

The complaint

Mrs L complains that HDI Global Specialty SE cancelled her pet insurance policy and refused to pay her claim, on the basis that it did not cover her dog's breed.

My references to HDI include its agents.

What happened

In 2021 Mrs L took out a lifetime pet insurance policy with HDI through a price comparison website. Mrs L says she did not have any paperwork for her young dog but she understood he was a breed I'll call X.

In completing the online form, Mrs L was asked about her dog's breed. She says breed X didn't appear as an option so she selected 'large cross breed'.

In September 2023 Mrs L's dog needed vet treatment because his tail had become infected. As the infection didn't clear up with medication the vet advised surgery to amputate part of the tail. Mrs L contacted HDI before going ahead with the surgery, which included the dog's castration. Her vet submitted a claim to HDI for the tail treatment costs.

After some delay, HDI asked Mrs L for some additional information about the dog's breed and about his temperament. This is because Mrs L's vet's notes said the dog was a breed I'll call A and the dog had been "*kennel guarding, growling and lunging*" after surgery.

Mrs L responded to say her dog was breed X. She said his temperament at home was gentle and that his behaviour at the vet's kennel had been due to surgery and because he'd not spent time away from her before. The vet's staff had noted how he'd calmed down when she'd come to collect him.

HDI told Mrs L that it had decided to cancel her policy back to the policy's start date in 2021 and refund her the premiums she had paid to it. This meant it would not pay her claim. HDI said this was because it did not cover either breed X (a dog typically crossed with breed A) or breed A.

Mrs L complained. In summary, she told HDI that she had told it about her dog's breed before she had gone ahead with the surgery and HDI did not tell her it didn't cover breed X. She said she'd had to borrow money for her dog's treatment and might have made a different decision if HDI had told her its policy didn't cover her dog. She was concerned that HDI's decision had delayed the claim and had been influenced by the Government's decision to add dogs of breed X to its list of banned dogs. From early 2024 it became illegal to own a dog of breed X unless the Government had confirmed the dog was exempt. As a condition of exemption Mrs L had to neuter her dog and to confirm he had public liability cover. So she was concerned she'd made a false declaration because HDI had failed to tell her earlier that it didn't cover her dog's breed.

HDI said that before Mrs L had taken out the policy in 2021 she had told it her dog was a large cross breed and had ticked a box on its website saying that he was not one of the list

of excluded breeds. HDI said it was not aware that her dog was breed X. It said it had sent her its policy wording in 2021 and at subsequent renewals explaining that it did not accept liability for dogs of breed X and breed A. It had never covered dogs of these breeds and so it said the Government's recent ban had no bearing on its decision.

HDI said Mrs L had told it about her dog's breed but this was not until December 2023 (after the dog's treatment and claim). It said it should have explained then that it had excluded dogs of breed X from cover. By way of apology for this and its delay in processing her claim, HDI offered her a payment of £150.

Mrs L did not accept HDI's offer and asked us to look into her complaint. Our Investigator did not uphold Mrs L's complaint. He concluded that Mrs L's dog was a breed that HDI didn't cover and so it was entitled to turn down her claim. He noted that Mrs L had been unable to select a dog of either breed X or A when taking out the policy. But as HDI would never have covered her dog he thought HDI's decision to void (or cancel) the policy and refund all her premiums was fair and Mrs L had not lost out as a result.

Our Investigator agreed that HDI should have told Mrs L that it didn't cover her dog's breed but didn't think this would have made a difference to her decision about her dog's treatment. He concluded HDI's offer of £150 was a fair way to resolve the complaint.

Mrs L didn't agree and asked for an Ombudsman's review. She emphasised that she had borrowed money to pay the vet and she said she might have made a different decision about her dog's treatment had HDI not misled her. Her vet has also provided this Service with an email saying that they had registered Mrs L's dog as breed A because breed X was not a common breed at the time. They said that Mrs L had also obtained estimates from them due to low funds and concerns about covering the costs of the procedure, and that she might have to consider euthanasia. It had updated its records to reflect this.

I reviewed the complaint and issued a provisional decision explaining that I intended to uphold this complaint in part. I said:

"I have briefly summarised the background to this complaint. But I have reviewed all the evidence including Mrs L's calls both to HDI and to this Service. Having done so, I have provisionally decided to uphold this complaint in part. I'll explain my reasons, focusing on what I consider to be the key issues.

The policy application

HDI is saying that Mrs L made a misrepresentation when taking out the policy. The relevant law in this case is The Consumer Insurance (Disclosure and Misrepresentation(s) 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.

If a consumer fails to take reasonable care, 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 has to 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.

Here HDI seems to think Mrs L failed to take reasonable care not to make a

misrepresentation, because her dog was breed X but she answered 'large cross breed' when taking out the policy.

I've looked at the question Mrs L was asked on the comparison website, which said:

"What breed is your pet?

Start typing to find your pedigree, cross breed or mixed breed.

Start typing...

Or if your pet is a mixed breed, cross breed or mongrel: you can just tell us how big your pet will be when fully grown"

There was then a list of 'Unacceptable Breeds' which included dogs crossed with any of the unacceptable breeds. But HDI has confirmed that a dog of breed A or breed X did not appear on the comparison website's list in 2021.

Mrs L selected 'large cross breed (more than 20KG)'. She has consistently said that she believed her dog to be breed X. There was no option for her to select breed X and HDI says that she would not have seen that breed A (a breed with which breed X is typically crossed) in the unacceptable breeds list.

Given the options available to Mrs L, I think she took reasonable care not to make a misrepresentation when she took out her policy.

HDI says that before Mrs L took out the policy she ha(d) ticked the relevant check box confirming that her dog was not one of the breeds that it excludes from cover. I've seen that list included breed A but did not include breed X and I accept that at the time Mrs L believed her dog was breed X.

We don't generally consider a list of statements or presumptions is enough for an insurer to say that the consumer has made a misrepresentation. The insurer needs to make it clear what exactly it wants the consumer to tell them.

As I don't think Mrs L made a misrepresentation I have gone on to consider what I think is a fair outcome.

HDI cancelled (or 'voided') Mrs L's policy. This means it treated the policy as though it had never existed so it refunded her the full amount she'd paid to it in premiums since 2021 (£864.33).

I don't currently think HDI was entitled to void Mrs L's policy because I have found she did not make a misrepresentation when she took out the lifetime pet insurance policy. It follows that I think it's fair to require HDI to pay Mrs L's claim for her dog's treatment for his infected tail, subject to the remaining policy terms (but not the exclusion for breed X or breed A). HDI can deduct from the claim the policy excess. It can also deduct the policy premiums that it refunded to Mrs L of £864.33. I say this because I am putting Mrs L back in the position she would have been in had HDI not voided her policy.

I will also require HDI to pay interest at the rate of 8% per year simple on the resulting amount it pays Mrs L, from the date of claim to the date it makes the payment to her.

I've considered whether it would be fair and reasonable for me to require HDI to reinstate Mrs L's policy. But I don't consider that would be a fair outcome. HDI does not insure dogs of either breed X or breed A. Also, I understand that Mrs L has now arranged pet insurance including public liability cover elsewhere. So I don't intend to require HDI to reinstate the policy.

The claim handling and Mrs L's questions to HDI

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly and not unreasonably reject a claim. They should provide helpful and accessible support to their customers and settle claims promptly once settlement terms are agreed.

HDI accepts that there was a delay in its handling of the claim. I agree. I see that Mrs L's vet submitted the claim on 13 October 2023. She made several calls asking about the progress of her claim. It was not until December 2023 that HDI began to assess her claim before rejecting it in early January 2024.

HDI also accepts that it should have told Mrs L earlier than it did that her dog was a breed it did not cover. But Mrs L says that she told HDI the name of her dog's breed during her calls to it in September 2023, which was before her dog's surgery.

I've listened to the calls. On 16 September 2023 Mrs L spoke to HDI to explain about her dog's amputation surgery. HDI explained several times during that call that it couldn't guarantee she would be covered for the treatment costs. Mrs L didn't tell HDI her dog's breed during this call.

Mrs L spoke to HDI again on 29 September 2023, the day her dog was due to have his surgery. She had not received the claim form, which HDI said it would send to her again. She asked about how long it would take HDI to assess the claim because she was borrowing money to pay for the operation. HDI said it was currently taking around five weeks to assess claims. Mrs L did not tell HDI her dog's breed during this call.

I've seen HDI's records and I've not seen any evidence of Mrs L making other calls to HDI before her dog's surgery.

I appreciate that Mrs L has said that she might have made a different decision about her dog's treatment had she known he wasn't covered under the policy. I've listened to her call with our Investigator and she did suggest she would likely have gone ahead in any event.

But I don't need to make a finding on this point. This is because Mrs L didn't tell HDI about her dog's breed before she went ahead with the surgery. So I don't consider HDI had the opportunity to tell her it did not cover the dog's breed, because it did not know her dog was breed X at that time. Also, HDI did clearly explain to her it couldn't guarantee to pay her claim.

Mrs L has said that she might have delayed having her dog castrated had she known her claim for the tail treatment costs wasn't covered. I've found that HDI didn't have the opportunity to tell her about her dog's breed earlier than December 2023. So HDI isn't responsible for her decision to go ahead with the neutering earlier than she would otherwise have done. As Mrs L might be aware, the cost of routine neutering is generally not covered under pet insurance policies, including HDI's policy.

But Mrs L did tell HDI about her dog's breed on 8 December 2023 and again on 13 December 2023. As HDI accepts it should have told her on those occasions that it didn't cover her dog's breed. I can see that HDI was aware Mrs L was keen to know the outcome of her claim and that she had borrowed money to pay the vet's costs.

I think HDI's failure to tell Mrs L the correct information on 13 December 2023 was particularly poor. I say this because Mrs L specifically called HDI to ask about her public liability insurance and explained she needed to confirm that she held this cover as part of her application to exempt her dog following the Government's decision to add his breed to the

list of banned breeds. She specifically said her dog was breed X.

Mrs L has explained how upset she was to discover she had unwittingly given incorrect information to the Government as part of the exemption process. She said that her dog could have been seized and destroyed.

Fortunately that didn't happen. Also, it seems to me that Mrs L gave the information on her exemption application in good faith, given that her policy was – as at 13 December 2023 – valid and she was relying on the information HDI had given her. But I think she experienced material distress and inconvenience when she found out that HDI had cancelled the policy from its start date and in having quickly to arrange public liability cover elsewhere.

I've thought about Mrs L's comments about why HDI didn't add breed X to its list of banned breeds earlier than it did as breed X has been in the UK since at least 2014. She questions whether HDI delayed her claim pending the Government's ban.

HDI has said it hasn't insured breed A for a long time (since before 2014) and breed X is a variant of breed A rather than a separate breed.

It is for each insurer to decide the risks it is willing to accept, which will include the breeds of dog it wants to insure. I understand Mrs L's point. But I've not seen anything to suggest that HDI deliberately delayed dealing with the claim until after the Government added breed X to the list of banned dogs. Importantly, breed X was already a breed HDI had decided not to insure. Breed X had been on its list of dogs it did not insure since 2022. So I don't consider that the delay in handling Mrs L's claim was related to the ban.

Having reviewed the overall handling of Mrs L's claim, I don't currently think HDI's offer of £150 goes far enough. HDI delayed in handling Mrs L's claim and missed opportunities in December 2023 to explain that its policy didn't cover her dog. It was aware that she had borrowed money to pay for her dog's treatment and that the information she was requesting related to an exemption for a dog about to be added to the list of banned breeds. I think HDI should pay Mrs L a higher amount of compensation and I assess a total amount of £250 to be fair and reasonable (this figure includes the £150 that HDI has already offered to Mrs L)."

Neither Mrs L nor HDI has responded to my provisional decision with any further comments or evidence.

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.

I've not received any additional comments or evidence to consider. As such, I see no reason to depart from the findings I reached in my provisional decision as set out above. I confirm those findings here for the reasons I gave in my provisional decision. HDI must take the steps set out below.

Putting things right

For the reasons I've explained, I uphold this complaint in part. I require HDI Global Specialty SE to:

- Assess and pay Mrs L's claim for her dog's tail treatment, subject to the remaining policy terms and conditions (but not the exclusion for breed X or for breed A), less the applicable policy excess and less the amount of £864.33 it has already refunded

to Mrs L for her policy premiums; and

- Add interest* to the resulting claim payment at the rate of 8% per year simple from the date of claim to the date of settlement; and
- Pay Mrs L total compensation of £250 (to include the amount of £150 HDI has already offered to her) for her distress and inconvenience. HDI must pay the compensation within 28 days of the date on which we tell it Mrs L accepts my final decision. If it pays later than this it must also pay interest* on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

*If HDI considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs L how much it's taken off. It should also give Mrs L a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

My final decision is that I uphold this complaint in part. I require HDI Global Specialty SE to take the steps set out in the "*Putting things right*" section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 27 November 2024.

Amanda Maycock
Ombudsman