

The complaint

Mrs M has complained that Monument Life Insurance Dac discontinued a claim she made on a mortgage payment protection insurance policy for unemployment.

What happened

The policy has a maximum benefit period of 24 months per claim. Mrs M was made redundant in December 2020 and received pay in lieu of notice until 22 March 2021. Monument accepted the claim and made monthly payments up to 15 February 2022. It finalised the claim at this point on the basis that Mrs M had failed to provide job search evidence as required under the policy terms.

I wrote a provisional decision last month in which I explained why I was thinking of upholding the complaint and inviting the parties to provide any further information or evidence. Monument responded with some comments that I will address below.

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.

The policy terms set out the requirements for making an unemployment claim. It states:

- *If you are not eligible for Jobseeker's Allowance, for example, you are in receipt of Income Support Benefit, or Widow's Pension, or Single Parent Allowance, you must provide two pieces of evidence from prospective employers that you are seeking work.'*

Under '*Benefit duration*', the policy states that a claim will be paid out until:

- *'You are no longer available for, and actively looking for work (or cannot evidence that you are).'*

Looking at the policy terms above, it's clear that a policyholder would normally need to provide job search evidence in order for a claim to continue if they are not in receipt of JSA or equivalent state benefits. However, as stated in my provisional decision, when deciding this complaint, I need to look at what is fair and reasonable in all the circumstances.

I've listened to a number of phone calls between Mrs M and Monument.

Following a couple of earlier calls, Mrs M calls again on 25 May 2021 to explain that she's spoken to the job centre and that the new enterprise scheme is not available to her. The adviser tells her that if she is not entitled to JSA or Universal Credit (UC) then she'd need to provide two pieces of job search evidence a month. Mrs M then explains that she is hoping to set herself up as self-employed and asks: '*So I need to be seeking employment as well as doing that?*' The adviser says that is normally the case but she'd have to confirm it and that sometimes they ask for information to show that a policyholder is trying to get their business off the ground. The adviser then says that she can see that a claims manager will be looking

through the case, so she was going to ask him to look into this issue as well and confirm what type of information it would look to request in this case.

The claims manager subsequently calls Mrs M. She explains that she's been unsuccessful in applying for jobs and so was looking to become self-employed, which probably wouldn't get going until around July 2021. The claims manager explains that Monument would generally ask for job search evidence but he imagined that a lot of her time was going to be spent networking and that kind of thing. He then says: *'Because you can't provide job search evidence necessary because you might not be applying for other work while you're networking and things, we would just ask you to keep us updated on a monthly basis..... just a little sort of note of what you've been doing, and again that would be enough for us to continue paying your claim'*. Mrs M says she's: *'just making sure I'm giving you what you need'*. The claims manager's response is again that, if she's not in receipt of UC, to just send an email of how many self-employed hours she's put in each month.

From listening to the calls mentioned above, I'm satisfied that it was confirmed to her that the only information required was a monthly update relating to her self-employment activities.

Mrs M began sending in continuing claim forms (CCF) each month. She was very transparent in the information she provided to Monument about her self-employed activities. She was not providing any job search evidence and Monument paid the claim for a number of months without issue. I've listened to a call that took place later in 2021 where Mrs M says she was ringing because she'd received a letter asking her for more information but was unclear what was being asked for. She was told that she was being chased for the CCF and the list of hours she was working as self-employed. So again, there was no indication that Monument was expecting Mrs M to provide job search evidence.

Mrs M had spoken to Monument over the phone and received confirmation that providing monthly details of her self-employment would be enough for her claim to continue. She was also upfront and honest about focusing solely on self-employment and never received anything from Monument to tell her that was inappropriate or would affect her claim.

Based on the available evidence, I'm satisfied that, in telling Mrs M what it did, Monument effectively waived the requirement for her to produce job search evidence. I'm also satisfied that, if Mrs M had been told to provide monthly job search evidence, that she would have complied with that request.

In its response to my provisional decision, Monument isn't disagreeing with my finding around the requirement for job search evidence. It has instead raised a new reason why Mrs M's claim should no longer succeed.

It says it confirmed to Mrs M that she could work up to 15 hours per week on the assumption that her business would be a growing concern and that she would reach the point of becoming self-sufficient. However, after several months that hadn't happened. And it has no way of validating Mrs M's word that she isn't working more than 15 hours per week.

Monument also says it needs to consider the level of income that Mrs M has been generating to see if she is better off than before she was made redundant. Whilst accepting that income from self-employment can be inconsistent, it has pointed out that Mrs M received almost £8,000 in income in October 2021 and that her income for several months from February 2022, with the level of benefit paid under this claim, has exceeded her former gross monthly salary. As the purpose of insurance isn't to place someone in an improved position, the claim is no longer valid.

In setting the parameters about what Mrs M needed to do for her claim to continue, Monument told her that she needed to provide evidence of her self-employed work activities and that she'd need to be doing those activities for less than 16 hours per week. Based on the available evidence, I'm satisfied that Mrs M understood the expectation that she should not unnecessarily prolong the claim period beyond a point where her new business could sustain work of over 16 hours a week. I'm also satisfied that Monument accepted that it would take some time for Mrs M's new venture to get off the ground.

There was no mention of limiting the number of months that Monument would support Mrs M in starting her new business. Neither was there any mention of her self-employed income having an impact on the claim. No ceiling was placed on what she could earn whilst working less than 16 hours per week.

I do appreciate Monument's position and have some sympathy with it. But overall, I consider it unreasonable for it to try and introduce a new reason for declining the claim at this late point. If Monument didn't want to provide cover in such circumstances, then it should have made that explicit at the start. Trying to rely on new criteria now that does not appear in the policy is not fair or reasonable.

As such, I find it unfair that Monument discontinued the claim on 15 February 2022.

Putting things right

Monument should re-open the claim and continue to assess it from February 2022 under the remaining policy terms but disregarding Mrs M's level of self-employed income and the need to provide job search evidence.

My final decision

For the reasons I've explained, my final decision is that I uphold Mrs M's complaint and require Monument Life Insurance Dac to put things right as set out above.

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

Carole Clark
Ombudsman