

The complaint

Mr S is unhappy that Legal and General Assurance Society Limited (L&G) declined the claim on his income protection policy.

What happened

Mr S is a member of his employer's group income protection policy. The policy pays a benefit under certain circumstances if Mr S is unable to carry out his employment, after a deferred period of 26 weeks. L&G is the underwriter of the policy.

Mr S was off from work first on 4 June 2024 as he had some gastrointestinal problems. He was put on a waiting list for further tests to be carried out. He has since returned to work from 9 December 2024.

He submitted a claim to L&G. In the member statement, Mr S reported that he was absent due to a diagnosis of altered bowel function. L&G reviewed Mr S's medical information and declined his claim. L&G said it was unable to conclude that Mr S met the policy definition of incapacity. Mr S appealed and provided further medical evidence. Following a review, L&G maintained its decision to decline the claim.

Unhappy Mr S brought his complaint to this service. Our investigator didn't uphold the complaint. She didn't think L&G had acted unfairly in declining Mr S's complaint.

Mr S disagreed and asked for the complaint to be referred to an ombudsman. So, it's been passed to me.

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 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 terms of this income protection policy and the circumstances of Mr S's claim, to decide whether I think L&G treated him fairly.

I've first considered the terms and conditions of this policy. The wording in the policy defines incapacity for own occupation as:

'Means the insured member is incapacitated by illness or injury that prevents them from performing the essential duties of their occupation immediately before the start of the deferred period.'

'The insured member's capacity to perform the essential duties of their own occupation will be determined whether or not that occupation remains available to them.'

Generally, in insurance, it's for the consumer to show their claim is valid. In this case, Mr S is

required to provide medical evidence to show he is unable to work and cannot perform the essential duties of his employment due to injury or illness.

For the avoidance of doubt, I'm not medically qualified so it's not for me to reach any determinations about Mr S's medical diagnosis or to substitute expert medical opinion with my own. Instead, I've weighed up the available medical evidence to decide whether I think L&G acted fairly and reasonably in declining Mr S's claim.

I've reviewed the medical evidence I've been provided. The issue for me to determine is whether I think the medical evidence supports L&G's decision that Mr S doesn't meet the policy definition of incapacity. This is the test I have to consider.

Mr S had a telephone assessment with the Vocational Clinical Specialist (VCS) on 20 September 2024. He explained that he was finding it difficult to carry out his role in field sales and he felt uncomfortable with the gastrointestinal issues he was having. He had noticed the symptoms worsening in the last six months. He was prescribed medication but didn't want to take this until he'd seen a specialist. The VCS said Mr S was capable of returning to his usual role but would benefit from some flexibility from his employer.

Mr S was due to return to work but moved this date to December 2024 as he was still feeling unwell. A second assessment with the VCS was carried out on 2 December 2024. The report stated that Mr S had been seen by a specialist and further investigations were being done. His symptoms remained unchanged. Ms S said he would return to work and the VCS said Mr S would benefit with some employer adjustments when he returned. He was considered fit for his insured role.

I've also considered the letters from the consultants that Mr S has provided. I note that tests and further investigations were taking place. But there's no evidence to suggest that Mr S was incapacitated to the level that he couldn't carry out his own occupation.

Having carefully considered the information provided by his GP and the specialists treating Mr S, there's no evidence of physical restrictions to his daily functioning. Mr S said he was trying to go to the gym, he didn't have sleep problems, and he sometimes did the shopping, was able to drive and completed household chores. His symptoms remained the same but those didn't seem to impair his ability to carry out daily tasks. I acknowledge though Mr S was continuing to experience the same symptoms but that he was trying to exercise more and eat better. Mr S also said he felt hopeful for his return to work in December 2024. The VCS said on both assessments that Mr S was capable of returning to work and whilst he could have benefited from some workplace adjustments, this didn't preclude him from carrying out his own occupation.

I don't doubt that Mr S was feeling unwell and struggled with the symptoms he was experiencing. But the ultimate test in this case is whether Mr S meets the definition of incapacity as per the terms and conditions of the policy. And having reviewed everything, I don't think it's likely he does. I'm not persuaded there's sufficient medical evidence to say that Mr S was incapable of carrying out the essential duties of his own occupation. In other words, there's it's clear that Mr S was feeling unwell, but the evidence isn't sufficient to show that the symptoms prevented him from performing his own role.

Based on all the evidence available, I'm sorry to disappoint Mr S. But I don't think L&G has declined his claim unfairly or outside the policy terms and conditions. It follows therefore that I don't require L&G to do anything further.

My final decision

For the reasons given above, I don't uphold Mr S's complaint about Legal and General Assurance Society Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 June 2025.

Nimisha Radia
Ombudsman