

## **The complaint**

Mr W is unhappy that The Royal London Mutual Insurance Society Limited declined a claim he made on his personal protection policy.

## **What happened**

Mr W has a personal protection policy which covers him for death, critical illness and disability.

In late 2020 Mr W tested positive for Covid-19 following surgery. Mr W ceased employment in May 2021. He made a claim for disability in August 2021 due to symptoms of Long Covid.

Royal London declined the claim as they said that Mr W hadn't been working immediately before the claim. This meant they assessed the claim on the basis of activities Mr W could carry out, rather than whether he could carry out his own occupation. Mr W didn't think this was fair and complained to Royal London. They maintained their decision was fair and so Mr W complained to the Financial Ombudsman Service.

Our investigator looked into what happened and didn't uphold the complaint. She thought Royal London had fairly declined the claim, based on the available evidence.

Mr W didn't agree and asked an ombudsman to review the complaint. He didn't think that the investigator's conclusions fairly reflected the available medical evidence. He thought the medical evidence had been misinterpreted and obtained further information from his GP. He also raised concerns about Royal London's handling of a subject access request. So, I need to make a decision.

In July 2024 I issued a provisional decision. I said:

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 Royal London has a responsibility to handle claims promptly and fairly. And they shouldn't reject a claim unreasonably.

At the outset I acknowledge that I've summarised this complaint in far less detail than Mr W has, and in my own words. I won't respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

The rules that govern our service allow me to do this as we are an informal dispute resolution service. If there's something I've not mentioned, it isn't because I've overlooked it.

I haven't. I'm satisfied I don't need to comment on every individual point to be able to fulfil my statutory remit.

The policy terms and conditions

The policy terms and conditions say that in order to make a successful claim the policy definition of disability must be met. It says that:

Own Occupation definition

a) Being disabled according to all the requirements of any 1 of the following 3 definitions:

i) Own occupation

Being disabled:

before age 65; while having a full time (16 hours or more a week) remunerative occupation immediately before the start of the disability; through illness or injury; and to the extent of being medically or physically unfit to perform the material and substantial duties of that occupation.

ii) Work tasks

Being disabled:

through illness (other than mental illness of any kind) or injury; and to the extent of becoming unable to do any 2 of the 6 work tasks listed below without the help of another.

The policy goes on to set out a list of six work tasks.

Was the claim unfairly declined?

I don't think it was unreasonable for Royal London to apply the 'work tasks' definition to

Mr W's claim. Mr W's employment ended in April 2021. So, at the relevant time, he didn't have a full time remunerative occupation before the start of his disability.

I'm not persuaded by Mr W's representations that it's unfair to apply this definition. Mr W was infected with Covid-19 in 2020. But, the contemporary medical evidence doesn't demonstrate that he was experiencing significant and ongoing symptoms between the date he tested positive and the date of claim. It was months after Mr W left his employment that the GP records first refer to Long Covid.

I've taken into account what Mr W has said about not suddenly developing Long Covid.

However, I don't think it is unreasonable for Royal London to use the August 2021 date in the absence of other contemporary medical evidence which gives a detailed insight into Mr W's symptoms during the relevant time.

Mr W has referred to information provided by his GP in response to a questionnaire. But those responses aren't reflected in the contemporaneous medical notes. And, whilst Mr W has provided more information since I think it's reasonable to place more weight on the contemporary medical records as I think they most likely reflect the GP's thoughts at the time.

I'm aware that Royal London have more recently been in contact with Mr W in relation to his claim for disability as it has been assessed against the 'work tasks'

definition. However, they've provided a separate final response letter in relation to this decision. And so Mr W will need to make a separate complaint to the Financial Ombudsman Service in relation to this issue if he's unhappy with Royal London's decision.

#### The subject access request

Mr W is also unhappy that Royal London initially sent him limited information when he made a subject access request. When he queried this he was sent further information. Royal London offered £100 compensation for this issue. Mr W also says he obtained further information when he made a subject access request to his GP.

I can't explain why Mr W was provided with more information when he made a subject access request to his GP. But there's no evidence to suggest that this was because of something Royal London did wrong.

Royal London offered Mr W £100 compensation when they realised that he'd not been provided with the full information in response to his SAR. I think this is reasonable as I think it fairly reflects the impact on Mr W. Ultimately, he received the information and the evidence available to me suggests that it is most likely the relevant information was considered fairly by Royal London during the claims process. So, I don't think Royal London needs to do anything further to put things right.

#### My provisional decision

I'm not intending to uphold this complaint

Royal London confirmed they had no further points to add in response to my provisional decision.

Mr W responded. In summary he said:

- It's not correct that his remunerative employment ended in mid-April 2021, it ended in May 2021. The end of his employment was concurrent with his disability, not before the start of it.
- Royal London have continually moved the goalposts to provide new reasons why the claim couldn't be accepted.
- There was a lack of understanding about Covid and Long Covid. The nature of his symptoms made his made it impossible for him to perform his role. He also provided third party information about the impact of Covid and Long Covid.
- The effect of Covid and Long Covid fatigue on undertaking actions day after day have led him to claim on the policy as it was these conditions that caused him to cease work in May 2021.

So, I need to make a 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 considered the further representations from Mr W these haven't changed my thoughts about the overall outcome of this complaint. I'll explain why.

In the circumstances of this complaint, one of the key issues is whether Mr W had a full time (16 hours or more a week) remunerative occupation immediately before the start of the disability. This would require the insurer to assess the claim on the basis of the 'own occupation' rather than 'work tasks' as I explained in my provisional decision.

Mr W highlighted that his employment ended in May 2021. To clarify I've considered his complaint on the basis that his employment ended in May 2021 as I outlined in the background to my provisional decision.

In summary, Mr W's position is that he was diagnosed with Covid in late 2020 and therefore the Long Covid symptoms flowed from that point onwards, including the time he was in employment and prior to him leaving his job. So, in his view, the end of his employment was concurrent with the disability. I haven't found Mr W's arguments on that point to be persuasive based on Mr W's testimony and the available medical evidence.

The GP who completed the claim form stated that Mr W had first consulted in relation to the condition in late August 2021 and said that there were 'symptoms for months'. In my view that's not consistent with the more detailed entries in the medical evidence during the relevant time period. It seems more likely the opinion formed by the GP was based on Mr W's own reporting of his symptoms during the consultations from August 2021 onwards.

In reaching that conclusion I've considered the more detailed GP notes during the relevant time period, including the time before and after Mr W stopped work. The notes during the relevant period predominantly focus on monitoring another medical condition Mr W had and post-surgical care. Mr W had consultations with his GP surgery but there's no reference to the symptoms which led to him stopping work. In fact, Mr W did return in work during the relevant period in February 2021, following his recovery from surgery, and before ending his employment in May 2021.

If Mr W was experiencing symptoms of Long Covid, to the extent he later reported, I think it's reasonable to expect that information would be captured or reflected in his medical notes. I bear in mind that Mr W reported the symptoms to be serious enough for him to stop work but these don't appear to have been discussed with his GP at any of the consultations until a few months after he left his employment.

I've taken into account Mr W's representations about the wider circumstances of the pandemic, and the relative lack of knowledge and understanding about Covid-19 and Long Covid in 2020 and 2021. However, given that Mr W said he was suffering from an upset stomach, food intolerances, joint pain, problems sitting and standing for long periods and brain fog (to the extent that he ended his employment) I still think it's reasonable to assume he would've consulted with his GP or that these symptoms would be reflected in the contemporaneous medical records. Whilst I appreciate that, at the time, Mr W considered he may need some time off to recover I don't think Royal London's decision to decline the claim is unreasonable based on the available medical evidence.

Taking all of the above into account I'm not persuaded it was unreasonable for Royal London to conclude that the 'own occupation' definition wasn't met and to apply the 'work tasks' definition.

I've also considered Mr W's comments that the goalposts have constantly been moved by Royal London. I don't think that's the case. I'm satisfied Royal London has fairly assessed the available evidence throughout the lifetime of the claim. I appreciate that this might feel to

Mr W as if the goalposts changed but I'm not persuaded that is what happened.

For the reasons I explained in my provisional decision I think the compensation offered by Royal London in relation to the SAR request is fair and reasonable.

### **My final decision**

I'm not upholding Mr W's complaint as I don't think Royal London needs to do anything further to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 November 2024.

Anna Wilshaw  
**Ombudsman**