

## **The complaint**

Mrs B is unhappy that Legal and General Assurance Society Limited declined a claim made on her income protection policy. She's also unhappy with the service she received when handling her claim.

## **What happened**

Mrs B had the benefit of an income protection insurance ('the policy'). Subject to the remaining terms, the policy can pay out a monthly benefit if Mrs B was unable to work due to illness (or injury) after the deferred period.

Mrs B had a spontaneous coronary artery dissection causing a heart attack and after a short period off work, she returned working reduced hours for a number of months. In April 2023 she stopped working and made a claim on the policy.

Legal and General declined the claim in July 2023 as it concluded Mrs B didn't meet the policy definition of incapacity. Mrs B appealed that decision.

Legal and General accepted that there were some service issues and offered Mrs B £100 compensation. However, it has since maintained its position that the claim was declined correctly.

The complaint was brought to the Financial Ombudsman Service. Our investigator looked into what happened and recommended Legal and General pay Mrs B £200 compensation in total for the impact caused by some service failings. However, she didn't think it had unfairly declined the claim.

Legal and General accepted the recommendation. Mrs B disagreed so her complaint has been referred to me to consider everything afresh 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.

The relevant rules and industry guidelines say that Legal and General has a responsibility to handle insurance claims promptly and fairly. And it shouldn't unreasonably reject a claim.

## **The decision to decline the claim**

The policy terms and conditions say that Mrs B needs to meet the policy definition of incapacity throughout the deferred period for the monthly benefit to be paid.

The policy booklet reflects the applicable definition in this case is "own occupation". That means: "if you are in gainful employment or gainful self-employment at the time of incapacity, we will consider you to be incapacitated once we...are satisfied that you have no capacity for working in your own occupation, on any basis, as direct result of your injury or illness".

It's for Mrs B to establish that she has a valid claim under the policy, taking into account the

above definition.

I have a lot of empathy for Mrs B's situation; she's been through a very difficult and worrying time. I know she'll be very disappointed but for the reasons set out below, I'm satisfied that Legal and General has fairly and reasonably concluded that the definition of 'incapacity' hasn't been established.

- Mrs B says she didn't work for a number of months from April 2023 and that isn't disputed. From her medical records, I can also see that she was on medication and undergoing/awaiting further medical tests. However, that doesn't automatically mean the monthly benefit under the policy should be paid. There's a specific policy term which Mrs B needs to establish for a claim to be successful.
- I'm not a medical expert so I've considered the available medical evidence from around the time of the deferred period.
- I'm satisfied that Mrs B was able to work reduced hours in the months leading up to April 2023 and after her heart attack. In the clinical report completed by Legal and General's vocational clinical specialist in early May 2023 (so during the deferred period), it's reflected that recently there had been several complications arising from her health which stopped Mrs B working.
- The report goes on to say Mrs B "describes increasing widespread pain and fatigue. Pain is affecting her joints widespread including upper and lower limbs". It's also reflected that she had "impaired peripheral vision" and was sleeping poorly due to pain and discomfort.
- It's also reflected that she was able to carry out the following activities, as reported by Mrs B: walking the dog each day for an hour or less depending on how she felt, drawing and sewing, meeting friends for coffee, reading books, driving the car (avoiding long distances), grocery shopping with a trolley and going to watch local plays. Mrs B also reported other perceived barriers to returning to work as not being "available enough due to medical appointments and not knowing if she can be consistent with clients due to her health".
- Based on the assessment, the report concludes that, in the absence of any objective information, Mrs B has the functional ability to undertake her sedentary desk-based role. And that was based on "a very reasonable level of functional ability in her typical day".
- Around the same time, in early May 2023 (again, during the deferred period), Mrs B's GP wrote to Legal and General giving a summary of her current condition and concluded "given Mrs B's symptoms and ongoing investigation" they didn't think Mrs B was able to work. However, unlike the vocational clinical specialist report, the GP's letter doesn't set out the activities Mrs B was able to do or explain whether this information was gathered in order to provide an opinion. The GP's letter also doesn't explain why, specifically, Mrs B can't work in her own occupation in any capacity – as is required under the policy definition for the benefit to be paid. So, I've placed more weight on the contents of the vocational clinical specialist report.
- Mrs B has more recently said that she returned to work in October 2023 after coming off medication. She says the side effects of this medication were causing some of her symptoms. I'm pleased that her symptoms have improved but for the reasons above, although I appreciate this would've been a very worrying time for her, I'm not persuaded that these improvements meant she met the policy definition of being

incapacitated during the deferred period.

### **The handling of the claim**

I'm satisfied it took too long for Legal and General to assess the claim and provide an outcome to Mrs B. From its system notes, I'm satisfied Legal and General received Mrs B's medical information in May 2023, and it didn't provide an outcome until July 2023 – almost two months later. It's not clear the reason for that delay particularly as Legal and General's Chief Medical Officer provided their opinion in early June 2023. I'm satisfied that this delay impacted Mrs B.

Although I think it's reasonable to assume that she would've always been disappointed with the outcome to decline her claim (which for the reasons set out above I think was fair), the delay would've unnecessarily added to her distress at an already difficult time for her. I'm also satisfied that Mrs B was put to the unnecessary trouble of having to proactively contact Legal and General for updates because of the time taken to assess her claim.

Legal and General has already offered Mrs B £100 compensation. That's because it accepted after Mrs B appealed the decision to decline the claim, she was given the impression that the appeal would be considered within a shorter timeframe than it was. Legal and General accepted this would've caused Mrs B some disappointment.

However, I don't think £100 fairly reflects the overall impact Legal and General's service failings had on Mrs B. I'm satisfied a fairer and more reasonable amount would be £200 compensation.

### **Putting things right**

I direct Legal and General to pay £200 total compensation to Mrs B for distress and inconvenience. From this amount it can deduct the sum of £100 it offered to Mrs B in its final response letter dated September 2023 if this has already been paid.

### **My final decision**

I partially uphold Mrs B's complaint. I direct Legal and General Assurance Society Limited to put things right as set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 26 March 2024.

David Curtis-Johnson  
**Ombudsman**