

The complaint

Miss M is unhappy that The Royal London Mutual Insurance Society Limited declined a claim she made on her income protection and critical illness policy.

What happened

Miss M made a claim on an income protection and critical illness policy following a primary diagnosis of Multiple Sclerosis (MS). Royal London considered the claim but declined it because they said that Miss M hadn't declared important information about her previous medical history. They said that, had she done so, they wouldn't have offered the policy. So, they cancelled it and offered to refund the premiums.

Miss M complained to Royal London but they maintained their decision. They offered Miss M £350 compensation for customer service issues. Miss M complained to the Financial Ombudsman Service about the decision to decline the claim.

Our investigator looked into the complaint about the declined claim. She was satisfied that Royal London had acted fairly. She thought Miss M hadn't answered some of the questions on the application accurately. And, she thought the underwriting information demonstrated that Royal London wouldn't have offered the policy if the correct information had been provided.

Miss M didn't agree and asked an ombudsman to review the complaint. She set out information about her medical history and highlighted that Royal London had accessed her medical history before offering cover. So, she didn't think the investigator's conclusions were fair.

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 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.

Royal London thinks Miss M failed to take reasonable care not to make a misrepresentation

when she answered questions about her medical history.

Miss M was asked the following questions:

- "APART FROM ANYTHING YOU'VE ALREADY TOLD US ABOUT, DURING THE LAST 5 YEARS HAVE YOU HAD, OR DO YOU CURRENTLY HAVE, ANY OF THE FOLLOWING:"

"Any form of:

- Numbness
- Pins and needles
- Tremor
- Change in skin sensation
- Tingling
- Muscle weakness
- Loss or reduced power in limbs, including amputation
- Difficulty with co-ordination
- Persistent tiredness or fatigue This includes symptoms that you've had even if you haven't consulted a doctor".
- "Any condition affecting your ears or hearing, or your eyes or vision that is not wholly corrected by spectacles or lenses? Including: Blindness or impaired vision, Deafness or impaired hearing,

Blurred or double vision, Tinnitus, Meniere's disease, Labyrinthitis, Glaucoma

- "IN ADDITION, APART FROM ANYTHING YOU HAVE ALREADY TOLD US ABOUT:

Do you have any symptoms for which you haven't yet sought medical advice, or are you awaiting referral, investigation, results or treatment for anything else? For example: A mole/blemish which has changed in appearance, Any lump, growth or hardening affecting the skin, breasts or testicles, Bleeding from the bowels, change in bowel habit, Persistent cough, Weight loss or unexplained bleeding, Onset of fits or seizures, Dizziness, blackouts/fainting".

I think the questions were sufficiently clear. Miss M answered 'no' to these questions. I think Royal London reasonably concluded Miss M ought to have answered 'yes' and disclosed other information from her medical history. Miss M's medical records demonstrate that she had consulted with a GP about facial numbness, vision problems, pins and needles and headaches. She also didn't disclose some blood tests and a prescription for a headaches. I think she therefore ought to have included this information on the application form. I appreciate that Miss M didn't recall some of these symptoms, that her diagnosis for MS came some time after the policy was taken out and that she says she didn't use the prescription. However, I think the questions ought to have prompted Miss H to disclose the information, and she had the option to check anything that she wasn't sure about.

I've taken into account that Miss M completed an application with her independent financial advisor. However, Miss M still had a responsibility to ensure that the information provided was correct. If Miss M has concerns about the sale of the policy she'll need to complain to the business who sold it.

Miss M also said that Royal London asked for information from her medical records at the time of the application about a road traffic accident she'd been involved in. I appreciate that they may have asked for some medical information. But I wouldn't expect Royal London to check through the medical information to ensure that other questions had been correctly answered. I think they most likely, and quite reasonably, checked the information related to the road traffic collision Miss M had disclosed. So, this hasn't changed my thoughts about the overall outcome of the complaint.

I've looked at the underwriting information that has been provided. This is commercially sensitive and therefore it's not something that can be shared with Miss M. It demonstrates that Royal London wouldn't have offered her the income protection policy and would have applied exclusions to the life and critical illness cover. So, I'm satisfied that this information would have had an impact on whether the policy was offered to Miss M. This means I'm satisfied Miss M's misrepresentation was a qualifying one. Whilst I appreciate that Miss M would like to see this information that's not possible. But I hope it reassures her to know that someone independent has reviewed this information.

Royal London says Miss M's misrepresentation was careless. I agree as I don't think Miss M deliberately answered the questions incorrectly. I think it's more likely that she didn't recall some of the medical information or didn't appreciate the significance of it. As I'm satisfied that the misrepresentation should be treated as careless, I've looked at the actions Royal London can take in accordance with CIDRA.

In such circumstances CIDRA says that where the policy wouldn't have been offered, the insurer can decline the claim, cancel the policy and refund the premiums. Where a policy would have been offered, but on different terms, they can apply an exclusion and decline the claim. So, I think Royal London's offer to cancel the policy and refund the premiums is in line with CIDRA. I'm also satisfied it's fair and reasonable in all the circumstances.

Taking all the above into account I'm not persuaded it is fair and reasonable to uphold Miss M's complaint.

My final decision

I'm not upholding Miss M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 13 June 2025.

Anna Wilshaw
Ombudsman