

The complaint

Ms A's complaint is about a claim she made on her Casualty & General Insurance Company (Europe) Ltd ('C&G') pet insurance policy, which was declined.

Ms A says C&G treated her unfairly and wants her claim to be paid.

What happened

In January 2023 Ms A took out a pet insurance policy with C&G. In April that year she made a claim on the policy for vet's fees incurred in relation to treating her pet's left eye. C&G considered her claim but declined it. They said the condition was pre-existing and that the policy terms wouldn't cover this sort of situation. They also referred to the condition being 'bilateral', as defined by the policy, and said that if Ms A had disclosed the earlier condition when she took out the cover, they would have placed an exclusion against the policy for the same condition, as they had done now.

Ms A said that whilst her pet did have treatment for an injury to its right eye three years before the policy engaged, this had nothing to do with the cause of the injury to its left eye on this occasion and the condition itself wasn't pre-existing. She also provided evidence from her vet which said the treatment to both of the pet's eyes wasn't related. In addition, she said there was nothing to disclose when she took out the cover because her pet didn't have any pre-existing conditions and the treatment to its right eye had resolved some considerable time before.

C&G maintained that the condition Ms A was claiming for was pre-existing and stood by their earlier decision to decline her claim. Unhappy, Ms A referred her complaint to the Financial Ombudsman Service.

Our investigator considered Ms A's complaint and concluded it should be upheld. He said the evidence supports the condition being claimed for wasn't pre-existing or bilateral as contended by C&G and that she didn't misrepresent the position with regard to this when taking out cover. As a result, the investigator directed C&G to pay the claim plus interest at 8% from the time Ms A paid her vets fees until the claim is paid. He also awarded £100 in compensation for the distress and inconvenience caused to Ms A as a result of the claim being declined.

C&G don't agree with the investigator's view. They maintain their interpretation of the policy terms in light of the claim made are correct. As such the matter has been passed to me to determine.

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.

Having done so, I uphold Ms A's complaint for broadly the same reasons set out by the investigator in his view. I've explained why below.

The starting point is the policy terms. They say:

“What is not insured?

- *Any claim that relates to a Pre-existing Condition or that showed Clinical Signs or Symptoms before Your Policy Start Date or within the Waiting Period;*
- *Any claim for Illness or Accidental Injury that relates to a Pre-existing Condition or that showed Clinical Signs or Symptoms before Your Policy Start Date or within the Waiting Period”.*

So, the issue I need to determine is whether the claim made is in relation to a pre-existing condition or showed clinical signs or symptoms before the policy start date.

“Pre-existing Condition” is defined as “any diagnosed or undiagnosed Condition and/or Associated Condition which has happened or has shown Clinical Signs or Symptoms of existing in any form before the Policy Start Date or within the Waiting Period.”

“Clinical Signs” are defined as “any observable changes in Your pet’s normal healthy state: condition: appearance: bodily functions and observed by You or Your Vet either visually; diagnostically; or otherwise.”

“Symptoms” are defined as “any change in Your pet’s normal healthy state, conduct or appearance.”

I’ve thought about what C&G have said, but looking at the pet’s clinical history, I’m not persuaded that the condition the pet was treated for could fairly be said to be pre-existing or that it had any clinical signs or symptoms of the condition it was treated for. I say so because Ms A has given persuasive testimony to say the cause of the injury to the pet’s right eye three years before the claim was made, was from a piece of wood, whilst the cause of the injury to its left eye (that is the subject of the present claim) was from debris landing in it from a garden fire. And whilst it’s right that on both occasions the injuries resulted in ulcers to the pet’s eyes, that was the only commonality. The injuries were to two different eyes so I’m not persuaded that it can be fairly said the claims related to pre-existing conditions, clinical signs or symptoms.

C&G have said the condition being claimed for is ‘bilateral’ and excluded by the policy because the treatment to the pet’s right eye makes it pre-existing. The policy defines *‘Bilateral Condition’ as “any medical Condition that can affect body parts of which Your pet has two, on either side of its body, such as ears, eyes, knees, kneecaps, front and back legs and feet, cruciate ligaments, hips, mammary glands, lungs, kidneys, ovaries, testicles, shoulders and elbows and which can occur at different times. When applying the Benefit Limit and the terms of this Policy, any Treatment for Bilateral Conditions will be considered as one Condition, regardless of when the Treatment.”*

The evidence I’ve seen from Ms A’s vet and the testimony given by Ms A in respect of the cause of the injuries to the pet’s respective eyes doesn’t support there being a bilateral condition. Ms A’s vet was clear that the cause of the ulcer that was the subject of the present claim was not related to the traumatic incident that occurred years before in the other eye. In light of this and in the absence of anything from C&G to support there was a *medical condition* that affected both of the pet’s eyes at differing times, I don’t think C&G were entitled to turn Ms A’s claim down.

C&G have said that Ms A didn’t declare the problem with the pet’s right eye before she took out cover and had she done so, they would have placed an exclusion against the policy. I’ve

considered this. But I don't think that's right. When Ms A took out the policy in January 2023 she was asked "*Are you looking for insurance cover for a pre-existing condition?*". She answered "*no*" to this question. Given the injury to the pet's right eye was treated and resolved some considerable time before cover was taken out, and the cause of the problem wasn't because of a medical condition, I don't think Ms A was wrong to answer the question in the way that she did. As such I'm not satisfied that she misrepresented the position with regard to pre-existing conditions when she took out cover. Because of this C&G weren't entitled to apply an exclusion at the time of the claim or going forward.

In determining how C&G should put things right, I've thought about Miss A's submissions about the difficulty their actions caused her. She's spoken specifically about the strain on her household finances in having to fund vet's fees herself at a time when she was already under financial strain. I've accounted for this in my award of compensation below, which I think is adequate to compensate her in the circumstances.

Putting things right

I direct C&G to:

- Pay Ms A's claim subject to the remaining policy terms.
- Pay Ms A interest at 8% per year simple from the time Ms A paid vet's fees, until C&G reimburse her for them.
- Remove the policy exclusion C&G applied in light of Ms A's claim to this policy and any subsequent policy years if Ms A chooses to renew her insurance with them.
- Pay Ms A £100 for the trouble and upset they caused in unfairly declining her claim.

My final decision

For the reasons set out above, I uphold Ms A's complaint and direct Casualty & General Insurance Company (Europe) Ltd to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 20 December 2023.

Lale Hussein-Venn
Ombudsman