DRN-5137819

## The complaint

Mr S has complained that Aviva Life & Pensions UK Limited ('Aviva') unfairly declined his claim.

## What happened

Mr S has a group income protection policy with a 26 week deferred (waiting) period, underwritten by Aviva.

Mr S became absent from work in November 2023 and made a claim in April 2024. Aviva declined the claim as it didn't think Mr S had met the definition of incapacity.

Mr S complained and unhappy with Aviva's response, referred his complaint to the Financial Ombudsman Service.

Our investigator looked into the complaint but didn't think Aviva had unfairly declined the claim.

Mr S disagreed and in summary didn't think appropriate weight had been given to all the medical evidence including notes from his GP. He also said Aviva had been inconsistent as it had agreed to pay a proportionate benefit for a phased return despite saying he didn't meet the definition of incapacity.

And so the case has been passed to me for 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.

Havin done so, I don't think this complaint should be upheld. I'll explain why.

The background is well known to both parties so I won't repeat it here. I have carefully considered everything Mr S has said even if I don't explicitly refer to all his comments. Instead, I will focus on what I consider to be key to my conclusions.

- The relevant rules and industry guidelines say an insurer should handle claims promptly and fairly. And shouldn't unreasonably reject a claim.

- The policy terms define incapacity as: "*The member's inability to perform on a full or part time basis the duties of their job role as a result of their illness or injury.*"

- So in order for Mr S to be eligible for benefit under the terms of the policy, he needs to show that he is unable to do his job for the deferred period and beyond, due to his illness or injury.

- I've reviewed the available medical evidence and I'm not satisfied it shows Mr S was

incapacitated for the whole deferred period and beyond.

- Many of the reports provided show that Mr S underwent various tests and overall, the findings were reassuring and the tests returned normal results. In December 2023, a consultant neurologist thought Mr S was suffering from health anxiety. There is no medical evidence which shows that Mr S was incapacitated for the whole deferred period. I would expect a clear objective opinion from a specialist confirming Mr S' limited function and reference to his duties, to satisfy the definition of incapacity.

- Mr S has said his GPs continued to sign him off. Although this may be the case, this isn't sufficient for an income protection claim. That is because GP notes are usually based on self-reporting. In Mr S' case, there are instances where he asked for a further GP note as he didn't feel well enough to return to work. This isn't objective medical evidence and so doesn't satisfy the requirements of an income protection claim.

- Mr S has said Aviva's decision to pay a proportionate benefit suggests that it acknowledges some level of incapacity. An insurer can decide to pay a benefit outside of the policy terms or as a gesture of goodwill to facilitate and help a return to work, even if the definition of incapacity isn't met. This doesn't mean Aviva acknowledges or accepts some level of incapacity. And I don't think this means that Aviva is inconsistent. It is simply trying to be helpful. Insurers quite often pay a proportionate benefit in cases like this where the claim has been declined due to insufficient supportive objective medical evidence.

- A diagnosis alone isn't enough to mean the definition of incapacity has been met. And neither are GP notes. I have reviewed the overall evidence and considered whether Aviva's decision to decline the claim is reasonable. Aviva has provided clear reasons for declining the claim in a timely manner. And so I won't be asking it to do anything more.

**My final decision**

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 January 2025.

Shamaila Hussain
**Ombudsman**