

## **The complaint**

Mr W's complaint is about a claim he made on his Red Sands Insurance Company (Europe) Limited ('Red Sands') pet insurance policy, which was declined.

Mr W says Red Sands treated him unfairly and should now fund his claim.

## **What happened**

Mr W made a claim on his Red Sands pet insurance policy for treatment to his pet for a ruptured cruciate ligament. Red Sands considered the claim and declined it. They said it was pre-existing because the pet had been diagnosed with a luxating patella, for which it was given treatment before the cover was in place.

Mr W says the luxating patella is not the same condition as the ruptured cruciate ligament and so it was unfair for Red Sands to decline his claim. Unhappy he referred his complaint to the Financial Ombudsman Service.

Our investigator considered Mr W's complaint and thought it should be upheld. She said that although the two conditions might have been connected, a luxating patella is not in itself a sign or symptom of a what the pet experienced some time later when its cruciate ligament ruptured. As a result, the investigator directed Red Sands to reassess Mr W's claim under the remaining terms of the policy. Mr W agreed with the investigator's view, but Red Sands have not responded to it. As a result, the complaint 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 Mr W's complaint. I'll explain why.

The starting point is the policy terms. They say:

### ***"Pre-existing conditions***

*Pre-existing conditions aren't covered by this policy. We consider a condition to be pre-existing if your pet showed any signs or symptoms of it before your cover start date, whether they needed treatment previously or not. We can start covering some conditions again if they haven't needed - or been recommended to have - treatment from you or the vet in the last 24 months. If a vet says a condition does need treatment during this time, and you delay getting it, we won't cover that condition. We don't cover any pre-existing chronic conditions; for example, diabetes, arthritis and epilepsy.*

*If you noticed something was wrong with your pet before you took out the policy, it could be a sign of a pre-existing condition. This is true even if you decided not to take them to the vet. For example, if your dog was shedding fur before the policy started, and was later diagnosed with a thyroid condition, we'd consider this to be a pre-existing condition."*

In the policy “*condition*” is described as “*any injury or illness with a single cause or diagnosis.*”

So, in this case the issue for me to determine is whether the pet’s earlier diagnosis of a luxating patella was a sign or symptom of the ruptured cruciate ligament for which the pet was treated during the policy period.

Neither party have provided any compelling evidence from a veterinary clinician to support their position either way. Mr W says he’s had difficulties in obtaining further information from his vet because the person that treated his pet has now left the surgery. Because of this I’ve thought about the conditions distinctly and in line with the policy terms and underwriting criteria supplied by Red Sands.

A luxating patella is essentially a kneecap that moves out of its normal location. Whereas a cruciate ligament rupture is where the knee joint becomes unstable resulting in lameness. Mr W was initially asked to monitor the luxating patella in July 2017. In February 2018 a repair appears to have been discussed with Mr W but nothing further is noted on the pet’s records beyond this. In May 2020 the luxating patella is noted again in the pet’s records. And in April 2021 there’s a request noted by Mr W for more non-steroid anti-inflammatory drugs to help the pet with pain management, which suggests the pet was being treated with this medication for the luxating patella before this date.

It’s not until March 2023 that further lameness is reported but with no apparent cause recorded on the clinical notes and in May 2023 the pet is diagnosed with a ruptured cruciate ligament.

The policy requires a pre-existing condition to be an illness or injury with a single cause or diagnosis. I haven’t been provided with any evidence to support that the pet’s luxating patella in earlier years was likely to be as a result of the same underlying illness or injury which caused the ruptured cruciate ligament. And whilst I’m not ruling out that there might be a link between the two conditions, I haven’t been provided with anything to prove that it was more likely than not the luxating patella was a sign or symptom of whatever caused the pet’s cruciate ligament to rupture. The onus was on Red Sands to do this in order to prove the exclusion they’ve applied here was reasonable.

The evidence I’ve seen suggests there’s a gap of almost two years between the pet seeing the vet and receiving treatment for the luxating patella and the ruptured cruciate ligament. So, the timing of the two conditions was considerably spaced out. And Red Sands’ underwriting criteria sets out that exclusions wouldn’t in any event be placed for cruciate ligaments where a pet has a luxating patella diagnosis. Rather they would apply exclusions for both patellas with effect from the date of the diagnosis. This wouldn’t extend to excluding problems with cruciate ligaments because the patella is the pet’s kneecap rather than the ligament that extends around it. Taken together and in the absence of any clinical evidence that connects the two conditions, I don’t think it was fair for Red Sands to apply the policy exclusion it has in this case. I’ve set out what Red Sands should do to put things right below.

### **Putting things right**

Red Sands should pay Mr W’s claim for his pet’s treatment made during the policy period, subject to the remaining policy terms, plus interest of 8% per year simple from one month after the claim was made, until Mr W is reimbursed.

### **My final decision**

I uphold Mr W’s complaint and direct Red Sands Insurance Company (Europe) Limited to

put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 3 May 2024.

Lale Hussein-Venn  
**Ombudsman**