

The complaint

Mrs F complains that Legal and General Assurance Society Limited declined a claim she made on her life and critical illness insurance policy.

What happened

Mrs F took out a life and critical illness insurance policy. When Mrs F claimed on the policy Legal and General declined the claim. They said that Mrs F had incorrectly answered questions about her health during the application process and, had she answered them correctly, they wouldn't have offered the policy. It considered this to be a deliberate or reckless misrepresentation which entitled them to decline the claim and cancel the policy.

Mrs F complained to Legal and General but they maintained their decision to decline the claim was fair and reasonable. However, they did offer Mrs F £200 compensation for some delays in handling the claim.

Mrs F brought a complaint to the Financial Ombudsman Service. Our investigator didn't think the complaint should be upheld because he thought Legal and General had fairly declined the claim and cancelled the policy.

Mrs F doesn't agree and asked an ombudsman to review her complaint. She didn't think the policy terms allow Legal and General to cancel the policy and wants her claim to be paid.

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 decline of the claim

I'm very sorry to hear of the circumstances surrounding Mrs F's claim. It's clear it's been a very difficult time for her and I have a lot of empathy with the circumstances she's described.

The relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

Legal and General thinks Mrs F failed to take reasonable care not to make a misrepresentation when she answered questions about her medical history.

I've looked at the questions Mrs F was asked. She answered 'no' to the following questions

- Apart from anything you've already told us about in this application, during the last 5 years, have you seen a doctor, nurse, or other health professional for: a growth, lump, polyp or tumour of any kind?
- During the last 3 months have you had any of the following? Unexplained bleeding, weight loss, lump or growth or any other symptom that you may see a health professional about for the first time during the next 4 weeks?

I think Legal and General reasonably concluded Mrs F ought to have answered 'yes' to those questions. A few days after Mrs F applied for the policy she visited the doctor about a lump in her jaw. Mrs F's application wasn't finalised until after she'd attended the GP. And investigations into the lump continued after the policy was taken out. So, I think Mrs F should have told Legal and General about the lump during the application process as I think it's most likely she was aware of the lump at the time she took out, and then finalised, the policy.

Legal and General has provided evidence of their underwriting criteria which demonstrates that if Mrs F had disclosed the investigations into the lump, they wouldn't have offered her the policy. I appreciate that Mrs F's ultimate diagnosis, which led to her claim, was different to the diagnosis of what the lump was. However, that doesn't mean Legal and General are incorrect to decline the claim. Even if I accepted that was no link between the lump which was present at the point she applied for the policy and her later diagnosis of lymphoma, I don't think that's central to the outcome of this complaint. That's because if Mrs F had disclosed that she had a lump which was being investigated she'd have never been offered the policy by Legal and General. This means I'm satisfied that Mrs F's misrepresentation was a qualifying one.

I appreciate that Mrs F says that CIDRA isn't referenced in the policy terms and conditions. However, that's because it's legislation. So, it doesn't mean it's unreasonable for Legal and General to rely on it to decline the claim.

Legal and General have said that Mrs F's misrepresentation was deliberate or reckless. I agree it was. Mrs F applied for the policy at a time when she was actively seeking medical advice about the lump. So, I think it's something that most likely was, or ought to have been, on her mind when she applied for a life and critical illness insurance policy. As I'm satisfied the misrepresentation was deliberate or reckless I've looked at the actions Legal and General can take under CIDRA.

In such circumstances Legal and General are entitled to decline the claim, avoid the policy and retain the premiums. By refunding Mrs F's premiums, Legal and General went beyond what CIDRA requires them to do. So, I don't think Legal and General have treated Mrs F unfairly.

Claims handling

The relevant rules and industry guidelines say that Legal and General have a responsibility to handle claims promptly and fairly. Legal and General acknowledged that there were some delays in handling the claim. However, I think that £200 compensation fairly reflects the impact on Mrs F as there were some avoidable delays at an already worrying time for her.

However, due to the issue relating to the misrepresentation I think Legal and General did reasonably need to make further enquiries. And there were periods of time where they were waiting for information to be provided by third parties, including information about Mrs F's medical information. So, I don't think Legal and General need to pay Mrs F any further compensation.

My final decision

Legal and General Assurance Society Limited has already made an offer to pay £200 compensation to Mrs F to settle the complaint and I think that's fair in all the circumstances.

My final decision is that Legal and General Assurance Society Limited should pay £200 to Mrs F if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 22 May 2025.

Anna Wilshaw
Ombudsman