

The complaint

Mr M complains that American International Group UK Limited (hereafter “AIG”) misled him in relation to a claim for permanent total disablement.

What happened

The background to this complaint is well known by both parties so I will only summarise what happened below.

Mr M suffered a brain injury during an explosion in 2007 when serving for the armed forces. He continued to work for the military following that accident until 2019 when he was medically discharged.

Mr M made a claim on a personal accident policy he held with AIG. AIG accepted Mr M had a mild traumatic brain injury (mTBI) and paid benefit for cognitive deficit, but Mr M said he should receive a permanent total disablement (PTD) benefit too. AIG disagreed and said Mr M hadn’t satisfied the relevant terms and conditions for PTD, but let him know it would reconsider the claim if he could provide further evidence.

Mr M complained. That complaint concerned a number of other matters too and was decided by a fellow ombudsman here at the service in July 2021. While that ombudsman concluded AIG hadn’t handled Mr M’s claim unfairly, they did think it had caused some delay and their final decision instructed AIG to pay compensation to reflect the distress and inconvenience that had caused.

Following that decision Mr M made enquiries with AIG about providing further evidence to support his PTD claim. AIG said it’d taken another look at the available evidence though, and should not have told Mr M that it could reconsider. It explained the medical evidence already available actually indicated that Mr M had stopped working because of Complex Treatment Resistant PTSD and mTBI – meaning the reason for his medical discharge wasn’t solely and independently due to a bodily injury alone as the policy required.

Mr M raised another complaint, but while AIG maintained its claims decision it accepted it’d advised the claim may be reconsidered in error and said it had not told Mr M of that sooner. To recognise Mr M’s expectations being raised for some time, AIG apologised and offered £800 compensation.

Our investigator said AIG had fairly maintained its claim decline. But they acknowledged how frustrated and disappointed Mr M must have felt given what had happened and said the £800 compensation was a fair reflection of that.

Mr M disagreed and said AIG had provided misleading information about reconsidering his claim and our previous final decision was void. So, as no agreement was reached the complaint was 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.

Having done so, I want to highlight that I may not address each and every argument made. I will instead focus on those matters I consider central to the outcome of this complaint:

- Mr M says AIG misled both he and this service and our final decision of July 2021 is consequently void. I appreciate Mr M's strength of feeling about AIG's actions, but I do not agree that the final decision of July 2021 is void. Like the investigator before me I will not be revisiting the complaint that decision addressed and will instead be focusing my findings on what has happened since.
- AIG said it was unable to reconsider Mr M's PTD claim despite what it had previously said because the available evidence didn't show PTD had arisen solely and independently from bodily injury, nor had occurred within two years of bodily injury either. The terms and conditions of Mr M's personal accident cover explain, "*If, during the period of cover, you suffer bodily injury which, within two year solely and independently of any other cause, results in death, permanent disablement, specified burns, specified fractures, hospitalisation or flesh wounds, we will pay the total sum insured.*" They also define 'bodily injury' as specifically meaning, "*Injury to the body caused by an accident and not by any gradual cause*". And they confirm 'bodily injury' does not include "*post traumatic stress disorder*".
- I won't address the two year element here because that was addressed in the final decision of July 2021. But having looked at the medical evidence from the time of Mr M's discharge from work I can see that two principle conditions were cited as affecting his employment. Those were Complex Treatment Resistant PTSD and mTBI. I note the board making the recommendation to medically retire Mr M said, "*The Board agreed that (Mr M) was permanently unfit for military service due to complex PTSD and MTBI and that he should be recommended for medical retirement.*" And so, given the terms of the policy required PTD to have been solely and independently caused by bodily injury – and they'd specifically explained bodily injury did not include PTSD either – I can't fairly conclude that AIG's decision to maintain the declination of this claim was unreasonable.
- AIG accepts it erred in telling Mr M it could reconsider his claim and I agree. I appreciate Mr M says that phone calls will further evidence what AIG had said to him, but AIG's error isn't disputed here. Mr M was led to believe his claim would be reconsidered if he provided additional evidence and he was led to believe that for much longer than he should have been too. His claim was understandably very important to him and I recognise the frustration, upset and disappointment that AIG's error would have caused. It was right of AIG to both apologise and offer recompense for what happened.
- Compensation isn't designed to be punitive; it should be a fair and proportionate reflection of the impact a business's mistake has had on someone. AIG has accepted its mistake and in all the circumstances I think the £800 it has already offered is both fair and proportionate.
- While I'm aware Mr M chose not to accept AIG's offer at the time, AIG has confirmed it remains available and I think it should now be paid.

Putting things right

AIG has already made an offer to pay £800 compensation to settle the complaint, and I think this offer is fair in all the circumstances.

My final decision

My final decision is that American International Group UK Limited should pay the £800 it has already offered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 27 March 2023.

Jade Alexander
Ombudsman