

## **The complaint**

Miss G has complained that Red Sands Insurance Company (Europe) Limited unreasonably refused to pay her claim under her pet policy for her dog. She's also complained about how her complaint was handled plus the imposition of an exclusion on her policy.

## **What happened**

Miss G insured her dog with Red Sands. He had fast growing nails on his dew claws which tended to grow inwards which therefore needed clipping regularly. Miss G said given a previous accident with his dew claws, her dog became successively anxious about having his dew claws clipped.

Miss G said that she accessed the services of a behaviourist also provided under this policy, but unfortunately her dog's anxiety over this did not subside. Any sedation issues prescribed by the vet only seemed to make matters worse. Therefore, it was decided the best thing to do would be to remove her dog's dew claws.

Miss G then made a claim to Red Sands for the vet costs in relation to the removal of her dog's dew claws. Red Sands declined to pay the claim as it said it was a preventative procedure and such preventative procedures were expressly excluded under this policy. It also imposed an exclusion on Miss G's policy for Polydactylism and issues concerning this. It said that because Miss G's dog was born with rear hind dew claws that weren't bony plus he had an extra vestigial claw it should impose this exclusion on Miss G's policy going forward.

As Red Sands wouldn't change its stance, Miss G brought her complaint to us. The investigator was of the view that Red Sands hadn't done anything wrong. Miss G disagreed so her complaint was passed to me to decide.

Miss G had told Red Sands that she could provide the evidence from the behaviourist, but Red Sands never asked for it. So, I asked Miss G to provide it before I came to my decision, and we passed it to Red Sands for any comment. Red Sands said the behaviourist evidence didn't change its view.

I issued a provisional decision on 2 February, and I said the following:

'Having done so, I'm only upholding this complaint on the basis of the exclusion imposed on Miss G's policy. I'll now explain why.

I appreciate and understand Miss G will be very disappointed that I don't agree Red Sands needs to pay her claim. Insurers are permitted by the Financial Conduct Authority (FCA) to decide what sort of claims and risks they wish to cover and which they don't want to cover. It's part of their commercial discretion. Provided this is clearly stated in the policy and applies to anyone in similar circumstances (so no one is singled out and treated differently) this service is likely to say such restrictions are not unreasonable or unfair.

Miss G bought her policy which started on 1 October 2021. It provides cover of £6,000 for vet costs in relation to an accident, illness, or disease on payment of a £100 excess for each unrelated condition during the policy year.

The policy specifically excludes the following:

*'What's not covered*

*Routine & elective treatments*

*Any costs for routine, preventative, elective or cosmetic treatment for whatever reason. This includes but is not limited to the following treatments. That also means any costs resulting from the consequences of not having these treatments even if recommended by a vet to prevent an injury or illness.*

*...*

*Pre-existing conditions*

*Any claim or costs for existing conditions, which means any injury or illness that relates to or results from an accident, injury, illness or where [name of pet] showed observable changes to his normal healthy state, condition, appearance, bodily functions or behaviour that could be observed visually, diagnostically or otherwise before or within 14 days of your policy's original start date.*

*You don't have to declare your existing conditions upfront. Upon your first claim we will request all of [name of pet] medical records and will let you know what conditions will be excluded.'*

In the Insurance Product Information Document, it also says the following:

*'What is not Insured?*

*X Any accident, illness or condition which is present or has clinical signs or symptoms before taking the policy out or occurs in the first 14 days at the policy.*

*...*

*X Cosmetic, elective, routine or preventative, treatments, examinations, vaccinations, spaying, castration, breeding and other claims as a result of any of these procedures.'*

I think it's very clear the policy doesn't provide any cover for preventative treatment. This is standard across the pet insurance industry and so I don't find it unusual. In the vet history on 10 October 2021 at the dog's first health check since he was rescued from abroad. No health issues were noted bar that he had dew claws on left hind leg and an extra vestigial claw.

On 7 January 2022, the vet history noted a prescription for cerenia for car sickness.

On 12 May 2022, the vet history noted *'new registration... look at neutering and double dew claw rear advice for removal at the same time as neutering.'*

On 27 July 2022, the vet history noted *'O called to say been at doggy day care today and tore dew claw. Not bleeding and via not licking at it. Day care have placed bandage on. O has app tomorrow/ anyway for skin issue but wondered if needs emergency app tonight. Advised if [name of dog] is ok in himself, bleeding has stopped then can see tomorrow, if anything changes, see sooner.'*

On 28 July 2022, the vet history noted *'torn dew claw yesterday and today claw came off ... torn RF claw, no nail, quick exposed'.*

On 5 August 2022, the vet history noted *'owner likely booking in for skin reex and also to discuss dual claw removal at some point with vet as advised by vet there needs to be a discussion with vet before dual claw removal is considered.'*

On 9 August 2022, the vet history noted *'Hi folks the gabapentin worked a treat and I got his dew claws done fine.'*

On 6 September 2022, the vet noted *'very nervous dog'*.

On 21 September 2022, the vet again noted *'limited exam as [name of dog] v nervous.'*

On 27 September 2022, the vet history noted *'general health check, sign up to HPC, check LF and look to book x rays and also needs check for anti sickness tablets for travel. O says generally well at home, DUDE all normal no V/D. not on any meds, but O gives CBD oil for his anxiety and also adaptil to help him. O says can be very fearful when out but does well at home, generally lame on LF and had work up at V4P and advised x rays, O says mainly lame on LF a lot of the time but forgets when he is out and running about. O also says has residual dew claws on HLS and may consider removal of these that she would want to do here.'*

On 1 December 2022, the vet history noted *'OR gabapentin not working as sedative before clipping nails at home, can trial trazadone to see that works better.'*

On 8 December 2022, the vet history notes *'Spoke with O multiple times today about [name of dog] and clipping his nails. O did not believe that [name of dog] coming in for a nail clip with sedation would work. Advised doubling up on his trazadone and gabapentin. Estimate sent for this.'*

*O wanted to know if surgery could be an option to remove dew claws and if there was an option in between meds and surgery.  
Have asked if his dew claws are an actual toe or if they are attached to skin and will follow up from there to see if surgery may be viable.'*

On 9 December 2022, the vet history noted *'would like to try the trazadone and gaba for clipping nails first and see how she gets on, if no luck will consider the dew claw removal, aware of estimate. says has 6 dew claws but vet priced up for 4 as likely the double ones are all attached to the same joint.'*

On 9 January 2023, the vet history noted *'Waggel emailed on 5.1.23 to ask "Could you please ask your vet for confirmation whether this is a preventative surgery or not? As per AH's instructions, replied today with response that it IS a preventative procedure to stop it reoccurring.'*

On 24 March 2023, the vet history noted *'In for socialisation visit on the 21st March 2023. very friendly and allowing holding of paws for increasing lengths of time, running hands down back legs and trying to touch dew claws briefly but is reactive to this. Owner wants to try cutting nails at next appointment.  
Vet prescribe gabapentin and trazadone. Advise increase use of muzzle in neutral situations. To come in with muzzle on and we will try to trim dew claws straight away.'*

On 19 April 2023, the vet history noted *'socialisation in waiting room done very well since nail clip Usual touch and feel with reward today from nose to toes, will allow holding of front paws, no issues, touched down both back legs but now work on holding back leg for brief period of time, demo owner, demo touching and rewarding*

*for hocks on back legs. Owner to go away and practice as well as muzzle practice again then get in touch in two weeks time to ask what to do next maybe socialisation in one month.*

On 14 July 2023, the vet history noted *'Still booked in for nail clip on Tuesday.'*

On 21 July 2023, the vet history noted *'In for nail clip with sedation of gabapentin and trazadone. Still not able to handle to be able to clip dew claws. Ask vet to look as would be advisable now with all the training and trials we have tried and still cannot get close enough to clip that they will likely cause an issue. Owner reported that front dew claw had also got caught on her watch strap.'*

On 26 July 2023, the vet history noted *'dew claw removal x 4 cost estimate £750-800.'*

On 1 August 2023, the vet history noted *'Dew claw removal x 4 PABs normal, IVFT throughout surgery. double dew claws on both hindlimbs, bone within dew claw but not jointed to limb. 2 layer closure with 2m vicryl, intadermals to close skin, forelimb dew claws dislocated at DIP joint, closure as hindlimbs. light dressings applied to all 4 limbs, home on loxicom and noroclav. POO in 3-5 days if owner wishes but due to temperament may be better with phone call.'*

I consider this vet history clearly shows evidence of the issue that this dog's dew claws required regular clipping so that longer nails didn't then cause other issues. It's also very clear that sadly this dog was very nervous and really didn't like anyone touching his dew claws.

Red Sands asked the second vet for their view on the reason for the removal of the dew claws and that second vet responded on 14 August 2023 to Red Sands saying the following:

*'[Miss G] owner had advised that he had torn off or split his dew claws whilst exercising on multiple occasions which necessitated medical attention, either to remove loose nail or to bandage etc. She advised me that on these occasions [name of dog] showed signs of extreme stress and anxiety and was similarly stressed by vet trips for routine nail clipping to the extent that it could not be done anymore. We decided that the kindest thing was to remove the dew claws to prevent the need for future veterinary intervention and therefore stress on [name of dog]. The hindlimb dew claws were fleshy rather than bony and also had 2 claws on each side - this shape made them very prone to snagging on things whilst exercising.'*

The behaviourist's report also confirms:

*'I have worked with [Miss G] since [name of dog] was a puppy concerning general behavioural advice. As far as I'm aware [name of dog] had no issues with his dew claws until one was caught/snagged as he was entering adolescence. His dew claws had a tendency to get quite lengthy, and our work then heavily centred on attempts to desensitise him to having them clipped. Due to [name of dog] character and the intensity of his phobia (of his claws being handled), we had virtually no success. [Miss G] followed the desensitisation process well, but still with little result.'*

*[Miss G's] vet ended up prescribing medication to enable [name of dog] to have his claws clipped in the practice. This was not really successful either*

*and was potentially adding to his trauma. There needed to be a long-term solution, as this was affecting his general behaviour. This led to the decision to remove his claws, when this was mentioned to me I felt it was an unfortunate but likely necessary procedure and ultimately the right thing to do, given the situation. I learned from [Miss G] that one vet didn't want to perform the procedure, but another was in agreement with [Miss G] that it was necessary.'*

I consider that for many dogs, it's entirely necessary to regularly clip all nails on all claws in order to prevent them causing difficulties walking. In the case of dew claws since the nail on the claw doesn't form part of the base of the paw and isn't walked on, those nails if left unattended could grow inward causing a skin injury, or as Miss G's dog encountered get injured by catching on something.

Therefore, in my view nail clipping, by definition, is clearly preventative. The evidence is also starkly clear that Miss G's dog truly didn't like anyone touching his dew claws. Miss G's initial vet didn't really want to remove his claws, however the second vet agreed to do it.

I can also understand why Miss G thought that it was the best thing to do for her dog given his issues with people clipping his nails on his dew claws. However, I don't agree with Miss G that just because her dog was so anxious about nail clipping and especially anyone touching his dew claws, that her claim then no longer concerned preventative treatment. I consider it remains the clipping of nails in dew claws is preventative. Therefore, the removal of the dew claws so as to eradicate the need for clipping any of them is likewise preventative.

There's no doubt the second vet also believed the removal of the dew claws would also prevent the dog's ongoing anxiety. Again, that was preventative. I don't agree with Miss G's contention that an operation to cease the cause of the anxiety is not preventative. Her second vet clearly thought otherwise too.

So, I consider Red Sands did nothing wrong in relying on what both vets told them. The conclusions reached by both vets is the clipping of the claws plus the eventual removal of the dew claws was indeed preventative. Preventing any ongoing potential injury issues by the dew claws and preventing the dog's ongoing anxiety over anyone touching them.

This policy clearly excludes any treatment that is preventative for whatever reason. So, I consider Red Sands did nothing wrong in refusing to pay Miss G's claim on this basis.

As the investigator said, as complaint handling isn't defined as a regulated activity by the Financial Conduct Authority, (FCA) we at this service, which is separate to the FCA too, have no authority to consider any unregulated activity. Therefore, like the investigator, I will not comment on how long Red Sands took to deal with her complaint or the other issues Miss G raised on how Red Sands dealt with her complaint.

However Red Sands imposed an exclusion clause on Miss G's policy excluding Polydactylism and any resulting conditions also. Given the dew claw issue concerned the extra vestigial claw and the fact the dog's rear dew claws weren't bony and the fact that now anyway all the dew claws have been removed, I consider this makes no difference to Miss G's ongoing cover, unless in an extremely unlikely event her dog has on going issues with having no dew claws.

But the definition of a pre-existing condition in the policy, says '*... which means any injury or illness that relates to or results from an accident, injury, illness or where [name of pet] showed observable changes to his normal healthy state, condition, appearance, bodily functions or behaviour that could be observed visually, diagnostically or otherwise before or within 14 days of your policy's original start date*'. Miss G's dog never had any injury or illness relating to or resulting from any accident, injury, or illness showing any observable changes to his natural healthy state before this policy started in 2021. His anxiety issues concerning his dew claws appears to have begun in July 2022 when this policy was in force. So, the cause and need for the dog's operation to remove his dew claws happened within the cover of this policy.

It's my view that this imposition of the additional exclusion is both unnecessary and indeed wrong given the dog's natural healthy state always included the extra vestigial claw plus the fact his rear dew claws weren't bony, as he was born with them. Given the removal of the dew claws for preventative reasons, there is nothing now to exclude in any event.

I appreciate Miss G's primary complaint was about Red Sands declining payment of her claim, but I don't consider it was reasonable for Red Sands to impose this exclusion on Miss G's policy and it now should remove it.'

Red Sands didn't respond, Miss G said she understood my decision, but she couldn't understand why this service couldn't look at Red Sands complaint handling too. She didn't understand Red Sands 'putting an unregulated part of a procedure into a regulated procedure' and then sending her to the ombudsman to complain further, who then can't comment on that particular aspect.

### **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 again, I see no reason to change the reasoning and outcome of my provisional decision given Miss G said she understood the primary part of it and Red Sands didn't respond.

Dealing with Miss G's point about complaint handling, our jurisdiction as to which complaints we can handle, and we can't, is set out in rules made by the FCA, which are to be found in the chapter of the *FCA Handbook* called "Dispute Resolution: Complaints." The rules (commonly known as the "DISP rules") say that we can only consider a complaint about an act or omission by a firm when it is carrying on certain specified activities. The rules set out (at DISP 2.3.1R) the list of activities in relation to which we can consider complaints. This is an exhaustive list, and how a business such as Red Sands specifies handles or deals with a complaint, is not on the list. Therefore, how a complaint is handled is not a matter which our service and therefore I, have any power to consider. I only have authority to deal with complaints as detailed in this list.

**My final decision**

So, for these reasons, it's my final decision that I uphold this complaint.

I now require Red Sands Insurance Company (Europe) Limited to remove this exclusion from Miss G's cover.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 12 March 2024.

Rona Doyle  
**Ombudsman**