DRN-5653008

The complaint

Mr D and Mrs G as trustees of the D Trust (The Trustees) complained that Legal and General Assurance Society Limited declined a claim on a life and critical illness policy. The Trustees also complained about several customer service issues.

What happened

The history of events is well known to both parties, so I won't go into detail about it here.

In summary, Mr D took out a life and critical illness policy with L&G. The policy started in April 2021. Mr D had a heart attack in January 2023. The trustees logged a claim on the policy in April 2024. The claim was declined in October 2024. Due to an alleged misrepresentation by Mr D on his application, the policy was re-written with critical illness cover removed and the sum assured for the life cover proportionately reduced.

The trustees raised a complaint about the following issues:

- The claim being declined
- Service issues, including but not limited to:
    - Delays assessing the claim
    - A data breach
    - Not receiving communication when told they would
    - Lack of empathy

L&G upheld two separate complaints. In total, L&G offered The Trustees £1,050 compensation. The trustees were still unhappy and brought the complaint to this service.

Our investigator didn't uphold the complaint. They felt the compensation offered by L&G was fair and reasonable in the circumstances. The Trustees appealed. As no agreement could be reached, the complaint has been passed to me to make a 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.

When considering complaints such as this, I need to consider the relevant law, rules and industry guidelines. The relevant rules, set up by the Financial Conduct Authority, say that an insurer must deal with a claim promptly and fairly, and not unreasonably decline it. So, I've thought about whether L&G acted in line with these requirements when it declined to settle the trustee's claim.

At the outset I acknowledge that I've summarised their complaint in far less detail than The

Trustees have, and in my own words. I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. The rules that govern the Financial Ombudsman Service allow me to do this as it's an informal dispute resolution service. If there's something I've not mentioned, it isn't because I've overlooked it. I'm satisfied I don't need to comment on every individual point to be able to reach an outcome in line with my statutory remit.

I'm sorry to hear about the impact this complaint has had on The Trustees. I'm very sorry to hear about Mrs G's mum passing away. I understand how strongly you both feel about how L&G have treated you.

I've split my findings into the claim outcome and the service issues below.

Claim outcome

I'm very sorry to hear about Mr D's health. I wish him all the best with his health in the future.

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.

L&G thinks Mr D failed to take reasonable care when he answered the following questions:

"*Apart from anything you've already told us about in this application, during the last 5 years have you contacted a doctor, nurse or other health professional for:*

- *Raised blood pressure, raised cholesterol or condition affecting blood or blood vessels, for example anaemia, excess sugar in the blood, blood clot, deep vein thrombosis?*

Apart from anything you've already told us about in this application, during the last 12 months have you:

- *Had any medical condition, illness or injury that you've received treatment for over a continuous period of 4 weeks or more? Please ignore minor accidents and injuries, for example pulled or strained muscle, torn ligaments or tendon, sprained joint, provided they've not kept you off work for 2 weeks or more.*"

L&G has provided me with Mr D's medical records. These show the following:

- October 2020 – Recorded suffering from essential hypertension. Medication given.

- November 2020 – Letter sent to Mr D informing him he had raised cholesterol.

Based on the questions asked, the answers given and the medical information, I do agree that Mr D misrepresented during his application. I think the questions are clear in what they want to know and so I don't think Mr D took reasonable care when answering the questions.

L&G have provided me with a statement from an underwriter and the relevant parts of their underwriting manual. Based on what I've seen, L&G would have offered life cover but at an increased premium but would have declined to offer critical illness cover. As a result, I think Mr D's misrepresentation would be a qualifying misrepresentation under CIDRA.

L&G have categorised the misrepresentation as careless. This is the lowest level of misrepresentation under CIDRA. So, I don't think it's unreasonable for L&G to have categorised it this way. I also don't think the actions taken by L&G in response to the misrepresentation are unreasonable in the circumstances.

In response to our investigator's view, The Trustees raised the following points:

- Mr D answered the questions to the best of his recollection.
- He didn't have his medical records to hand and was going off his memory.
- Based on the disclosures Mr D did make, it should have prompted L&G to complete further investigations to verify his answers.
- A leaflet supplied at the time suggested that further investigations would be done.
- Why would Mr D make some disclosures and not deliberately disclose other information.
- The questions weren't clear.
- Mr D wasn't given a formal diagnosis.

I'd like to point out that the above list covers what I see are the main points made by The Trustees and in my own words. I've considered every point The Trustees have made carefully, but it doesn't change my outcome.

Mr D may have answered the questions to the best of his recollection, but this doesn't mean that they weren't answered incorrectly. Mr D would have been able to request his medical records with his GP if he was unsure or couldn't remember any of the answers. The application was only six to seven months after Mr D's consultations about his blood pressure and cholesterol.

No one has said that Mr D has deliberately withheld information from his application. Whilst it's accepted that Mr D made some disclosures, this doesn't mean that L&G would have reason to verify the information provided. L&G would have considered the information Mr D disclosed, but this didn't require any further information. Whilst I agree the leaflet does set out what further investigations L&G can do, it does specify on the leaflet that this is only when they need more information, which in Mr D's application they didn't.

The questions don't specify that a formal diagnosis is needed. Mr D had seen his GP about his blood pressure and placed on medication for it. He was also informed that his cholesterol was high. As I've already set out, I think the questions were clear in what they wanted to know.

I'm very sorry that my decision doesn't bring The Trustees more welcome news at what I can

see is a very difficult time for them. But in all the circumstances I don't find that L&G has treated The Trustees unfairly, unreasonably, or contrary to law in declining the claim.

Service issues

L&G has agreed there were service failings and offered a total of £1,050 compensation. The Trustees have asked us to consider individual awards for different parts of the complaint. However, our usual approach is to consider the appropriate level of compensation overall – not to apportion particular amounts to individual elements of a complaint. The Trustees have also directed us to the compensation guidelines set out on our website.

I've read how difficult this period was for Mrs G with her mother being seriously ill and eventually passing away. I'm also sorry to hear she was unable to visit her due to not having the funds. I'm very sorry to hear what Mrs G went through and can't begin to imagine how this made her feel. Whilst I don't mean to downplay this, I have to consider the compensation based on Mrs G's role as a trustee. I also don't think the claim was unfairly declined, so whilst I'm very sorry about everything Mrs G experienced, had the claim been declined sooner, she still wouldn't have had the funds to visit her mum before she passed away.

The Trustees have also placed emphasis on the potential impact of the data breach. I'm not able to award compensation for potential hypothetical situations in the future. The data breach was sending an information request to an incorrect GP surgery, so whilst I agree that L&G have caused distress and inconvenience as a result of their actions, I think any future implications are minimal.

I appreciate that it must have been frustrating for The Trustees to have delays in the case being assessed, the data breach, not receiving communication when they were told they would and receiving a lack of empathy. Although this is a distilled version of events, I've considered everything in the round and I think The Trustees have been caused substantial distress, upset and worry which has caused serious disruption to their daily life over a sustained period of many months. In line with our website guidelines, I think the £1,050 compensation offered by L&G is fair and reasonable in the circumstances. So, I won't be asking them to do anything further.

My final decision

For the reasons I've given above, my final decision is that I don't uphold this complaint. I don't require Legal and General Assurance Society Limited to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs G as trustees of the D Trust to accept or reject my decision before 15 August 2025.

Anthony Mullins
Ombudsman