DRN-5750438

The complaint

Mr W's complaint is about a claim he made on his Casualty & General Insurance Company (Europe) Ltd ('C&G') pet insurance policy, which C&G declined.

Mr W says that C&G treated him unfairly and wants them to pay his claim, which he says he's paid by credit card and has been unable to clear.

What happened

Mr W went on a walk with his pet and a family member's pet. When he returned, he entered the back garden of a property and let both pets off their leads. Mr W says he didn't notice that the gate behind him had not shut properly. As a consequence, his pet escaped and ran out across a residential road in front of a car and was hit by it. His pet was treated for minor injuries and has now made a full recovery.

When Mr W made a claim on his C&G policy for his pet's treatment costs, C&G considered the claim and ultimately concluded that it was excluded. They said this was because Mr W had not taken reasonable steps to prevent his pet from escaping or straying from the property or not keeping her on a lead in any area that contains vehicles or where a road is visible.

Unhappy, Mr W complained to C&G but they remained of the view that his claim should not be accepted. Mr W then referred his complaint to the Financial Ombudsman Service.

Our investigator considered his complaint and concluded it should be upheld. A duplicate complaint was set up in error where another investigator also considered the complaint and determined it should not be upheld but subsequently closed. Because C&G don't agree with our investigator's findings, the matter was been passed to me to determine.

I issued a provisional decision in July 2025 in which I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I won't be upholding Mr W's complaint. I'll explain why.

The starting point is the policy terms. They exclude:

"Claims resulting from you not taking reasonable steps to prevent your dog from escaping or straying from your property or not keeping your dog on a lead in any area that contains vehicles or where a road is visible."

In this case I'm satisfied that an insured event had taken place, so the onus is on C&G to show why the claim shouldn't be met. C&G have made a number of submissions to support their position in respect of this, namely that:

- *Mr W did not make sure the gate behind him was secured properly.*

- *A bolt could have been used to prevent the gate from unlatching or swinging open, but this was not used.*

- *Mr W's failure to bolt the gate when this was possible, amounts to recklessness.*

- *Mr W did not ensure the gate was secured properly before allowing his pet off the lead.*

- *The accident would have been preventable had the gate been properly secured.*

When considering complaints like the one Mr W is making, we consider whether he took reasonable care to mitigate C&G's loss. If an insurer turns down a claim because the consumer failed to take reasonable care, there needs to be evidence to show the consumer acted recklessly. That's the case where the consumer recognised a risk but took no measures at all to lower the risk or they knew the measures were inadequate.

I've thought about the circumstances of the claim and in particular some of the mitigating factors below:

- *the pet did not have a history of running away such that Mr W needed to be hyper vigilant about this.*

- *the property was a rear garden that was familiar to Mr W and his pet so he felt safe letting his pet off the lead.*

- *the pet was always in Mr W's line of sight and Mr W chased after her immediately when she escaped.*

- *a gust of wind could have contributed to the gate door swinging open rather than the gate not closing properly of its own volition.*

- *the road the pet ran out onto was a quiet residential road not a busy one.*

Having weighed everything up, I'm not satisfied that the test for reasonable care has been met here. I say so because I haven't seen any evidence to persuade me that Mr W checked the gate had properly closed behind him before letting his pet off the lead. And whilst I appreciate that his pet might not have had a history of escaping, particularly in familiar places, I don't think that means that the situation wasn't properly preventable by Mr W checking the gate had been properly latched.

In this case the evidence is that the gate didn't close at all, rather than it closing and reopening. I don't think it's unreasonable for Mr W to have recognised a risk like not closing a gate to a road, even a quiet one, and letting his pet off her lead before checking the gate was properly shut behind him. And whilst I fully appreciate accidents like this can happen, this doesn't lead me to the conclusion that C&G should be responsible for his claim. Their policy terms do specifically exclude situations like this and for that reason I don't think Mr W's complaint should be upheld.

I appreciate my decision will be disappointing for Mr W, but I hope I've provided him with a thorough explanation about why I won't be upholding his complaint."

I asked both parties to provide me with any further comments or evidence in response to my provisional findings. C&G have responded to say they have accepted my findings. Mr W has also responded by does not agree with what I've said. In particular he says:

- My findings on his conduct being reckless are made in hindsight and do not take into account the realities of daily life or customer practice.

- The property at which the incident happened was that of his in laws and he couldn't bolt their gate and lock them out of their own home given they were in their 70's.

- He's taken the same walk with the two pets countless times, and the gate has not come open before nor since from just using the latch. This was the exception.

- This was a freak occurrence that has only happened once.

- Had the gate not had a bolt, my decision might have been different. He questions how I would I have known whether the bolt was in working order in any event.

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 so, I remain of the view that Mr W's complaint shouldn't be upheld for the same reasons set out within my provisional findings.

I can understand Mr W's disappointment and the fact that this was the only occasion on which the gate has come open in all the times he has entered through it. But my conclusions were heavily weighted on his not ensuring the gate behind him was secured properly to start with and his subsequently letting his pet off its lead.

I agree that the bolt was a factor in my decision but if what he says is correct and that the gate had always latched in the past, the fact that he didn't check if this had happened on this occasion does lead to a finding of recklessness on a standalone basis even without the bolt being necessary. So whether or not the bolt was in working order doesn't in my view make much of a difference. And in any event Mr W hasn't said the bolt wasn't in working order such that I should discount factor this entirely.

Overall and for the reasons I've previously cited I remain of the view that Mr W's complaint should not be upheld.

My final decision

For the reasons set out above, I don't uphold Mr W's complaint against Casualty & General Insurance Company (Europe) Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 9 September 2025.

Lale Hussein-Venn
Ombudsman