

The complaint

Mrs T has complained that Wakam declined a claim made under her pet insurance policy.

What happened

The background to this complaint is well known to the parties so I won't repeat all the details here. In summary Mrs T's dog was attacked by three badgers under a cabin in her garden. In order to scare the badgers off the small dog, Mr T fired a shot under the cabin. The badgers ran off, but the dog was injured in the leg.

Wakam declined the claim made for treatment to the dog's leg. It relied on the following policy condition: *We may not pay claims that could have been avoided or that could have been less severe if you had carried out your responsibilities. Your responsibilities are too:*

- *not too put your pet in risk or danger, neglect their health and safety and or deliberately put them at risk.*

Unhappy, Mrs T referred her complaint here. Our investigator recommended that it be upheld. He said that Mr T's actions were proportionate but accidentally resulted in unforeseen injury. He recommended that Wakam pay the claim and £150 for the distress and inconvenience caused by unfairly declining it.

Wakam didn't agree. It said that shooting badgers is illegal and the use of a gun in this situation was a serious breach of the policy terms and neither proportionate or safe.

The investigator explained that the relevant legislation says that it is permitted to kill or injure a badger if it is necessary to prevent serious damage to property. He considered that this applied here.

Wakam didn't agree. It maintained that using a gun in response to badgers was in direct breach of the responsibility section of Mrs T's policy as well as an illegal act.

As no agreement has been reached the matter has been passed to me to determine.

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 focused on what I find are the key issues here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts.

The regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So I've considered, amongst other things, the relevant law, the policy terms and the available evidence, to decide whether I think Wakam treated Mrs T fairly. Having done so, I agree with the conclusion reached by the investigator for the following reasons:

- I don't agree that Mr T using a gun in this situation was a direct breach of the responsibility section of the policy, which applies to Mrs T – the person named on the membership certificate.
- But even if it could be said that the action was taken on behalf of Mrs T, I find that rather than putting the dog in danger, the use of the gun effectively scared the badgers away. I understand that the badgers were protecting a sett and the fear was they would savage the small dog to death. I think that fear was rational, and the action taken was proportionate. It is most unfortunate that the dog's leg was caught.
- Wakam has argued that shooting badgers is illegal. The relevant legislation is the Protection of Badgers Act 1992. I accept that under the legislation killing or attempting to kill a badger is illegal. However I'm not persuaded that Mr T was attempting to kill the badgers – it seems he wanted only to scare them off the pet dog. He believed that this was the only way he could save and protect the dog from the three "vicious and angry" badgers.
- If I am wrong about that and it could be argued that Mr T was attempting to kill the badgers, the Act provides that a person is not guilty of an offence if he shows his action was necessary for the purpose of preventing serious damage to property (here the pet dog). So although it doesn't seem to me that an offence was committed, if it was, I'm satisfied that the statutory defence would apply.
- Accordingly I don't find there was any breach under the responsibility section of the policy. It follows that I find that treatment for the accidental injury should be covered by Mrs T's policy and I require Wakam to now settle the claim, subject to any remaining policy terms.
- This clearly was a traumatic incident, of course Wakam is not responsible for that. But I'm satisfied that Mrs T would have been caused further distress and inconvenience when her claim was unfairly declined. I find that compensation is merited and that £150 is fair in the circumstances.

My final decision

My final decision is that I uphold this complaint. I require Wakam to:

- Settle the claim for treatment to the insured dog
- Pay Mrs T £150 in compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 28 August 2025.

Lindsey Woloski
Ombudsman