

The complaint

Mr C and Miss P have complained that Wakam unreasonably and unfairly declined to pay their claim under their pet policy for their dog's operation.

As it has been Miss P who has mainly been in correspondence with us, I shall just refer to her for ease of reference.

What happened

Miss P had a policy with Wakam for her dog. Her dog developed an anal gland issue whereby his anal glands had to be manually expressed on an increasing basis by the vet.

In discussion with the vet, Miss P eventually decided her dog needed surgery called a bilateral anal gland saccullectomy. Miss P phoned up Wakam to see if this would be covered by the policy. She was told that if a vet recommended it, it was likely to be covered. There is a dispute about what Miss P was told at the time.

Therefore, the surgery went ahead, and the claim was made to Wakam. On investigating the claim and looking at the vet history, Wakam decided that the surgery was preventative. Under the policy terms and conditions, preventative treatment is excluded. Therefore, Wakam refused to pay her claim. It did think however, that its operative should have been much clearer on the telephone when Miss P phoned up to enquire whether this claim will be covered or not. Therefore, it paid Miss P £100 compensation.

As Wakam refused to change its stance, Miss P brought her complaint to us. The investigator didn't think Wakam did anything wrong. So, she didn't recommend that the complaint should be upheld.

On this basis, Miss P's complaint was passed to me to decide.

I issued a provisional decision on 22 October, and I said the following:

'Having done so, I'm intending to uphold this complaint. I'll now explain why. First, it's useful to detail what the policy terms and conditions say.'

The policy defines 'illness' as 'any disease, sickness, signs, or symptoms or infection suffered by your pet.'

The policy defines 'condition' as 'any physical or mental health problem that is caused by an illness or injury that needs treatment to cure or alleviate symptoms.'

The policy defines 'treatment' as 'anything needed to diagnose relieve or cure the condition.'

Under 'What we will pay for' it says the following:

'Veterinary treatment

- *if a vet recommends treatment for your pet we will pay the cost of that treatment.*

...

Routine treatments or treatments that have not been prescribed

- *we will not pay for any routine preventative health care, for example, vaccinations, tick, worming and flea treatments, grooming and nail care, spaying and neutering.*
- *We will not pay for any treatment you choose that has not been prescribed by a vet.'*

Under the Insurance Product Information Document (IPID) it says the following under 'What is not insured?':

'We cannot pay claims for routine preventative treatments or treatments not prescribed by a vet.'

So, it's clear to me that the word 'preventative' only encompasses 'routine' treatments. So, they should be both routine and preventative. The policy sadly doesn't define what it means by 'preventative' other than it talks of grooming, vaccinations, parasite treatments, neutering, and nail care. Oddly it doesn't talk of any routine dental treatment. It also doesn't make any mention of anal sac emptying either.

Therefore, I think we need to give consideration to the notion of what might be a 'routine' treatment. I would think that the cost of 'routine' anal sac emptying would be excluded under this wording. That would be the vet or vet nurse routinely and manually emptying anal sacs as and when required. It's not routine, in my view however, that every dog needs anal sacs emptying on such an increasingly regular basis as Miss P's dog did. For some dogs it may need to be done from time to time, but it is unlikely that this will be on a routine basis. Many, many dogs never require to have their anal sacs manually emptied at all.

The situation with Miss P's dog however, appears to be a little more serious than that. Her vet provided the vet history and his own thoughts on the matter. It's clear that over an 18-month period Miss P's dog needed appointments to have his anal glands emptied 13 times, with the times between these appointments reducing. Which was quite burdensome on the dog. Miss P's vet explained that her dog was chewing around his perineum, scooting, and leaking anal gland effluent around the house and on the furniture. Dietary changes were made but sadly the dog's condition wasn't improved by this.

I don't consider a dog leaking anal gland effluent over the floor and over furniture, scooting and scratching at his perineum to be an issue that is 'routine' as regards dogs and their day-to-day behaviour. Miss P's vet said: 'it is excessive to need to express anal glands on a monthly basis to prevent leakage and discomfort.' He also said: 'The above doesn't even broach the health and hygiene issues that this was also causing.'

So, I consider that what Miss P's vet advised meets the definitions and the policy of illness, condition, and treatment.

I don't consider that Wakam has provided enough evidence to show clearly that this operation was simply a routine preventative treatment. Nor has it shown that Miss P's vet advice wasn't concerned with the policy definitions of illness, condition and/or treatment. On a general search online, symptoms of anal gland problems involve scooting and constant licking and chewing. Miss P's dog was exhibiting these behaviours. Furthermore, anal saccullectomy as Miss P's vet implied is usually considered as a very last resort after trying less invasive treatment. Therefore, I would not consider this to be any type of routine treatment or operation. It does have its risks including anal gland infection or complications from the anaesthetic and there is always the potential for faecal incontinence to occur as a result of the surgery. So, it's quite serious surgery in my view and not of the same nature as any type of neutering surgery which was detailed in the policy as a 'routine preventative' procedure.

On balance, I consider that Miss P's dog was suffering from an abnormal lack of ability of naturally emptying his anal gland sacs in the course of defecating. Furthermore, I consider he was leaking anal effluent all over the house and furniture as the vet history indicates that at times the dog was self-expressing his anal glands. He would only do all this if he was irritated by them, and likewise he would only scoot and nibble his rear end if he was irritated by it too. I don't consider that's routine or normal behaviour. I consider this type of history of such behaviour indicates that the dog is suffering a medical problem which by definition is not routine. The policy is clear that any treatment must be prescribed by a vet. It's perfectly clear here that Miss P's vet prescribed this surgical treatment.

In real terms any surgery can be classed as 'preventing' the relevant medical issue from persisting. Therefore, I don't find much merit in Wakam's arguments that this operation was to prevent a re-occurrence of the irritation and discomfort, the poor dog was enduring. Preventing any re-occurrence of the issues tends to be the goal of most surgery. Neutering surgery is to prevent pregnancy or the ability to get a female dog pregnant. That's clearly preventative. But I really don't think it's reasonable to class this surgery which Miss P's dog underwent as preventative in the same manner.

Therefore, I consider in the very particular circumstances of this complaint, that it's unreasonable and unfair to have classed this claim as routine preventative treatment. So, I'm intending that Wakam should pay this claim in accordance with the remaining terms and conditions of the policy, namely less the appropriate excess payment. It should also add interest on the basis that Miss P has already paid her vet fees.

I do consider that the operative was less than clear in the advice they gave Miss P when she called up to see whether or not this operation would be covered under her policy. And I agree that this mismanaged Miss P's expectations. However, Wakam have admitted that that operative made a mistake. In law when a mistake happens, that doesn't mean that a party to the contract can then take advantage of that mistake. There is clear law as to what happens when such a mistake occurs, and it would not have given Miss P the advantage here in the way she imagined under the Consumer Rights Act of 2015. Therefore, I consider the payment of £100 compensation to be adequate and in line with what I would have awarded if Wakam hadn't done so.'

Miss P responded saying she agreed with my provisional decision but there was no response from Wakam.

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 again, and in the absence of any further submissions from Wakam coupled with Miss P's agreement to my provisional decision, I see no reason to change the outcome and reasons for it as detailed in my provisional decision.

My final decision

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

I now require Wakam to do the following:

- Pay Mr C and Miss P's claim under the remaining terms and conditions of the policy, namely less the appropriate excess payment.
- Add interest of 8% simple from the date Mr C and Miss P paid their vet fees to the date it refunds them.
- If income tax is to be deducted from the interest, appropriate documentation should be provided to Mr C and Miss P for HMRC purposes.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Miss P to accept or reject my decision before 3 December 2024.

Rona Doyle
Ombudsman