

The complaint

Mrs S' complaint is about a claim she made on her Red Sands Insurance Company (Europe) Limited pet insurance policy which was declined.

Mrs S says she was treated unfairly and wants Red Sands to pay her claim.

What happened

In November 2023 Mrs S' pet was treated for sudden onset lameness in its right leg. The treating vet confirmed the diagnosis as a stifle in the right leg with loss of fat pad, cranial displacement of the tibia and positive cranial drawer stifle.

Mrs S then made a claim on her Red Sands pet insurance policy, which Red Sands declined. They said the condition was pre-existing because the pet had suffered from cruciate damage to its left leg before the policy was in place and that the condition was bilateral, so it wasn't covered.

Mrs S didn't agree. Unhappy, she referred her complaint to the Financial Ombudsman Service.

Our investigator considered her complaint and said that it should be upheld. She thought Red Sands hadn't provided enough evidence to support that the issues with the pet's legs were caused by an underlying disease process or were connected. Red Sands didn't agree, so 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.

Having done so, I uphold Mrs S' complaint for broadly the same reasons as the investigator. I'll explain why.

The starting point is the policy terms. They say:

“Pre-existing conditions aren't covered in this policy. A condition, injury or illness is pre-existing if (the pet) has shown signs or symptoms before you Joined (the branded name of the policy), or within the first 14 days of your initial policy start date. This also includes any other condition, injury or illness which is connected to that pre-existing condition as determined by a vet.”

The policy also goes on to say:

“If your pet develops a condition on one side of their body that they've previously had on the other side of their body, we'll class it as one condition. This is called a 'bilateral condition' and both cases will be classed as the same condition. Bilateral conditions usually appear in places your pet has more than one of, such as ears, eyes and elbows.”

So, the question for me to determine is whether Mrs S' pet had a bilateral condition that predated the start of the policy.

Mrs S' policy started in August 2023. In August 2022 Mrs S' pet's clinical history shows it was determined the pet was suffering from a left stifle anterior for which the pet underwent surgery. There's nothing in the clinical notes to suggest that Mrs S' pet had a problem with its right leg at the time of the surgery. It wasn't until November 2023, some 15 months later, that the pet started to present with problems in its left leg.

I accept that the pet's condition in its right leg was essentially the same condition it presented with in August 2022. But like the investigator said, unless it can be established by Red Sands that the cause of the condition was an underlying illness like cruciate disease, then it wouldn't be fair to treat the condition as bilateral.

In this case Red Sands say the clinical notes support that Mrs S was aware there was a possibility her pet would be diagnosed with the same condition and therefore that she had some knowledge of the possibility of the condition reoccurring in the pet's other leg. I think that if the notes they've reference supported this, I would be inclined to agree with them, but in this case, I don't interpret the clinical notes in the way that Red Sands have. I think that all they show is that Mrs S became aware on presentation of the lameness that the condition could be the same as the one the pet had before, but that doesn't support that the pet was exhibiting symptoms that suggested this up until the time she took it to the vet or that she might have been advised by the vet this could happen again in the pet's other leg.

The two conditions were 15 months apart and I haven't seen anything at all in the pet's clinical history that suggests it had an underlying disease process which could cause the same issue in the other leg or that Mrs S was advised of this. Equally there's no reference to any earlier examinations of the pet's right leg at all. So, it's quite possible that the problem with the pet's right leg were as a result of something completely independent. Indeed, Mrs S refers to the problem as an injury, which suggests that the cause might be from something other than disease.

Red Sands have provided details of several clinical studies conducted into bilateral conditions which they say show the time frame between bilateral conditions being similar to the 15 months between the pet seeing the vet for different legs here and that this is usually caused by the progression of a degenerative disease rather than acute injury. But these studies aren't specific to Mrs S' pet's case, nor is Red Sands' opinion based on the clinical evidence in this specific case. So, I can't say it's applicable.

Ultimately the onus is on Red Sands to establish that the exclusion is applicable in this case and based on the evidence I've seen, I'm not satisfied that they have. The condition occurred during the period of cover so Red Sands should put things right in the way I've set out below.

Putting things right

Red Sands should pay:

- Mrs S' claim under the remaining terms of the policy.
- Interest at 8% per year simple on the sum it pays out to Mrs S from one month after the claim was made until it is paid.

My final decision

For the reasons set out above, I uphold Mrs S' complaint against Red Sands Insurance Company (Europe) Limited and I direct them to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 10 April 2024.

Lale Hussein-Venn
Ombudsman