

The complaint

Mr N complains that Phoenix Life Limited wrongly led him to believe that he'd be entitled to incapacity benefit under an income protection insurance policy.

What happened

In 2001, Mr N took out a Personal Income Protection insurance policy. The policy provided cover for Mr N's own occupation and included a deferred period of 26 weeks.

Subsequently, in February 2022, Mr N let Phoenix know that he was unwell. And in March 2022, Phoenix sent Mr N incapacity claim forms. Phoenix asked for further information to allow it to assess Mr N's claim and received Mr N's medical information in August 2022.

Phoenix assessed Mr N's claim and let him know that no benefit was due. That's because although the 26-week deferred period had passed, Mr N's employer was paying him half pay. And the amount of sick pay Mr N was being paid was more than the monthly benefit he'd be entitled to under the policy.

Mr N was unhappy with Phoenix's decision. He said he'd been reassured on a number of occasions that he'd be covered by the policy. He'd understood benefit would be paid from July 2022 onwards. He said if he'd been given accurate information when he made the claim, he could have made alternative arrangements with work.

Phoenix accepted it'd given Mr N the impression that his claim would be paid after the deferred period. So it offered to pay him £100 compensation.

Mr N remained unhappy with Phoenix's position. He considered that the misleading information he'd been given had led to him rushing back to work. He felt that Phoenix should pay him at least two months of monthly benefit which he'd been expecting and which he'd lost out on because he'd had to rush back to work. And he felt it should pay compensation for the distress he'd been caused. He asked us to look into his complaint.

Our investigator felt that Phoenix had correctly calculated that Mr N wasn't entitled to any monthly benefit, in line with the policy terms. So he didn't think that it would be reasonable to recommend that Phoenix should pay Mr N the benefit he felt he'd lost out on. However, he felt that Mr N had suffered a loss of expectation, given he'd been led to believe he was entitled to benefit after 26 weeks. And the investigator also thought Phoenix could've advised Mr N that his claim wouldn't be paid earlier in the claims journey. So he recommended that Phoenix should pay Mr N a total of £300 compensation.

Phoenix didn't respond to our investigator.

Mr N disagreed with the investigator's conclusions. He said that he didn't think £300 compensation was commensurate with the effect Phoenix's actions had had on him. He told us he'd lost over £10,000 of salary during that period. He felt Phoenix had had all of the information it required to let him know that no benefit was due for around five months. But it had led him to believe it was waiting on the medical information before it could make a

decision.

The complaint's been 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, whilst I'm sorry to disappoint Mr N, I agree with our investigator's conclusions and I'll explain why.

First, it's important I make clear that this decision will only consider the impact of Phoenix's claim handling on Mr N. I understand another ombudsman has issued a decision about the sale of the policy and so I won't be commenting on that issue.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. So I've considered, amongst other things, the terms of Mr N's policy and the circumstances of his claim, to decide whether Phoenix treated him fairly.

Phoenix's benefit calculation

Mr N hasn't specifically complained about the calculation Phoenix carried out when it determined that his employer's sick pay exceeded the monthly benefit he would be entitled to under the policy, following the expiry of his deferred period. For completeness though, I have carefully considered the terms of the contract between Mr N and Phoenix. And in particular, I've looked closely at the applicable 'limitation of benefit' clause set out in the policy, together with the 65% 'relevant proportion of earnings' listed on Mr N's policy schedule. It's clear that Phoenix was entitled to deduct any employer sick pay from the calculation of monthly benefit.

In this case, there's no dispute that Mr N's employer paid sick pay in full for the first six months of his illness, followed by an entitlement to half pay for the second six months. I understand then that following the end of Mr N's policy deferred period of 26 weeks, he was receiving half pay from his employer. Taking into account the relevant policy terms, together with the available information about Mr N's pre-incapacity earnings and his sick pay, I'm satisfied that Phoenix did calculate whether any benefit was due, in line with the policy terms. And based on that calculation, I find that it was fair for Phoenix to determine that Mr N's sick pay was more than the maximum he'd be entitled to under the policy.

Phoenix's handling of the claim

It's clear that Mr N feels strongly that he was misled by Phoenix into believing that he'd be paid benefit after the end of his deferred period. Phoenix acknowledges that its call handlers may have given Mr N this impression. So I can understand how disappointing and frustrating it must have been for Mr N when he learned, some months after making the claim, that he wasn't entitled to benefit after all.

I appreciate Mr N feels that as a result of Phoenix's actions, he lost out on around £10,000 of gross salary in July and August. As the investigator explained, as Mr N wasn't contractually entitled to benefit, I don't think I could fairly direct Phoenix to pay him monthly benefit in lieu of his full pay during this period. Even if Phoenix had told him earlier that his sick pay entitlement exceeded the policy benefit, it isn't at all clear that Mr N would have been well enough to return to work sooner than he did.

Nonetheless, I agree with our investigator that Phoenix's actions did cause Mr N a loss of expectation that his claim would be paid. And I think too that Phoenix had likely had enough information to determine the outcome of the claim some time earlier than it did. This put Mr N to additional time in trouble in chasing up progress and in obtaining information. So I think it's fair and appropriate that Phoenix should compensate Mr N for the impact its actions had on him. Having thought about everything carefully, I'm persuaded that £300 total compensation is a fair award to reflect the distress and inconvenience Phoenix's handling of the claim caused Mr N.

My final decision

For the reasons I've given above, my final decision is that I uphold this complaint.

I direct Phoenix Life Limited to pay Mr N a total of £300 compensation (less any amount it's already paid).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 7 April 2023.

Lisa Barham
Ombudsman