee, T weighed around 14kg.

Miss P said there is nowhere in the vets notes that says T's weight played a part in him requiring this operation. Based on what I have seen, I agree with her. So even if I were to agree that T was overweight which I don't, at least not consistently, I have seen no medical evidence to say that this was the reason he required the operation that resulted in this claim. It follows, that I don't think that it is fair and reasonable for CGIC to apply the weight exclusion in the specific circumstances of this case.

CGIC said there is medical research which says that weight gain can lead to lameness and also anal glands needing expressing suggests that the pet may be overweight. As far as I am aware some breeds are more susceptible to having to have their anal glands expressed so I don't think this is something I can take into consideration. And from T's records it looks like he had to have his expressed at times, but they were often not considered to be full so this seemed to be done more as a precaution. In terms of weight contributing to lameness, again I have not seen medical evidence specific to T that says this is what caused his lameness. So I do not think the points CGIC is making here apply to this specific case.

The claim

CGIC said the first operation was covered because the policy was underwritten by a different underwriter and their terms were slightly different. I have had a look at the relevant term regarding weight and it is very similar to CGIC's so I don't agree with CGIC's reasoning on this.

Overall, having looked at the policy I don't see any other reasons why this claim shouldn't be covered. So my provisional decision is that CGIC should cover this claim."

Both parties responded to and accepted my provisional decision. CGIC confirmed that it would pay Miss P £3,770.62 plus interest. It calculated this by deducting the £90.00 excess from the claim amount of £3,860.62.

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 both parties have accepted my provisional decision I will not be adding to or changing any of the findings I made in it. Including my decision that CGIC pays the claim. As such, my provisional findings now form the findings of this my final decision.

My final decision

For the reasons above, I have decided that Casualty & General Insurance Company (Europe) Ltd must now pay the claim for left pelvic limb lameness which came to £3,860.62

in line with the terms of the policy and subject to any policy limit and any applicable excess. Casualty & General Insurance Company (Europe) Ltd has confirmed that this comes to £3,770.62. It must also pay Miss P interest at a yearly rate of 8% simple payable one month from the date the claim was made up to the date it pays her.

If Casualty & General Insurance Company (Europe) Ltd pays interest and considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Miss P how much it's taken off. It should also give Miss P a tax deduction certificate if she asks for one, so she can reclaim tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 21 June 2023.

Anastasia Serdari
Ombudsman