

The complaint

Mrs S complains that Pinnacle Insurance Plc added an exclusion to her pet insurance policy and relied on this to reject a claim she made for treatment costs.

What happened

Mrs S took out a pet insurance policy, underwritten by Pinnacle, which started in November 2022.

She made a claim on the policy in November 2023, to cover treatment relating to the removal of a tooth. Pinnacle reviewed the vet's records and noted that when Mrs S had taken her dog for a routine check-up in January 2021, the vet noted her dog had broken tips off both lower canines. Pinnacle said Mrs S should have disclosed this when she took out the policy. It added an exclusion, backdated to the start of the policy, for "*Fractured tooth: Specific to Right and Left lower canines.*" The claim was declined on the basis it was caught by this exclusion.

Mrs S complained. Her vet said the damage to her dog's teeth in April 2023 wasn't related to the chips first noted in 2021. In its final response letter, Pinnacle said its decision to add the exclusion and decline the claim was correct.

Mrs S referred the complaint to this Service. Our investigator's initial view was that it was fair for Pinnacle to add the exclusion and rely on that to reject the claim but, after reviewing the complaint further, said it wasn't fair as she didn't think Mrs S needed to disclose the chipped teeth.

The investigator recommended that Pinnacle remove the exclusion, pay the claim together with 8% interest, and pay compensation to Mrs S of £150 for the distress and inconvenience she had been caused.

Pinnacle disagreed and provided further comments, but the investigator didn't change her view. So Pinnacle has requested an ombudsman's decision.

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.

The relevant law in this case is the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out an insurance policy.

If a consumer fails to take reasonable care and makes a misrepresentation, the insurer has certain remedies if there is a qualifying misrepresentation, as defined in CIDRA. For it to be a qualifying misrepresentation the insurer has to show it would either have offered the policy on different terms or not offered it 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. One of these is how clear the question asked was.

When Mrs S bought the policy she was asked if her dog had *“ever shown any sign of injury or illness or been unwell? We need to know anything you have noticed or discussed with your vet or any other professional about [pet’s name] health or behaviour. Even if there was nothing to be concerned about and the problem was resolved quickly.”*

I think the question asked was clear.

There was also a note that said *“It’s important we know of any conditions and/or symptoms... is suffering from or has suffered from in the past before you take out this policy....*

Finally, the notes said this would include one-off or ongoing conditions, symptoms and injuries *“As well as any discussions with your vet or other professionals about their health of behaviour. Even if treatment wasn’t needed or you were told it was nothing to worry about.”*

Mrs S answered ‘no’ to the above question. I think Pinnacle asked a clear question and if Mrs S failed to take reasonable care when she answered the question and made a misrepresentation, then I may have found Pinnacle’s actions fair. But I don’t think she did fail to take reasonable care.

The test for whether or not the consumer took reasonable care is set out in CIDRA. The standard of care required is that of a ‘reasonable consumer’. This means I need to consider what a reasonable consumer would have done in the circumstances.

I appreciate the question is phrased quite widely, and asks about any past conditions or symptoms, even if the consumer was told it was nothing to worry about. Pinnacle’s view is that this meant Mrs S knew she had to disclose anything at all that had been discussed with the vet at any point. I don’t think a consumer could reasonably be expected to remember every single conversation they have ever had with the vet. The question (and the notes) refer to conditions or symptoms. If Mrs S had taken her dog to the vet because of concerns about his teeth, I’d expect that to be disclosed - and if something was noted at a routine appointment that led to treatment or further discussion with the vet.

What happened here, however, was that her vet noted two teeth had broken tips. I’ve thought about whether a reasonable consumer would think that was a condition or symptom an insurer would need to know about and I’m not persuaded it is. Rather, the vet had noted some chips on two teeth that didn’t need any attention and simply mentioned this at a routine appointment. The vet has advised this was only *“slight damage to the tips”* and her dog’s teeth were in good condition. I don’t consider Mrs S would reasonably have thought this was a condition, illness or injury that needed to be disclosed.

Pinnacle says Mrs S also failed to disclose that her dog had had other treatment in the past, some of which she had claimed for on her previous insurance. But it doesn’t appear to have added exclusions for other issues, once aware of those. In any event, I’m only considering the answer to this question, and whether it was fair to add this exclusion relating to the teeth.

In the particular circumstances of this case, I don’t think Mrs S failed to take reasonable care and so I it would not be fair to add the exclusion and rely on it to decline the claim.

My final decision

I uphold the complaint and direct Pinnacle Insurance Plc to

- remove the backdated exclusion for “*Fractured tooth: Specific to Right and Left lower canines*” from the policy;
- pay the claim subject to the remaining policy terms and conditions plus interest* at 8% simple a year from the date of payments Mrs S has made to the vet, to the date of settlement; and
- pay £150 compensation for the distress and inconvenience caused

*If Pinnacle Insurance Plc considers that it's required by HM Revenue & Customs to take off income tax from that interest it should tell Mrs S how much it's taken off. It should also give Mrs S a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 11 February 2025.

Peter Whiteley
Ombudsman