

The complaint

Mr H has complained that West Bay Insurance Plc unfairly and unreasonably refused to pay his claim under his pet policy for his dog.

What happened

Having previously insured his dog, with a different underwriter but under the same distributor, Mr H decided to take out a new lifetime policy for his dog on 8 November 2022 which is underwritten by West Bay for £10,000 of vet fees per each policy year.

He made a claim on 2 October 2023 for an operation to fix his dog's left forelimb. The issues started in August 2023 with a fissure/fracture line across her mid part of the humeral condyle. So, a screw needed to be inserted to fix the fracture. The vet fees claimed amounted to £3,063.40.

On examining the vet history for his dog, West Bay initially decided this was a pre-existing issue as Mr H's dog had a previous similar issue with the right fore limb in June 2021. It then said it was a bilateral condition which was also excluded by the policy.

Mr H said that when his dog had a CT scan in 2021 the left forelimb showed no issues at all and therefore it can't be pre-existing. On that basis he brought his complaint to us. The investigator was of the view that West Bay had correctly assessed the claim in line with the policy terms, so it hadn't done anything wrong. Mr H didn't agree so his complaint has been passed to me to decide.

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'm not upholding this complaint. I'll now explain why.

I appreciate and understand Mr H will be very disappointed with my decision. And I am grateful for all the explanations he has given to include all the vet evidence too. To reassure Mr H, I have read everything he wrote and sent in.

I consider it's useful to explain the varying policy terms of West Bay's policy. When Mr H was going through the process of applying for this policy, he had to agree to several assumptions in the application process. These are as follows:

'Assumptions

...

2. *You accept any previous, existing, ongoing or recurring medical conditions (whether diagnosed or not) or otherwise known to you prior to purchasing the policy will not be covered.*

3. You accept that claims for vet fees or the death of your pet following an illness that occurred prior to, or within the first 14 days of your pet insurance policy start date will not be covered.'

In the Insurance Product Information Document (IPID) which was available to Mr H at the time of the application or immediately afterwards, it says the following under 'What is not insured':

'Pre-existing conditions (whether diagnosed or undiagnosed) that have received treatment or have shown signs or symptoms before your policy started.'

Under 'How do I cancel the contract?' it says:

'You have 14 days from the commencement date within which you can cancel the policy by contacting us at the contact details given below. Providing no claims have been made you shall receive a refund of any premium you have paid, minus a £30 cancellation fee. If you wish to cancel your policy at any other time, a pro-rata charge will be made, in addition to a £30 cancellation fee.'

In the policy document itself, it defines 'condition' as:

'Any injury sustained during, or resulting from, a single accident OR any manifestation of an illness having the same diagnostic classification or resulting from the same disease process regardless of the number of incidents or areas of your pet's body affected.'

The policy also defines pre-existing condition(s), recurring injury/injuries, recurring illness(es) as follows:

'Pre-existing Condition/Pre-existing Conditions

Any illness or injury or complication directly resulting from another injury or illness, whether diagnosed or undiagnosed or that has been identified or investigated by a vet or is otherwise known to you prior to the start of the insurance.

Recurring injury/injuries

Recurring injuries shall be considered as one loss. Such injuries being defined as:

a) Clinical manifestations resulting in the same diagnosis (regardless of the number of injuries or areas of the body affected) to which your pet has an on-going predisposition or susceptibility related in any way to the original claim, or:

b) Injuries which are incurable and likely to continue for the remainder of your pet's life, or:

c) multiple injuries being caused by or resulting from one accident will be treated as one loss.

Recurring illness/illnesses

Recurring illnesses shall be considered as one loss. Such illnesses being defined as:

- clinical manifestations resulting in the same diagnosis (regardless of the number of incidents or areas of the body affected) to which your pet has an on-going predisposition or susceptibility related in any way to the original claim; or*

- *illnesses, which are incurable and likely to continue for the remainder of your pet's life.'*

Under the General Conditions section applicable to all policy sections, it says:

'For illnesses that can have multiple sites or bilateral illnesses such as eyes, ears or legs we shall treat all occurrences of an illness as the same illness and charge only one fixed excess per period of insurance. This is the definition as to how benefits are provided under this policy of insurance. If the condition diagnosed by your veterinary surgeon is the same as a previous condition, they will be treated as the same condition even if the problem is a different part of your pet's body.'

I'd have liked to have seen the details of recurring conditions or illnesses and the limitations for bilateral conditions detailed clearly in the IPID document too as they are relevant to the extent of the cover provided. Notwithstanding that, given Mr H is of the view the condition his dog had which gave rise to the claim at issue is not pre-existing, I'm not clear that it would have changed his mind in buying this policy.

Turning now to the vet history and evidence. There is no doubt that Mr H's dog suffered a diagnosis of humeral intercondylar fissure (HIF) on her right elbow by virtue of the scan result of 7 July 2021. Further, the scan results for Mr H's dog reported on 26 September 2023, showed a similar fissure on her left elbow which wasn't present on the first scan back in July 2021.

The vet note of 9 July 2021, talks of suspicion of what is called HIF which why CT scans were done instead of plain x-rays. Also, the vet notes talk of the fact that by the time Mr H's dog was operated on in 2021 the fissure had developed into a fracture so needed a different approach.

In the vet history for 13 September 2023, it says: *'Re-Exam re LF lameness nb Had Sx RF re intercondylar fissure and fracture; CT report 22nd July 2021; At that time there was no evidence of fissure on L elbow; advise client there have been reported cases where fissure becomes evident later.'*

In the vet history entry for 25 September 2023, it says: *'and discussed with 'o' that - given history would be strongly suspicious of fissure fracture of elbow'. Then on 26 September 2023 the vet history states: 'called O to update; advise sending CT scan to Vet CT but that scan confirms fissure on RT Elbow. Note previous CT scan done when L elbow had Sx shows no sign of a fissure so has developed since last CT scan 9th July 21.'*

On looking up what HIF is in dogs of the same breed as that of Mr H's dog, it's clear that many referral vets' websites refer to it as being common in the breed that Mr H's dog is, and that the reason, they can develop it is unclear. But varying studies as detailed in some of the referral vet websites and one in particular of 2012 details that around 14% of dogs of the same breed as Mr H's dog will suffer this. 20 to 30% of them will go on to have both elbows affected. Clearly given the above vet history, it's likely this was why it was noted that there was a 'strong' suspicion in 2023 of *another* elbow fissure fracture as *'it becomes evident later'*.

So, the vet history entries in my view, do generally concur with what my own search found out from referral vet websites available online as to what is HIF, how it occurs, and that it can affect both elbows, most especially in the breed of dog of Mr H's dog. It is a new condition for that elbow, but it's clearly a recurrence of the same condition that happened in the other elbow. Therefore, I don't find the further evidence provided by Mr H's vet to be that

persuasive, given the content of the policy conditions Mr H chose to insure his dog with, in November 2022.

Whilst I would have preferred West Bay to have been clearer in its decline letter and in the final response letter about its policy terms and what that meant for Mr H's claim, I consider it's clear at the very least this second claim is a recurring condition. And it can be treated as a bilateral condition also since both elbows ended up being affected by the same condition. Given the first instance of the condition occurring, was before the start date of this policy, that also makes it pre-existing to this policy. So, on this basis I don't consider West Bay did anything wrong bearing in mind the terms of its policy and its benefit limitations.

Given West Bay wasn't that clear in its decline letter and delayed dealing with any review of its decision, I consider its payment of £50 compensation to Mr H to be fair here, and in line with our established approach on compensation available on our website.

My final decision

So, whilst I do understand Mr H will be disappointed, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 5 November 2024.

Rona Doyle
Ombudsman