

The complaint

Mr H has complained that Casualty & General Insurance Company (Europe) Ltd ('C&G') declined his claim under his pet insurance policy.

What happened

Mr H's pet dog went through an operation in September 2022 to amputate its tail. Mr H had taken out a pet insurance policy with C&G at the relevant time and which had commenced in February 2021 and lodged a claim with the company. C&G declined the claim and said that the treatment wasn't covered by the policy. Mr H made a claim on his pet insurance policy and was unhappy that the claim was declined. He said that the treatment was carried out for the benefit of the dog's health and not for cosmetic or elective reasons. Mr H then made a complaint to the company however it maintained its position. In the circumstances, Mr H referred his complaint to this service.

The relevant investigator initially didn't uphold the complaint. She said that the policy terms made it clear that the insurance company wouldn't cover tail docking and concluded that its decision to decline the claim was reasonable and in line with the policy terms. Following receipt of further evidence however, the investigator then upheld Mr H's complaint. She said that the evidence from the treating vet persuaded her that tail amputation was necessary for the health of Mr H's dog. She considered that C&G should therefore cover the cost of treatment in line with the remaining terms of the policy.

C&G didn't agree with the investigator's view. In the circumstances, the matter has been referred to me to make a final decision in my role as Ombudsman

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.

The issue for me to determine is whether C&G applied the terms of this pet insurance policy in a fair and reasonable manner in declining Mr H's claim. Whilst this is a finely balanced decision, I don't consider that it did, and I'll explain why. In reaching this final decision, I've considered the submissions of both parties as summarised below.

Mr H said that the family's dog had to have his tail amputated. The vet had told him it was the '*worst case of tail fold pyoderma he had ever seen and was starting to grow into the dog's rear.*' This meant that it was constantly infected and could no longer be managed by cleaning. The vet advised Mr H that he needed to have the tail amputated for the dog's health. Mr H said that the procedure wasn't therefore for cosmetic or elective reasons and considered that the policy would cover the cost. Mr H said he wouldn't have put the dog through such a traumatic operation for cosmetic reasons or if it wasn't absolutely necessary and to allow him to live a healthy life. Mr H said that he'd paid for the top premium insurance to make sure he always covered in case events like this occurred, as he thought this type of dog could have health problems and he didn't want to have this worry of being unable to pay outright. He wanted C&G to honour the policy in the circumstances. As to the policy stating

that tail docking wasn't covered, he thought that it was referring to tail docking for cosmetic reasons.

Mr H referred to the vet's notes which referred to constant 'tail fold pyoderma' constantly. He said he hadn't asked for the surgery. He'd asked the vet for his advice, and the advice was that the tail needed amputating, as there was nothing else that could be done. He'd already been trying to manage the problem with cleaning. Mr H supplied a letter from his vet dated November 2022 which confirmed that the condition was a 'very marked tail fold pyoderma'. He confirmed to the insurers 'I can assure your company that [the dog's] surgery was strictly for clinical reasons...' In a further letter, the vet referred to a 'very deep pyoderma (skin infection) and constant pain from a very irritated skin'. He also confirmed that 'It was one of the most severe cases I had to operate on due to the distortion of his tail and how severely broken the skin had become.' He also confirmed that the surgery wasn't suggested by the client.

The clinical notes recorded the following in August 2022; '*Has tail fold pyoderma constantly and owner managing with cleaning. Wants to book for amputation of tail for clinical reasons.*' The next relevant note states '*Still marked tail fold pyoderma. [Owner] wants to book for surgery asap.*' In September, the clinical notes record '*After tail amputated, exposed large are[a] of skin erythema/ulcerated skin.*' Finally, towards the end of September 2022, they note '*Skin healing well. Erythema/ulceration of skin improving greatly. [Owner] reports few accidents with faeces in the house. Normal anal sphincter tonus on exam, so most likely related to discomfort/local inflammation.*'

I now turn to C&G's submissions in this matter. It said that the policy terms didn't provide cover for costs relating to tail docking or elective treatment. It explained that Mr H had a '14-day cooling-off period' at the beginning of the policy term during which he'd been able to query or cancel the policy should any of the terms not meet his requirements. Having reviewed the claim and associated clinical history, C&G noted the condition from which the dog suffered and accepted that the vet had made it clear that Mr H wanted his tail to be amputated for clinical reasons. It noted a further visit to the vet who had noted that the owner '*wants to book for surgery asap*'. It said that prior to August 2022, there were no clinical entries confirming that the dog suffered from the relevant condition, nor evidence to confirm that attempts had been made to manage the condition. It said, no treatment options have been noted by the vet. It appreciated that the clinical notes observed '*Still marked tail fold pyoderma*', and the word '*marked*' indicated something obvious or noticeable, this didn't confirm the length of time the pyoderma had been present.

C&G said that it hadn't been provided with evidence that this '*was a longstanding condition or that other treatments were unsuccessful*,' it said that it was unable to agree that this was a necessary operation and that it wasn't elective. It considered that the claim had been correctly declined in line with the terms and conditions of the policy. It considered that the evidence indicated that the dog hadn't been given medical treatment for the pyoderma prior to the amputation of his tail, and that this indicated that the surgery was elective.

C&G referred to the Code of Professional Conduct issued by the Royal College of Veterinary Surgeons which states that clinical records should include advice given and record plans for treatment and that a non-recorded conversation would be in breach of the Code. It said that insurers were required to review claims based on clinical records. It also maintained that the clinical records didn't mention pyoderma or the need for the tail to be amputated. Finally, it thought that it couldn't consider the claim as it hadn't been provided with any evidence '*to categorically state this was not an elective treatment.*'

Having considered the evidence and submissions, the reasoning for my decision is as follows. The starting point is the policy itself. I note that Mr H had paid for premium

insurance. The policy excluded treatment as follows '*Any claim for cosmetic, elective, or routine treatment or any treatment which is preventive and not treating an illness or accidental injury*'. It also specifically excluded any claim for specific issues such as '*tail docking, even if required as the result of an accidental injury*.' Cosmetic and elective treatment was specifically highlighted in C&G's insurance product information document. Finally, '*Illness*' is defined as '*any disease, sickness, infection or any change to your pet's normal healthy state...*' '*Accidental Injury*' is separately defined.

Whilst C&G's final response letter referred to both the elective surgery and tail docking exclusions, it indicated that it had declined Mr H's claim primarily on the basis that it was elective surgery, as opposed to on the basis of the exclusion for tail docking. I consider this to be significant.

In this case, I'm satisfied that the vet considered the amputation to be necessary to relieve an underlying condition being a '*marked*' pyoderma. This was not a case of tail docking for its own sake or tail docking due to accidental injury. Nor do I consider that the procedure was elective, bearing in mind its marked or obvious impact on health which, following surgery, exposed a large area of ulcerated skin. I consider that this demonstrated the seriousness of the underlying condition and necessity of the procedure.

The reason I consider this to be a finely balanced decision however is that tail docking at first appears to be excluded from cover, along with other procedures such as dealing with dew claws and ear crops. However, in the light of the additional wording '*...even if required as the result of an accidental injury*', I don't consider that tail docking in the case of an underlying illness was clearly and specifically excluded. I note that C&G didn't draw attention to this particular exclusion, or appear to heavily rely upon it in reaching its decision. In all the circumstances, I don't consider that it would be fair or reasonable to now rely upon this apparent exclusion.

Whilst C&G considered that the vet's notes suggested an elective procedure due to the vet's use of wording such as '*wants to book for amputation*', I'm satisfied that the vet then made it clear that amputation was necessary '*for clinical reasons*.' His further letter of November 2022 also made it explicit that the surgery was necessary for these reasons. Whilst there will be a degree of election in pet surgery as the ultimate decision will usually lie with the pet owner, I conclude that the procedure here was necessary for the health of the dog rather than being a purely elective procedure.

This is supported by the case note evidence with reference to an on-going condition. The records state; '*still marked tail fold pyoderma*'. Whilst the notes don't record that the vet had said that this was '*worst case of tail fold pyoderma he had ever seen and was starting to grow into the dog's rear*', I wouldn't expect advice and discussions to clients to be verbatim records and the vet has since recorded this view in correspondence. Whilst I note the relevant extract from the relevant code of professional conduct, I consider the case notes to be sufficiently clear in recording the condition and the recommended action.

I conclude that C&G hadn't fairly or reasonably applied the wording of the pet insurance policy to decline Mr H's claim in this instance.

My final decision

For the reasons given above, I uphold Mr H's complaint and require Casualty & General Insurance Company (Europe) Ltd to do the following: -

- To settle Mr H's claim in line with the remaining terms and conditions of the policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 July 2023.

Claire Jones
Ombudsman