

The complaint

Mrs S complains that QIC Europe Ltd acted unfairly when paying her claim for vet's fees under her horse insurance policy.

My references to QIC include its agent.

What happened

In October 2021 Mrs S said her horse became bad tempered when being tacked up. Shortly after this on 10 November 2021 Mrs S's horse received vet treatment having laid down and been off her feed. In December 2021 Mrs S's horse became lame.

Following investigations, Mrs S's vet diagnosed the horse with three conditions: hock osteoarthritis, equine gastric ulcer syndrome (EGUS) and kissing spines. Mrs S made a claim to QIC for the vet's fees.

QIC paid the claim as one claimable "*incident*" under its policy terms up to the £3,500 "*incident limit*". This did not cover the vet's fees in full, so Mrs S had to pay the balance herself. QIC said it did not judge a claimable incident on each separately diagnosed condition but rather as the onset of symptoms.

Mrs S did not think QIC's claim decision was fair. Her horse had first shown symptoms of EGUS in October and November 2021. The horse was not lame at this time, and was still being ridden. It was not until December 2021 that the horse became lame. QIC asked an independent vet on its panel to review the claim.

QIC's vet discussed the horse's treatment with Mrs S's vet and reviewed the clinical records. He thought it more likely that the three conditions formed part of the same claimable incident. Mrs S did not agree. She provided supporting comments from her vet who had seen and treated her horse. QIC's vet reviewed the claim again but said Mrs S's vet's comments did not change his view. So QIC maintained its claim decision.

Unhappy with the outcome Mrs S came to us. Our Investigator looked into the complaint but did not uphold it. He thought the evidence provided by QIC's vet was more persuasive than Mrs S's vet. As such, he considered QIC had made a fair decision on the claim.

Mrs S did not agree with the Investigator's findings. She said, in summary:

- It is the onset of symptoms that is determinative rather than when the horse is seen by a vet. The first symptoms of EGUS had been in October 2021, when her horse became bad tempered when being tacked up.
- QIC's vet had not, in her view, taken into account that her horse was still being ridden in October and November 2021, which she said did not support that her horse had had back pain at that time. Even when the EGUS had been successfully treated her horse's lameness did not resolve.
- She referred to the way 'incident' is defined both in the dictionary and in legal cases.

The complaint came to me for review. I asked Mrs S whether she had mentioned that her horse had been bad tempered on tacking up during the November 2021 vet's visit.

Mrs S responded to say that while she was struggling to recall the day of the vet's visit, she could see from her calendar that she was away for a family birthday. Her horse is in a livery yard and she recalls that the yard contacted her to say her horse was lying down and was not eating – and to seek her authority to call the vet. She said that yard suspected her horse had colic and believed the situation needed urgent assessment by a vet. She added that she considers it extremely unlikely that the vet was told about the problems she was experiencing when tacking her horse up as the yard personnel would not have known that information.

In response to my question about the treating vet, Mrs S couldn't confirm which vet had seen her horse in November 2021 (as she was not there), but the horse's clinical record showed a junior vet had been noted as being called out on 10 November 2021. Mrs S said that it was the senior vet who had seen her horse in December 2021.

My provisional decision

I issued a provisional decision explaining my reasons for not upholding Mrs S's complaint. 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 don't intend to uphold Mrs S's complaint. I'll explain why and in doing so I will focus on what I consider to be the key issues.

The cover provided by QIC is set out in its policy terms and conditions, which forms part of the insurance contract together with the policy schedule. Mrs S's policy schedule says that the "incident limit" is £3,500.

The policy terms and conditions define the word "incident" as follows:

"A claimable incident under this policy is not judged on each separately diagnosed condition but is considered to be an onset of symptoms. If a horse presents with a symptom or set of symptoms, any diagnoses which arise out of that investigation, or subsequent related investigations, are considered together to be one claimable incident under the policy."

I have read and thought about Mrs S's comments about the way the word 'incident' is defined both in the dictionary and in the legal cases to which she refers. But importantly the QIC policy defines the word "incident" and so I will use that definition when deciding whether QIC has made a fair decision to limit Mrs S's claim to £3,500 under its policy terms.

It is not in dispute that Mrs S's horse was diagnosed with three separate conditions. QIC has treated them as one incident, but Mrs S considers that the symptoms occurred at different times and were caused by different conditions. She points out she noticed her horse's symptoms of being bad tempered/fidgety/nowty when being tacked up/girthed at the end of October 2021.

Mrs S's vet said on the claim form that the horse's symptoms had been "lameness, back pain and girthiness." This is reflected in the vet's clinical record of 31 December 2021 when the vet noted the horse was: "reported to be lame a couple of weeks - have rested, no real sign of improvement - appears to be right hind. reluctant to move forward on the right rein.

tenderness in thoracic spine on palpitation. reported to be sore on girthing up – o wondering about ulcers, to come in for work up and gastroscopy”.

There is no mention of girthing in the clinical record before 31 December 2021. I have asked Mrs S about this and she has explained she was not present at the earlier vet's appointment of 10 November 2021. And she correctly points out that the policy does not require the symptoms to have been noted by a vet.

But I don't consider the horse's symptoms of bad temperedness and girthing were investigated until December 2021. So, even though Mrs S had noticed the symptoms earlier I think it was fair for QIC to say the horse had presented with a set of symptoms in December 2021, which were then investigated and resulted in three separate diagnoses.

It is accepted by both Mrs S's vet and QIC's vet that the November 2021 symptoms appeared to be of colic. The treating vet recorded that: "O [Owner] reports rode this morning, then came back in off hay and lay down, been off feed since and seems dull." The notes say that the horse had positive gut sounds on both sides, had passed some droppings and the vet prescribed anti-spasmodic and pain relief medication.

But there is a difference of professional opinion as to whether the November 2021 symptoms of colic were symptoms of the EGUS that was diagnosed in early 2022 following a gastroscopy procedure.

QIC's vet said that the symptoms recorded in the clinical record were not related to the later December 2021 symptoms of EGUS and lameness. In summary, he gave the following reasons:

- The November 2021 entry does not record EGUS as a clinical consideration. There are several possible causes for the symptoms displayed.*
- It is not possible to state with certainty that the November 2021 episode is related to the December 2021 episode and subsequent presentations.*
- The December 2021 clinical history reports an investigation into the three conditions taking place concurrently.*
- Mrs S had said that the horse was displaying signs of being "bad tempered/fidgety when being tacked up & girthed". This can be a symptom of EGUS but in his opinion can also be consistent with a horse with back pain.*
- He had discussed with Mrs S's vet that the EGUS had resolved but the musculoskeletal pain had persisted. He thought it was likely that the EGUS was exacerbated by the back and hock pain. Mrs S's vet did not agree the association was correct in this case. But they both agreed that it was very difficult to determine the cause of EGUS in a horse as there are many potential causative factors.*

Mrs S's vet responded to say, in summary:

- The horse was examined in December 2021 for poor performance under saddle and discomfort when being tacked up. Further clinical work revealed EGUS, discomfort in the spine and in the right hind. Following treatment, the EGUS resolved but the lameness persisted without any further exacerbation or re-occurrence of EGUS and the horse continued to be asymptomatic for EGUS.*
- In November 2021, the horse was examined for colic, which can be a symptom of EGUS. No lameness or poor performance had been reported at that time which inferred that it was possible that EGUS might have preceded any lameness or back discomfort.*
- "Based on this information as the examining and treating veterinarian in this case, I am of the opinion that the EGUS and the lameness/back pain are separate*

conditions.”

QIC’s vet did not think Mrs S’s vet had provided any new or conclusive evidence to warrant changing his position. He said: “In my opinion, there are many possible causes of colic and I do not believe that it is possible to state definitively that the November 2021 colic was caused by EGUS. The clinical history for that examination makes no reference to EGUS as a possible cause. In my experience, colic would be an infrequent clinical sign of EGUS and would more likely be associated with a low-grade recurrent colic rather than a single episode.”

I will generally apply more weight to the evidence of the vet who has seen, examined and treated the horse. In this case, I note a different, more senior vet treated the horse in December 2021, although she and the vet who treated the horse in November 2021 were from the same veterinary practice.

Having considered the expert opinions of both vets I find that in this case I am persuaded by QIC’s vet’s evidence for the following reasons:

QIC’s vet has said that the horse showing signs of being “bad tempered/fidgety when being tacked up & girthed” can be a symptom of EGUS but in his professional opinion can also be consistent with a horse with back pain.

Mrs S’s vet had said that there was no lameness or poor performance reported in November 2021. When giving her opinion about there being no association between the colic and the back/hock pain Mrs S’s vet did not refer to the symptoms Mrs S had noted of her horse having been bad tempered when being tacked up since October 2021.

But QIC’s vet’s had taken into account the symptoms Mrs S had noted since October 2021. And his opinion was that the symptoms could be consistent with a horse with back pain.

Mrs S said that QIC’s vet’s opinion was incorrect because she was still riding her horse in October and November 2021. The horse did not become lame until December 2021. But QIC’s vet’s opinion was that the horse’s back pain could also be consistent with the earlier symptoms of she had reported. And I think the symptoms of lameness, back pain and girthiness were investigated at the same time.

QIC’s vet says that a single episode of colic is unlikely to be suggestive of EGUS, for which symptoms are recurrent low-grade episodes of colic. So, while the November 2021 episode of colic could have been a symptom of EGUS, based on the expert evidence I think it is more likely than not, on balance, that it was not a symptom.

Mrs S’s vet says that EGUS and the back/hock pain are separate conditions and that the lameness symptoms persisted after the EGUS was treated. But under QIC’s policy it is the onset and presentation of symptoms that is the determining factor. Having carefully taken into account all the submissions, I think that the horse presented with symptoms of the three

diagnosed conditions and it was fair for QIC to treat the investigation and treatment of those conditions as one claimable incident, under its policy terms.”

Responses to my provisional decision

QIC responded to say that it had nothing further to add.

Mrs S responded to say that she did not agree with my provisional decision. In summary, she said:

- She is concerned about my approach and the weight I have applied to QIC's expert evidence. QIC's vet has not met, examined or treated her horse and cannot give direct evidence as to the onset of symptoms. QIC's vet does not refer at any point to her horse's October 2021 symptoms.
- I have not applied the correct test when saying that her horse first presented with symptoms in December 2021, even though she had noted symptoms in October 2021. The policy does not define "*Incident*" with reference to the date the symptoms were investigated, but rather as the onset of symptoms – being when the horse first displays the symptoms. In that context, it does not matter whether this is to a specific individual (such as a vet) nor whether the symptoms were investigated at that time.
- She refers to the discussion about whether the November 2021 symptoms were of colic or EGUS. QIC's vet says, on balance, that it was the former, but that he cannot state with any certainty that the November 2021 episode is related to the December 2021 presentation. He also accepts that the low grade colic, with which her horse was diagnosed in November 2021, is a sign of EGUS.
- QIC's vet says that the symptoms she observed in October 2021 can be symptoms of EGUS but are also consistent with back pain. But he does not conclude, and in her view cannot conclude, that her horse did not have any symptoms in October 2021. If those symptoms were consistent with EGUS or back pain, they were the onset of symptoms (as defined by the policy) for one of the three conditions her horse was subsequently diagnosed with.
- Her position is that:
 1. The nature of the symptoms displayed by her horse in October 2021 (the girthing and bad temperedness when being tacked up).
 2. The episode in November 2021 was a sign of EGUS.
 3. The continuation of her horse's bad temper and girthing which she brought to the vet's attention when she first saw her in December 2021; and
 4. The fact that her horse was diagnosed with Grade 3 EGUS in December 2021, that is two months later, is consistent with those symptoms being due to her horse suffering from EGUS.
- It is not dispute that her horse did not display symptoms of lameness which precipitated her calling the vet in December 2021.
- I have placed a good deal of significance to the fact her horse was not diagnosed with EGUS when seen by the vet in November 2021. But she was not present at the yard that day. Suspecting her horse had colic (which can be fatal and take hold very quickly) the staff at the yard contacted her for authority to call the vet. But I might not have appreciated that his would have been treated as an emergency by the vet (and yard staff) in her absence, with the focus to address the immediate issue. She was not present so she does not know whether the junior vet would have considered the possibility that her horse had EGUS. But this seems doubtful, given the vet was unlikely to have been aware of her horse's symptoms when being tacked up and the pressing concern was to ensure that her horse's situation was not critical.
- As such, Mrs S questions my provisional determination that it was fair for QIC to treat all of her horse's symptoms as one claimable incident under the policy.

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 read and considered all the evidence my decision is that I do not uphold this complaint. I will explain my reasons focusing on Mrs S's response to my provisional decision.

For ease, I will repeat how the policy defines an “incident”:

“A claimable incident under this policy is not judged on each separately diagnosed condition but is considered to be an onset of symptoms. If a horse presents with a symptom or set of symptoms, any diagnoses which arise out of that investigation, or subsequent related investigations, are considered together to be one claimable incident under the policy.”

Having reviewed all the evidence again, I note Mrs S’s point about the onset of symptoms as being October 2021, when she noticed her horse’s girthing and bad temperedness when being tacked up. As I understand it, her point is that her horse presented with symptoms at that time; and that is the case even if the presentation was to Mrs S rather than a vet.

But the policy also refers to the investigation of the symptom or set of symptoms, given that any diagnoses which arise out of that investigation, or subsequent related investigations, are considered together to be one claimable incident under the policy. So I consider that I can fairly take into account the investigation of those symptoms in reaching my decision about what is fair and reasonable in all the circumstances.

I don’t consider that the horse’s symptoms of girthing, bad temperedness and lameness were investigated until December 2021. The investigations resulted in three separate diagnoses and, in my opinion, it was fair for QIC to treat those three separate diagnoses as one claimable incident under the policy.

I have taken into account that QIC’s vet did not examine or treat Mrs S’s horse before giving his expert opinion. Mrs S’s vet (the more senior vet in the practice) who did examine and treat the horse said she thought it was more likely than not that the colic for which the horse was treated in November 2021 was a sign of EGUS.

But I think QIC’s vet’s opinion that the November 2021 episode of colic was more likely to be an isolated episode of colic is more persuasive here, because he said that EGUS is usually associated with frequent bouts of low grade colic rather than a single incident.

I have carefully considered Mrs S’s senior vet’s opinion. But she did not examine the horse in November 2021 and did not refer to the earlier symptoms Mrs S had mentioned of bad temperedness and girthing. I find QIC’s vet’s opinion more persuasive, given that he did give his opinion about these symptoms. He said that they could be suggestive of back pain.

Mrs S says that QIC’s vet had not referred to the October 2021 symptoms, but I don’t agree. QIC had sent Mrs S’s claim form to QIC’s vet together with the clinical notes. She had said on the claim form that from the end of October 2021 her horse had been “*nowty when being girthed*” with symptoms of “*bad tempered & fidgety when being tacked-up*”. QIC’s vet referred to Mrs S’s horse being “*bad tempered/fidgety when being tacked up & girthed*”. So while I have noted Mrs S’s comment about this, I consider that QIC’s vet was aware of these earlier symptoms and gave his opinion about them in his report.

I have noted Mrs S’s comments about why the junior vet would not have considered EGUS at the time she treated Mrs S’s horse in November 2021. She has said that QIC’s vet referred to her horse’s “*low grade colic*”. But I don’t think QIC’s vet thought that Mrs S’s horse had suffered with low grade colic; rather he thought the horse had suffered a single episode. He said: *In my experience, colic would be an infrequent clinical sign of EGUS and would more likely be associated with a low-grade recurrent colic rather than a single episode.*

It follows that I remain of the view that the weight of evidence is in QIC’s favour. I think QIC

fairly treated the claim as one claimable incident under its policy terms. As such, I do not uphold Mrs S's complaint.

My final decision

For the reasons that I have set out both in my provisional decision and above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 7 August 2023.

Amanda Maycock
Ombudsman