

The complaint

Mr R complains that Unum Ltd declined an incapacity claim he made on a group income protection policy, and how long it took to reach a decision.

What happened

Mr R is a member of his employer's group income protection policy. The policy pays a monthly benefit if a member is unable to work due to an accident or illness. The policy provides "gainful occupation" cover, and it includes a deferred period of 26 weeks.

Mr R was first signed off from work on 24 July 2023. So, the deferred period ran until 22 January 2024. Mr R made a claim to Unum in February 2024, but it declined the claim in May 2024.

Unum said there was minimal information relating to Mr R's function or mental state during the early part of the deferred period. It said fit notes were issued periodically without significant explanation. Overall, Unum concluded that the objective medical and functional information from the deferred period failed to confirm that Mr R was incapacitated because of a mental health condition for the duration of the deferred period.

However, Unum accepted it hadn't handled Mr R's claim as promptly as it should have done. It also accepted it hadn't always communicated appropriately. Unum offered to pay Mr R £150 to compensate him for the distress and inconvenience caused.

One of our investigators looked into what had happened. Having done so, she didn't think Unum had acted unfairly or unreasonably when it declined the claim, for the reasons it did. And she thought the compensation Unum had offered was fair and reasonable in the circumstances of Mr R's complaint.

Mr R didn't agree with our investigator's findings, and he sent further evidence to support his claim and complaint. This included records of the private medical appointments he'd had, letters outlining the support he was receiving, evidence of being awarded Personal Independence Payment ("PIP"), and a letter from his GP commenting on his ability to work. Unum reviewed the evidence but said it didn't change its position. Overall, it didn't think the evidence supported that Mr R was incapacitated as per the policy terms for the duration of the deferred period.

Our investigator still didn't think Unum had acted unfairly or unreasonably. So, as no agreement was reached, the complaint was passed to me to decide. I issued my provisional decision in May 2025. Here's what I said:

"Firstly, I've reviewed the extensive evidence provided by both parties. But I've focused on the evidence and issues that I consider to be material to the outcome of Mr R's complaint, as I'm required to do."

Industry rules set out by the regulator (the Financial Conduct Authority) say insurers must handle claims fairly and shouldn't unreasonably reject a claim. I've taken these rules, and other industry guidance, into account when deciding what I think is fair and reasonable in the circumstances of Mr R's complaint.

The policy provides "gainful occupation cover", which is defined as follows:

"A member is incapacitated if we are satisfied that they are unable, by reason of their illness or injury, to perform the material and substantial duties of:

- The insured occupation, and of*
- Any gainful occupation with any employer for which they are reasonably fitted by reason of training, education or experience, and*
- They are not performing any occupation"*

I'll refer to "any gainful occupation" as "any suited occupation" in this decision.

It's for Mr R to show he has a valid claim under the policy. To do so, he needs to show that he was incapacitated as per the policy terms above for the duration of the deferred period – so from 24 July 2023 until 22 January 2024 – and beyond. That means that Mr R needs to show that he was prevented from performing the material and substantial duties of his occupation, or any suited occupation, with his employer or any other employer due to an illness.

Having reviewed the evidence, I don't think Unum has acted unfairly or unreasonably when it said that there is not enough evidence to show Mr R was prevented from performing his occupation, or any suited occupation, with any employer for the duration of the deferred period due to an illness. I'll explain why.

Mr R had an appointment at his GP practice on 21 February 2023 and he was diagnosed with a depressive disorder. He was prescribed antidepressants and signposted to counselling. The notes refer to both personal and work stressors. However, Mr R continued to work after this.

The next time Mr R had an appointment at his GP practice about his mood was on 24 July 2023 when he was signed off work due to stress/anxiety. The notes again refer to both personal and work stressors. Mr R's antidepressant medication was continued at the same level, and he was again signposted to counselling.

The sick note was issued by a nurse, and it was re-issued monthly by the same nurse, without a meaningful review of Mr R's mental health. The next meaningful review was on 5 December 2023 when Mr R was assessed by a GP.

So, up until this point, I can't see that there were any contemporaneous notes commenting on Mr R's ability to perform his occupation, or any suited occupation, with any employer. There was also no formal referral for additional support for Mr R, other than antidepressant medication and signposting to counselling.

I can see that Mr R had an occupational health review carried out on 15 September 2023. The advisor noted several stressors in his personal and work life, as well as concerns about Mr R's physical health. The advisor concluded that Mr R was unfit to work due to ongoing psychological symptoms. However, the advisor didn't provide their opinion on how these symptoms were preventing Mr R from carrying out the material and substantial duties of his occupation, or any suited occupation, with any employer.

Mr R's GP has since provided a letter dated 3 April 2025 in which they comment on Mr R's ability to work since July 2023. However, I don't find this letter persuasive evidence for the time period before 5 December 2023. I say this because that's the first date I can see that this GP reviewed Mr R's mental health. And in any event, the GP has referred to several interventions that meant that in their opinion, Mr R was unable to perform his occupational duties. But these interventions didn't take place prior to 5 December 2023 (other than what I've set out above).

So, I'm not persuaded that Mr R has shown he has a valid claim under the policy for the duration of the deferred period. The evidence prior to 5 December 2023 refers to both personal and work stressors. I'm not persuaded that the evidence supports that Mr R was prevented to carry out the material and substantial duties of his occupation, or any suited occupation, with any employer due to an illness before this point.

However, the policy terms also say the following:

"If we decline or stop paying a claim because the member does not meet the definition of incapacity, but the member does not return to work, you can submit a new claim if their condition worsens, or they suffer a new condition within a year from our decision."

Unum has only referred to any evidence relating to the deferred period. But I think it should also have considered if Mr R's condition worsened, and he could make a new claim. Based on what I've seen so far, I think a fair outcome would be for Unum to accept a new claim based on the deferred period starting on 5 December 2023. After this point, I think there is significant evidence to support that Mr R was incapacitated in line with the policy terms for the duration of the deferred period – until 4 June 2024. I'll explain why.

The GP increased Mr R's antidepressant medication on 5 December 2023, and they've since referred to his symptoms becoming more severe from November 2023 onwards. Mr R has also said this was when his family referred him for additional support. Mr R's medication was further increased twice after this point – he says the increases took place in March and May 2024.

Mr R also had a private appointment with a mental health practitioner on 29 December 2023 and he was referred for psychological support. The notes say that the impression during the appointment was mixed anxiety, depressive disorder and stress.

Following this, Mr R had a private mental health assessment on 29 February 2024 where it was noted that he displayed symptoms of depression and anxiety, and he had symptoms in line with post-traumatic stress disorder ("PTSD"). The report noted significant life stressors, challenges within the workplace as well as concerns relating to physical health. Mr R reported feelings of hopelessness, significant lack of motivation, problems with leaving the house, engaging in social interactions and with emotional regulation. The psychometric assessment results for PHQ-9 indicated severe depression, and GAD-7 indicated severe anxiety. Mr R started receiving counselling on 5 March 2024.

Mr R had another occupational health review carried out on 14 March 2024. The advisor noted Mr R advised his mental health had deteriorated since the last assessment, and they noted significant personal, work and physical health issues. Mr R was being supported by a Local Mental Health Support Team and was reviewed weekly by a clinical psychologist. The nurse noted Mr R continued to take medication which was adjusted the previous week.

Mr R has also provided evidence to show that he has been receiving the following support:

- assigned support worker to manage his day-to-day activities and help to cope with his mental health challenges from February 2024 onwards,
- assigned worker for mental health and employment support since 4 April 2024,
- receiving support from supported living due to declining mental health, including anxiety and depression, and
- in receipt of PIP since 11 January 2024 for both daily living and mobility needs.

I think all the above support Mr R's GP's letter dated 3 April 2025. The GP says Mr R has been diagnosed with depression, anxiety, and a physical health condition. And these have resulted in chronic fatigue, shortness of breath, joint pain, low mood, anhedonia, inability to concentrate, panic attacks, hyperventilation and dissociation when exposed to work stimuli.

The GP says this means Mr R is unable to perform his occupational duties, which included reviewing and analysing key reports, sustained concentration and being able to make clear recommendations. They also note cognitive impairment, for example the inability to analyse reports and panic attacks prevent even minimal engagement with work tasks. And depression prevents Mr R from maintaining focus and leads to inability to concentrate for more than 20 minutes occurring daily and lasting several hours at a time.

The GP referred to an acute deterioration in Mr R's mental health, and the results of the psychometric tests which indicated a decline in the previous results from 29 February 2024 – which already indicated severe depression and anxiety.

The GP noted the medical interventions included antidepressant medication which had been altered regularly, mental health counselling, psychiatry sessions and specialist referrals. The GP thought these had been ongoing since July 2023, but for the reasons I explained earlier in my decision, I'm persuaded that the other contemporaneous medical evidence supports the GP's findings from 5 December 2023 onwards.

Based on what I've seen so far, I'm minded to direct Unum to accept the claim based on the deferred period starting on 5 December 2023. So, this would mean the deferred period ran until 4 June 2024. I think the evidence shows Mr R was incapacitated as per the policy terms during this later deferred period. Unum should pay Mr R's claim, along with interest.

Unum has already accepted it should have considered Mr R's claim more promptly, and that it hasn't always communicated with him appropriately. I think £150 fairly reflects the distress and inconvenience caused for these issues.

I've considered if Unum should pay him further compensation for not considering and accepting the new claim. However, Unum didn't receive all the further information it needed to accept the claim until recently. So, I don't think the additional unnecessary distress and inconvenience was significant. But I think it should still pay Mr R a further £150 for not considering a new claim sooner for the frustration this caused."

Mr R responded to my provisional decision, and I've summarised his key points below:

- he followed medical advice, but he was let down by the healthcare system at the early part of the deferred period,
- his employment has now been terminated due to ill health which wouldn't have happened if Unum had handled his claim appropriately from the outset,
- due to the impact of this, Mr R wants Unum to pay his full 60-month entitlement under the policy as a lump sum, and
- further action should be taken against Unum.

Unum responded and said that when it considered the claim, the medical evidence from Mr R's GP was provided in March 2024. And whilst it has letters and some evidence from the period between March and June 2024, Unum doesn't have full contemporaneous medical evidence covering the whole of the proposed new deferred period. So, Unum proposed that to resolve the complaint, it would gather medical evidence from March 2024 and it would reassess the claim.

Unum also said that the claim is assessed based on Mr R's ability to perform his insured role and any other role for which he is suited for with his own or any other employer. And some evidence is suggestive that symptoms appear when exposed to work stimuli, which strongly indicates that Mr R could achieve a return to work with another employer.

As both parties have now responded to my provisional findings, I'm issuing my final 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.

Firstly, I set out in my provisional findings that I thought there was significant evidence to support that Mr R was incapacitated, in line with the policy terms, for the duration of the new deferred period. I set out my reasons why and I don't intend to repeat these in great detail again here.

In short, the evidence included a detailed letter from Mr R's GP, evidence of Mr R's medication being increased, records of private medical appointments, and letters outlining the support Mr R was receiving. I don't think Unum needs further evidence to accept the claim.

Unum has had the opportunity to review the above evidence. Fundamentally, Mr R's GP says he has been diagnosed with depression, anxiety and a physical health condition. And these have resulted in chronic fatigue, shortness of breath, joint pain, low mood, anhedonia, inability to concentrate, panic attacks, hyperventilation and dissociation when exposed to work stimuli. And the GP's letter dated 3 April 2025 provides detailed information about how Mr R is unable to carry out his occupational duties. I don't think the evidence supports that these are only limited to his insured occupation with his employer.

Overall, I think there's sufficient evidence to show that Mr R was incapacitated in line with the policy terms for the duration of the new deferred period, for the reasons I set out in my provisional decision.

I'm sorry to hear about Mr R's employment being terminated. This is an issue between Mr R and his employer. As I said in my provisional decision, Unum didn't receive all the further information it needed to accept the claim until recently. The key evidence was the GP's letter dated 3 April 2025, which supported the other evidence he sent in January 2025.

Ultimately, it was for Mr R to show he had a valid claim. And for the reasons set out in my provisional decision, I don't think Unum acted unfairly or unreasonably when it didn't think there was enough evidence to show Mr R was incapacitated in line with the policy terms for the duration of the original deferred period. I appreciate Mr R feels let down by the healthcare system. But this doesn't mean Unum should accept his claim without medical evidence to show he met the policy definition of incapacitated. I also don't think it would be fair for me to direct Unum to pay Mr R a specific lump sum.

I note that Unum has told Mr R's employer that if he's no longer an employee, it will pay the claim to Mr R directly. And I can see that the policy terms say that when a member leaves service because of long-term illness, Unum may agree to a request by the employer to pay basic benefit to the former employee. Considering this, I think Unum should pay the claim to Mr R directly.

My role is to consider what's happened in the individual circumstances of Mr R's complaint. It's for him to decide what action he wishes to take against Unum. The covering letter to this decision explains the impact of accepting, or rejecting, my final decision.

Overall, the information sent by both parties hasn't persuaded me to change my provisional findings. So, I've reached the same decision, and for the same reasons.

My final decision

My final decision is that I uphold Mr R's complaint in part, and I direct Unum Ltd to take the following action:

- accept the claim based on the deferred period starting on 5 December 2023 and that Mr R met the definition of incapacity for the duration of the new deferred period,
- pay the claim directly to Mr R in line with the remaining terms and conditions of the policy,
- add interest at 8% simple per annum from the date any benefit payments should have been paid until settlement*, and
- pay Mr R a total of £300 for the distress and inconvenience caused (inclusive of the £150 previously offered if not yet paid)**.

*If Unum considers that it's required by HM Revenue & Customs to take off income tax from the interest, it should tell Mr R how much it's taken off. It should also give Mr R a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

**Unum must pay the compensation within 28 days of the date on which we tell it Mr R accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% simple per annum.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 2 July 2025.

Renja Anderson
Ombudsman