

The complaint

Mrs C and Mr C are unhappy with Zurich Assurance Limited's decision to reduce the level of benefit paid when they made a claim.

Although this complaint was brought by both consumers, I'll refer to all submissions as being made by Mr C as this complaint concerns his disclosures at the time they took the policy.

What happened

Mr C arranged for life and critical illness cover with Zurich in November 2020. As part of the application process, he was asked questions about his previous medical history. Sadly, Mr C needed to claim on his policy in July 2021 following a heart attack. Zurich investigated Mr C's claim and discovered he'd not told it about his previous cholesterol problems. Zurich decided to pay a proportionate settlement and reduced the overall life cover amount, saying this is the action it would've taken had it known about the raised cholesterol at the time the policy was taken out. It said Mr C made a careless misrepresentation under CIDRA (Consumer Insurance Disclosure Representations Act).

Our investigator disagreed with Zurich saying the questions asked at the time of application were unclear. She said the question about cholesterol could be interpreted in such a way that it's simply augmented towards finding out whether a consumer has ever taken medication, or received treatment for cholesterol, rather than having been diagnosed with the condition. She said on that basis, Zurich should pay the claim in full, reinstate the previous level of benefit and pay £300 compensation for the overall distress and inconvenience.

Zurich disagreed with this and asked for an ombudsman to review the case. In summary, it said the question asked was clear and that Mr C should've reasonably shared his previous cholesterol problem. And so, it's now for me to make a final decision.

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've decided to uphold it and for the same reasons already explained by our investigator. I'm satisfied the question asked is unclear because it's asking too much information within a relatively short sentence. I also don't consider Mr C's medical records as evidence of him being treated for cholesterol problems and so I agree with our investigator's recommendations. I'll explain why.

To be clear, the question asked by Zurich was;

"In the last 5 years, unless you have already told us earlier in this application, have you had, or been advised to take any medication or have any treatment for: raised blood pressure or raised cholesterol?"

Mr C's medical records show that he visited the GP for a problem with an injury to his ankle during the five-year catchment, in 2017. The issue he experienced was with delayed healing of his ankle. The GP took a blood sample as the wound wasn't healing and a comment was made that Mr C had slightly raised cholesterol – for which he was advised to monitor his diet. This is the occasion Zurich has referred to where Mr C should have disclosed his cholesterol issues in response to the above question. But I'm not persuaded by that because I don't consider it reasonable that Zurich should expect him to disclose this information based on the question it asked.

I should also say that Mr C was unable to recall this instance because it was some time ago and wasn't the primary reason for his visit to the GP, it was for something else entirely. I also wouldn't have considered Mr C as having received treatment given the wider circumstances I've just explained. I'm satisfied this was more of an off-the-cuff remark and this is further supported by no treatment having taken place. In any event, I still don't consider the question asked by Zurich, to be clear, because I don't think the question, as it currently stands, would prompt Mr C to share this information.

The question asks whether in the last five years, have you had, or been advised to take any medication or have any treatment for raised cholesterol. I've understood that question to be aimed at gathering details about whether a consumer has had treatment or been advised to take medicine to treat the raised cholesterol. I understand Zurich disagrees with that, and there's been some discussion around where the commas are situated and where emphasis lays on whether someone has *had* raised cholesterol. But I'm not persuaded by these arguments because I think Zurich could ask the questions differently to gather the information it wanted.

I think the question should have been separated making it clearer and this would help ensure consumers are able to give a clear answer about a) whether they've had raised cholesterol and b) whether they've received any treatment or medication for it.

Because the question was unclear, Zurich was unable to capture the relevant information it needed. But I don't consider that to be Mr C's fault and so I think the action Zurich has taken is unfair. Zurich also has obligations under CIDRA and it must ask clear and specific questions. For the reasons I've explained, I don't think it has and so it must now implement the recommendations made by our investigator.

My final decision

I'm upholding this complaint and Zurich Assurance Limited must now reinstate the original cover provided for the policies involved in this matter and pay full benefit accordingly on the critical illness claim. In addition, Zurich must pay 8% simple interest on that amount, from the date it declined the claim until the date of settlement. It must also pay £300 compensation for the overall distress and inconvenience it caused Mrs C and Mr C.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C and Mr C to accept or reject my decision before 3 April 2023.

Scott Slade
Ombudsman