

The complaint

Mr K has complained that Zurich Assurance Ltd has declined a claim made under his group income protection policy.

What happened

The background to this complaint isn't in dispute. In summary Mr K became absent from work on 5 January 2023. His employer's policy pays benefit after a deferred period of 26 weeks if the member is incapacitated due to illness or injury. The definition of incapacity that applies here is that the member cannot perform the material and substantial duties of their employment and they are not doing any paid work.

Zurich declined Mr K's claim for income protection benefit, it said that he didn't meet the policy definition of incapacity. Mr K referred his complaint here. The investigator didn't recommend that it be upheld – they didn't find that Zurich had treated Mr K unfairly.

Mr K appealed. He said he suffered with anxiety and depression on a daily basis the symptoms included fast heart rate panic attacks and twitching. Additionally Mr K said that he had recently been awarded Personal Independence Payments at an enhanced rate because of his condition.

As no agreement was reached, the matter was passed to me to determine. I issued a provisional decision saying as follows:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Although I've summarised the background to this complaint - no discourtesy is intended by this. Instead, I've focused on what I find are the key issues here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts.

The regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So I've considered, amongst other things, the relevant law, the policy terms and the available evidence, to decide whether I think Zurich treated Mr K fairly.

I should make clear that in this decision I am considering Zurich's final response of May 2024 and the evidence before that date.

It is accepted that Mr K suffered from workplace stress. There are many entries in his GP records which confirm this and also that a work grievance was causing stress and anxiety. I can see why Zurich concluded, in the light of the evidence that it was his work environment rather than illness that was prevented Mr K from working.

However I'm minded to reach a different conclusion. Whilst the evidence makes clear that Mr K's workplace situation was the original stressor, there is evidence that this in turn

developed into anxiety and depression. I won't detail all the medical evidence as it has been seen by the parties but of relevance are the following:

- Mr K's GP signed him off work with mixed anxiety and depressive disorder throughout the deferred period. He was prescribed anti-depressant medication to treat the disorder and underwent therapy.*
- An Occupational Health report in April 2023 found Mr K temporarily not fit for work. The report author was unable to predict his recovery and return to work at that time but advised a review of work issues and adjustments to support his return when he was able. Asked whether the disability would qualify as a disability under the Equality Act 2010 the author wrote that it is likely Mr K would have met the criteria as the condition had lasted over 12 months and without treatment would have a significant impact on his ability to fulfil normal daily activities.*
- A further Occupational Health report in August 2023 stated that the nature of Mr K's health condition was persistent anxiety and depression. It continued that there had been no improvement in his condition in the last six months and the prognosis was uncertain. Again it was agreed that it is likely Mr K would have come under the Equality Act as he had been treated for a number of years for anxiety and depression and also received periods of counselling.*
- A detailed psychological report dated May 2024 didn't conclude that that Mr K was off work due to a medical condition but accepted that he wasn't symptom free and continued to feel symptoms of anxiety and low mood.*

No psychiatric evidence has been sought, but Mr K was treated for anxiety and depressive disorder. I have carefully considered the comments of Zurich's Chief Medical Officer and I accept that the issue for Mr K exclusively originates within his work environment and that stress is not a recognised illness. But I'm not persuaded that the issue didn't lead to mental illness, in the form of anxiety and depression, as detailed above. Accordingly I find that the evidence referred to above demonstrates that Mr K did meet the policy definition of incapacity when his claim was made.

It follows that I am minded to conclude that Mr K's claim should have been accepted – the benefit commencement date being 5 October 2023. I note that Mr K resigned from his employment on 30 June 2024.

Zurich admitted that there had been delays in assessing Mr K's claim and offered £200 in compensation. I find that was fair.

I invited both parties to provide any further evidence or comments that they wanted me to consider.

Mr K accepted the decision. He added that he was still unwell and unemployed. He made the point that had his claim been successful when he made it he would not have chosen to resign in June 2024, so he felt that to only pay until June 2024 would be unfair.

Zurich said it had nothing to add.

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.

I've taken into consideration what Mr K has said about his resignation, but it wouldn't be fair to hold Zurich responsible for his decision to resign when he did, and I don't do so.

As Mr K accepts my provisional decision and Zurich has made no further comments, I see no reason to change my provisional findings, which I adopt here. Settlement will be made in accordance with the policy terms.

My final decision

My final decision is that I uphold this complaint. I require Zurich Assurance Ltd to admit Mr K's claim. Simple interest at 8% per annum should be added to each payment from the date it should have been made until settlement.

If Zurich considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr K how much it's taken off. It should also give Mr K a tax deduction certificate if he asks/ask for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 19 February 2025.

Lindsey Woloski
Ombudsman