

## **The complaint**

Miss F is unhappy that Casualty & General Insurance Company (Europe) Ltd (C&G) has only paid part of her pet insurance claim.

Any reference to C&G includes the actions of its agent.

## **What happened**

The circumstances of this complaint are well known to both parties, so I've summarised events.

Miss F took out a pet insurance policy in 2018 through an online comparison site. In 2021, the underwriter of the policy changed to C&G.

She made a claim in 2023 for her dog – who I'll refer to as 'T'. C&G said Miss F had incorrectly insured T as a "medium crossbreed", but T was registered with her vet as a "Cockapoo". It said Miss F should have declared T was a "Cockapoo" when answering the question about her dog's breed.

It said it was required to amend T's breed on the policy and adjust the premium accordingly. It added that it was also required to calculate the percentage by which T was underinsured and deduct this from the amount payable for the claim. Miss F complained saying she wasn't given the option of inputting "Cockapoo" at the time of taking out the policy and stated T was a medium crossbreed so her answer was correct.

C&G maintained its position. Unhappy, Miss F complained to this Service. An Investigator considered it and upheld it, saying C&G hadn't provided evidence to show Miss F was asked clear and specific questions – and so, she didn't consider its decision to treat Miss F's misrepresentation as careless was fair.

To put things right, she said C&G needed to settle the claim in full, and if it increased Miss F's premiums, it should refund the difference.

C&G didn't reply to the Investigator's findings, and so, the complaint has been passed to me for an Ombudsman's decision.

## **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 relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be

a qualifying misrepresentation the insurer must show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

C&G says Miss F failed to take reasonable care when taking out the policy and didn't notify it that T was a Cockapoo at subsequent renewals. It considered Miss F's misrepresentation to be careless and said it was a qualifying misrepresentation because it would have charged a higher premium had she declared T was a "Cockapoo". Because of this, it considers it fair to proportionately reduce the amount payable for the claim and increase her premium.

*Was there a careless misrepresentation when Miss F initially took out the policy?*

For me to determine if Miss F took reasonable care to not misrepresent information, I need to first be satisfied that she was asked clear and specific questions at the time of taking out the policy - to which she provided incorrect information. We've asked C&G to provide screenshots showing the questions Miss F was asked at the time, but it hasn't provided this.

Rather, C&G has provided information which it says shows Miss F *could* have selected "Cockapoo" as an option when inputting T's breed information. But I don't find this persuasive as whilst it might show what data *could* have been inputted, it doesn't show what question this was in response to, and importantly how it was presented to Miss F – which is what's key when deciding if she took reasonable care when answering it.

But in any event, I've thought about the fact Miss F selected "*medium crossbreed*" as T's breed. As a Cockapoo is a combination of two dog breeds and I understand T to be of medium size, I'm not persuaded Miss F provided inaccurate information at the time of taking out the policy and so, I'm not persuaded she misrepresented information at this time. And it follows that I don't consider CIDRA to apply further here.

*Was there a misrepresentation when Miss F renewed her policy?*

C&G has said Miss F failed to amend her dog's breed when it took over as the insurer of the policy in 2021, and at subsequent renewals. It said she was provided with updated policy documents and had the opportunity to ensure T's breed was correctly recorded.

Miss F has said that because T *is* a medium sized cross breed – she didn't consider herself to have provided incorrect information about T's breed when taking out the policy and so, it didn't occur to her that she'd need to change the breed to "Cockapoo" when renewing the policy.

I've said I'm satisfied Miss F took reasonable care at the time of taking out the policy to *not* make a misrepresentation about T's breed. So, I've thought about whether she ought to have known she should amend T's breed at renewal and that not doing so, is evidence of her having not taking reasonable care.

At renewal, C&G didn't ask Miss F to specifically review whether T's breed was recorded correctly. Given T's breed hadn't changed, and Miss F had reasonably inputted "medium crossbreed" at the time of taking out the policy, I don't consider her not amending T's breed to "Cockapoo" at renewal to be evidence of her not taking reasonable care. And so, I don't consider CIDRA to apply here either.

*Summary*

As I'm not persuaded Miss F misrepresented information at the time of taking out the policy or when it renewed, I don't consider C&G's decision to reduce the claim settlement and increase her premiums for the year in which the claim took place to be fair and reasonable in the circumstances.

### **My final decision**

My final decision is I uphold this complaint and direct Casualty & General Insurance Company (Europe) Ltd to:

- Pay the claim in full. If Miss F has already paid the outstanding fees, C&G must reimburse her this amount and add simple interest at 8% a year from the date she made the payment to the day it is refunded – subject to proof of payment.
- If C&G increased Miss F's policy premium for the remainder of the policy year in which the claim took place, it should refund the difference between this and what her premium was (prior to the increase) and pay simple interest at 8% a year from the date she made each payment to the date it is refunded.

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

Nicola Beakhust  
**Ombudsman**