

The complaint

Mrs P complains that Wakam unfairly declined a claim under her pet insurance policy.

Where I refer to Wakam, this includes the actions of its agents and claims handlers for which it takes responsibility.

What happened

The detailed background to this complaint is well known to both parties, so I'll only summarise the key events here.

In mid-January 2023, Mrs P adopted a dog from a rehoming organisation. She was told the dog was nervous, and it quickly became apparent that the dog had a fear of strangers which Mrs P believed was due to not being socialised properly.

On 1 February 2023, Mrs P took out a pet insurance policy, underwritten by Wakam.

Mrs P subsequently decided to engage the services of a behaviourist to address the nervous behaviour. And after a course of consultations, in September 2023, she made a claim to Wakam for the cost of the treatment.

Wakam declined the claim on the basis the dog's nervous behaviour is a pre-existing condition. It relies on vet notes dating back to 2021 where the dog is recorded several times as being very nervous / anxious, temperamental, and that there had been an attack of a child which led to the dog being rehomed.

Mrs P didn't think this was fair. She said she didn't know about the attack nor the extent of the dog's behaviour. The rehoming organisation had only provided a vaccination card and told her the dog was nervous. She raised a complaint which she brought to our Service.

Our Investigator upheld the complaint. Whilst he agreed with Wakam that the behaviour problems are a pre-existing condition, he was satisfied that Mrs P didn't know about it so he didn't think it was fair or reasonable for Wakam to decline the claim.

Wakam disagreed. It said the dog's previous medical history was freely available to Mrs P and she chose not to find out more.

The 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.

When making a claim under an insurance policy, the onus is on the policyholder to prove they have a valid claim. If they do, the insurer should cover the claim unless it can prove that a policy condition or exclusion applies.

Mrs P's dog was referred to a behavioural specialist by a vet for behavioural treatment, which is something the policy provides for. So, on the face of it, she's demonstrated that she has a valid claim.

As Wakam seek to rely on the policy exclusion for pre-existing conditions, the onus is on it to show the exclusion applies.

The relevant policy term says:

"We will not pay for any costs relating to pre-existing conditions."

The policy defines "pre-existing conditions" as:

"Anything your pet has had treatment, medication or advice for in the 24 months before your policy starts. We consider advice to include anything a vet observed and recorded in your pet's clinical history."

Wakam has provided the dog's vet notes. The relevant entries say:

24/02/2021 *v nervous – adv not to breed as so anxious.*

11/03/2021 *very nervous – had to do by car.*

04/05/2021 *was a confident puppy. Wary of men and strangers outside of the house. Suggested use of Adaptil collar and behaviour modification with a trainer.*

05/12/2022 *very nervous dog – had to do in waiting area.*

01/01/2023 *Called O about PTS [put to sleep] we have booked in today. O says dog has attacked child and is currently in A&E with child. O has tried behaviour training and rehoming before but today was last chance for them. O not overly happy about having to PTS but feels is only option left. Nervous dog, temperamental and they can't cope with young children at home.*

Owner called and cancelled PTS. Is taking to friends at kennels as well as speaking to rescue also as was a reaction to the child falling on her.

On a strict interpretation of the policy terms, based on these vet notes, the behavioural problems Mrs P has with the dog are a pre-existing condition because they were present before the policy cover started.

My role is not only to determine whether Wakam's decision was in line with the policy terms, but also whether the way the policy terms were applied was fair and reasonable in the circumstances of the claim.

When considering whether a condition can be deemed pre-existing, our Service will always consider whether the consumer knew – or ought reasonably to have known – there was something wrong that was likely to lead to investigation / treatment.

So I've thought about what Mrs P knew – or ought reasonably to have known – when she took out her policy on 1 February 2023. She's provided us with a copy of the email

correspondence she'd had with the rehoming organisation, their assessment of the dog, and the adoption form. I understand the only other paperwork Mrs P received at the time was the dog's vaccination card.

From the information provided, it's clear Mrs P knew the dog was nervous as she was told this in emails from the rehoming organisation. But the assessment of the dog recorded no behavioural concerns. And their comments to Mrs P were that the previous owners "do not understand dogs". So I don't think she knew or ought reasonably to have known the extent of the nervousness or behavioural issues when taking on the dog.

Mrs P had the dog in her possession for approximately 11 days before the pet insurance policy started. And in that time, Mrs P did notice the dog's nervousness, particularly around strangers. But again, I'm not persuaded she ought reasonably to have known there was something wrong that was likely to lead to investigation / treatment. I say this because the dog had been in kennels and was now in an unfamiliar home with unfamiliar people. So it's not unreasonable to expect the dog – who had already been described as nervous – to take some time to settle in.

Mrs P was given a vaccination card which provided details of the veterinary practice which had administered the vaccinations. She passed this on to her vet, who obtained the medical history. This is referred to in an entry in the vet notes which says:

03/02/2023 v nervous, didn't snap, does have a hx [history] of snapping (see attached records)

It's not clear whether Mrs P's vet shared with her that they'd obtained the previous vet's records and the content of them. But even if they did, the policy was in place by this time. And there is no 14-day exclusion for behavioural issues, only for illnesses.

It wasn't until mid-February 2023 when Mrs P spoke to her vet about engaging the services of a behaviourist. This is recorded in the vet notes as follows:

17/02/2023 much better on exam today (did have 300mg gabapentin 1hr before came...has this been the reason?!) is very nervous and reactive on walks, owners are struggling but are seeing some progress, have researched behaviourists, we may need to fill in referral.

Whilst it's likely Mrs P came to the decision that the behavioural problems with the dog were to the extent that she needed to see a behaviourist before this date and had researched behaviourists ahead of the vet visit, there is no evidence that she was aware of this prior to the start of the policy on 1 February 2023.

I appreciate Wakam's comments that all rescue dogs will come with baggage and ignorance does not preclude it from applying the policy terms. But it's not unusual for there to be limited knowledge / paperwork about a rescue dog's history and as Mrs P has rightly pointed out, she couldn't ask for information that she didn't know existed. Ultimately, if Wakam doesn't have an appetite to insure rescue dogs, because of the "baggage" they can come with, it should make this clear in the policy's literature and decline to offer a policy in those circumstances.

For these reasons, I don't think it's fair or reasonable for Wakam to rely on the exclusion for pre-existing conditions. So I'm directing it to pay the claim plus interest.

My final decision

For the reasons I've explained, I uphold this complaint and direct Wakam to:

- pay Mrs P's claim for behavioural treatment, minus any policy excess and up to the policy limits. (If Mrs P has already paid for the treatment, Wakam should add 8% simple interest per annum to the claim settlement from the date Mrs P paid the behaviourist until the date she is reimbursed in recognition of the time she's been out of pocket).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 20 March 2025.

Sheryl Sibley
Ombudsman