

The complaint

Mr H1, Mr H2 and Mrs H as trustees of a Trust complain that Legal and General Assurance Society Limited have declined a claim Mr H made on his life and critical illness policy.

As the complaint is made on behalf of Mr H1 I'll refer to him as 'Mr H' throughout.

What happened

Mr H took out a life and critical illness policy in 2017. He was sadly involved in a serious road traffic accident in October 2019 and sustained serious injuries. Mr H made a claim on the policy for Total and Permanent Disability ('TPD').

Legal and General declined the claim. In summary, they weren't satisfied that Mr H had provided enough evidence to demonstrate that he was working at the time of the application for the policy and the claim. This meant that the policy definition of disability was linked to 'Specified Work Tasks' rather than Mr H's own occupation. Having considered the medical evidence Legal and General didn't consider that the relevant definition had been fulfilled. Throughout the life of the claim Legal and General did pay Mr H a total of £800 compensation due to delays in assessing the claim. Unhappy, with Legal and General's decision Mr H complained to the Financial Ombudsman Service.

Our investigator looked into what happened and didn't uphold the complaint. He thought Legal and General had fairly relied on the evidence that was available when reaching the decision to decline the claim. He also thought the compensation offered by Legal and General fairly reflected the distress and inconvenience caused to Mr H by delays in assessing the claim.

Mr H didn't agree and provided more evidence in relation to his employment history. This information didn't change the investigators thoughts about the overall outcome of the complaint and so the complaint was referred to me 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.

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

Have Legal and General fairly applied the definition of TPD to Mr H's claim?

To successfully claim for TPD the policy definition of incapacity must be met. The policy terms and conditions have two different definitions of incapacity. One is 'own occupation' and the other is the inability to do specified work tasks ('SWT').

Legal and General assessed Mr H's claim based on the SWT definition. The SWT definition of incapacity is met if the life insured is not in paid employment and they are unable to do

three or more of the Specified Work Tasks as a direct result of an illness or injury which occurred after February 2017. The policy then sets out the specified work tasks.

Bearing in mind the policy terms and conditions I don't think I need to make a finding about whether Mr H was in employment at the point of the application. Bearing in mind the policy terms I think the key issue for me to determine is whether it was fair for Legal and General to conclude Mr H was in paid employment at the time he made the claim.

It's for Mr H to demonstrate, on the balance of probabilities, that he was in paid employment at the time of the claim. I don't think it was unreasonable for Legal and General to conclude Mr H wasn't in paid employment at the time of the claim. When Legal and General asked Mr H about his employment at the time of the accident or the claim he said that he was claiming jobseeker benefits and was applying for financial jobs. Legal and General have asked Mr H to provide supporting evidence, such as payslips, but he's not provided persuasive evidence that he was working.

Furthermore, Mr H later said that he was employed and self-employed at the time of the claim event. However, the evidence he's provided, in my view, doesn't reasonably demonstrate this. It's also not consistent with what Mr H initially told Legal and General. So, I don't think it was unreasonable for Legal and General to conclude Mr H wasn't in paid employment at the relevant times and apply the SWT definition of incapacity.

Was it unreasonable for Legal and General to conclude Mr H didn't meet the policy definition of incapacity?

The policy terms and conditions require that the relevant specialists must reasonably expect the disability will last throughout life with no prospect of improvement. Disabilities for which the relevant specialists cannot give a clear prognosis are not covered. The definition of a clear prognosis is where a relevant specialist is able to provide the likely outcome of the illness, condition or disease.

Based on the medical evidence that's available at the relevant time Mr H was having ongoing treatment and medical intervention. The claim decision was given in October 2023. And, there's evidence from medical reports that treatment was ongoing, including after the claims decision was given. For example, a report dated December 2023 indicates that Mr H had recently had a plate removed. Given that treatment hadn't concluded at the point the claim was assessed, and the longer-term prognosis was unclear, I think it was reasonable for Legal and General to decline the claim.

They've explained that they are happy to consider a future claim, which I think is fair and reasonable in the circumstances of this case.

Does £800 compensation fairly reflect the impact of delays on Mr H?

Legal and General has acknowledged that there were delays in giving Mr H an outcome in relation to the claim. I appreciate that this is likely to have caused Mr H additional worry at an already difficult time and when he wanted to focus on his recovery.

A total of £800 compensation has been offered and I think that's fair and reasonable in all the circumstances. I think it fairly reflects the impact of the distress and inconvenience caused by the delays. So, I don't think Legal and General needs to do anything further to put things right.

My final decision

I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H1, Mr H2 and Mrs H as trustees of the Trust to accept or reject my decision before 6 February 2025.

Anna Wilshaw
Ombudsman