

## **The complaint**

Mr L complains that Unum Ltd has turned down an incapacity claim he made on a group income protection insurance policy.

## **What happened**

The background to this complaint is well-known to both parties. So I've simply set out a summary of what I think are the key events.

Mr L is insured under his employer's group income protection insurance policy. The policy provides cover if a policy beneficiary is incapacitated from working in their own occupation due to illness or injury. The policy deferred period is 26 weeks.

In April 2023, Mr L had to switch to working reduced, limited hours, due to symptoms of fatigue and insomnia. In May 2023 and for a number of subsequent months, Mr L's GP issued him with a fit note stating that he was fit to work altered hours, as well as signing him off work for some periods. In September 2023, Mr L was referred to a chronic fatigue syndrome (CFS) clinic. And Mr L spoke with occupational health (OH) in October 2023, who recommended that Mr L should be signed off entirely for around four to six weeks. So Mr L's employer made an incapacity claim on Mr L's behalf.

Unum obtained medical evidence so it could assess Mr L's claim in line with the contractual definition of incapacity. It noted that Mr L had been capable of carrying out some activities of daily living and that he'd been able to continue taking part in a physical hobby. It also noted that Mr L's symptoms were self-reported. And it didn't think that there was objective medical evidence which indicated that Mr L was functionally restricted or which showed he was incapacitated in line with the policy terms. It turned down Mr L's claim.

Mr L was very unhappy with Unum's decision and he asked us to look into his complaint.

Our investigator didn't think Unum had treated Mr L fairly. She felt Mr L had consistently reported symptoms to his GP and that he'd been referred to a sleep clinic and a CFS clinic. She felt these symptoms would have resulted in Mr L being unable to carry out the material and substantial duties of his own occupation. And therefore, she considered Mr L had shown he met the policy definition of incapacity. She recommended that Unum should accept and pay Mr L's claim, together with interest.

Unum disagreed and so the complaint was passed to me to decide.

I issued a provisional decision on 24 June 2025, which explained the reasons why I didn't think it had been unfair for Unum to turn down Mr L's claim. I said:

*'First, I was sorry to hear about the circumstances that led to Mr L needing to make a claim and I don't doubt that this has been a worrying and upsetting time for him.*

*The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. I've taken those rules into account,*

*amongst other relevant considerations, such as regulatory principles, the policy terms and the available medical evidence, to decide whether I think Unum handled Mr L's claim fairly.*

*I've first considered the policy terms and conditions, as these form the basis of Mr L's employer's contract with Unum. Mr L made an incapacity claim on the policy. So I think it was reasonable and appropriate for Unum to consider whether Mr L's claim met the policy definition of incapacity. This says:*

*'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 are*
- Not performing any other occupation.'*

*This means that in order for Unum to pay Mr L incapacity benefit, it needed to be satisfied that he had an illness or injury which prevented him from carrying out the material and substantial duties of his own occupation for the entire 26 week deferred period between April and October 2023 and afterwards.*

*It's a general principle of insurance that it's for a policyholder to show they have a valid claim on their policy. This means it was Mr L's responsibility to provide Unum with enough medical evidence to demonstrate that an illness had led to him being incapacitated from carrying out his insured role.*

*Unum assessed the evidence Mr L provided in support of his claim, including seeking the opinion of its clinical staff. And it wasn't persuaded that he'd shown he met the policy definition of incapacity. So I've next looked at the available medical evidence to assess whether I think this was a fair conclusion for Unum to draw.*

*I've looked carefully at the claim form Mr L completed. He said that he was unable to work due to chronic fatigue, and he said that he had symptoms of constant fatigue and a fuzzy head. He also recorded that easy activities tired him out and that long tasks took days to recover.*

*Mr L's GP provided his medical records and I've looked closely at the GP's evidence. I can see that Mr L had recorded previous episodes of chronic fatigue. He first contacted the GP about the relevant episode of insomnia and fatigue in May 2023. He was initially signed off for three weeks with lethargy, which was under investigation. In late May, the GP stated that Mr L may be fit to work altered hours, with amended duties, due to extreme tiredness and exhaustion and musculoskeletal symptoms. Similar fit notes were issued in June and July 2023, and a further note was issued in late July 2023, which signed Mr L off work for two weeks with stress and insomnia. Around that time, Mr L was referred to a sleep clinic. In August 2023, Mr L was signed back as 'may be' fit to work, taking into account insomnia and stress. A similar fit note was issued in September 2023. Around that time, Mr L was referred to a CFS clinic.*

*It seems from the GP records that fit notes were issued following Mr L submitting online requests for further certificates and based on the online self-reporting of his symptoms. It seems he was also seen by a health and well-being coach at the surgery and was prescribed anti-depressant medication.*

*In October 2023, (after the deferred period had ended), Mr L was assessed by his employer's OH during an online meeting. OH concluded: 'Based on my assessment, on the day of review, it is my opinion that Mr L is likely to benefit from a period of absence from work. I suggest 4-6 weeks.'*

*Subsequently, in October 2023, Mr L was assessed by the CFS clinic. Based on his reported symptoms, the clinic went on to conclude that Mr L likely had multifactorial fatigue.*

*Unum's doctors also assessed the medical evidence and considered Mr L's claim in line with the policy terms. In brief, Unum's doctors noted that while Mr L reported serious restrictions on his function, he was able to take part in a physically demanding hobby – including trips to take part. The doctor concluded: 'While Mr L has suggested that he needed breaks and took long [sic] to recover following these events due to his fatigue and brain fog, overall, this level of activity (which requires sustained physical strength and cognition) does not appear to be in line with his reported loss of function.' Another of Unum's doctors reviewed Mr L's claim following his assessment by the CFS clinic. They concluded that the letter from the clinic 'contains no new functional information to alter its understanding of Mr L's functionality (during) the deferred period.'*

*I've thought very carefully about all of the evidence that's been provided. It's important I make it clear that I'm not a medical expert. In reaching a decision, I must consider the evidence provided by both medical professionals and other experts to decide what evidence I find most persuasive when considering whether I think Unum treated Mr L fairly. It isn't my role to interpret medical evidence to reach a clinical finding – or to substitute expert medical opinion with my own - and it would be inappropriate for me to do so.*

*It's clear that Mr L has been diagnosed with multifactorial fatigue and that he's experienced symptoms over a significant period of time. I'm mindful that he was referred to the sleep clinic, he was supported by a health and well-being coach, he was referred to the CFS clinic and that he's been prescribed anti-depressant medication.*

*However, I don't think it was unfair or unreasonable for Unum to conclude that there was no objective medical evidence which showed that Mr L was incapacitated in line with the policy terms. While the evidence does show consistent self-reporting of symptoms by Mr L, it doesn't appear that the GP examined Mr L – instead, fit notes appear to have been issued following electronic requests. I'm also mindful that both the OH and CFS clinic reports were provided after the deferred period had ended. And I don't think they explain in detail why Mr L's symptoms would have led to him being incapacitated in line with the policy terms.*

*Unum's doctors, both doctors in occupational medicine, reviewed the evidence and didn't think it showed that Mr L was functionally incapacitated in line with his reported symptoms. I don't think this was an unreasonable view for Unum to take. I say that because I don't think the available medical evidence explains why Mr L's symptoms prevented him from carrying out the material and substantial duties of his role between 3 April and 2 October 2023. And I don't think it was unreasonable to take Mr L's reported levels of activity into account when deciding whether or not the definition of incapacity had been met.*

*On balance, then, while I'm sorry to cause Mr L further upset, I don't think Unum acted unfairly when it concluded that Mr L hadn't shown he had a valid incapacity claim throughout the whole of the deferred period and beyond.*

*I'd reassure Mr L that I'm not suggesting he's fit for full-time work. I appreciate he's been medically signed off at times and working limited hours. But simply being unfit for work doesn't mean a policyholder will necessarily meet the terms of an income protection policy.*

*It's open to Mr L to obtain further medical evidence in support of his claim should he wish to do so and to send it directly to Unum for its consideration and review. I'd expect Unum to assess any new evidence in line with its regulatory obligations. And if Mr L is unhappy with Unum's assessment of any new evidence, he may be able to make a new complaint about*

*that issue alone.*

*On that basis, despite my natural sympathy with Mr L's position, I don't think it was unfair for Unum to conclude that he hasn't shown he had a valid claim for incapacity during the deferred period between April and October 2023. So I'm not currently planning to tell Unum to pay Mr L's claim.'*

I asked both parties to send me any further evidence or comments they wanted me to consider.

Unum had nothing further to add.

Mr L said he was disappointed by my provisional decision, and I've summarised his response below:

- He felt his case was straightforward and that Unum had been acting in bad faith.
- He'd be happy to provide new evidence if he knew what Unum wanted. He stated that he'd repeatedly asked Unum (through his HR representative) what it would consider to be objective medical evidence but hadn't received a reply.
- Both his GP and the CFS clinic had believed his diagnosis should be sufficient and couldn't suggest anything further. He said that since his original diagnosis, he'd spent a great deal of time engaging with therapy with the CFS clinic.
- A core problem of providing medical proof of CFS is that the symptoms can't be medically assessed beyond his own self-reporting.
- A large amount of confusion on Unum's part was that the original specialist's report overemphasised his ability to carry out occasional physical activities. This didn't have a bearing on his ability to work – he said any sustained mental focus for more than 15 minutes led to him needing to take a break. And the activity trips he'd been on had been mostly trips with friends – not to significantly take part in the physical activity.
- He'd continued to have regular conversations with OH professionals who maintained he wasn't fit for work.

### **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.

Having done so, whilst I'm very sorry to disappoint Mr L, I still don't think it was unfair for Unum to turn down his claim for the same reasons I gave in my provisional decision. I'll now go on to address what I believe to be Mr L's key further points.

As I explained in my provisional decision, it's a policyholder's responsibility to show they have a valid claim on their policy and to show that their claim meets the policy definition of incapacity. I appreciate Mr L feels Unum didn't tell him (via his employer) what type of medical evidence he needed to provide it with in support of his claim. But I can see that in October 2023, Unum wrote to Mr L's employer and explained the types of evidence it might need. It also specifically explained that GP fit notes are not sufficient evidence to show incapacity. So I think Unum did provide a reasonable explanation as to the information it may need in order to assess a claim.

Mr L has provided Unum with evidence from the CFS clinic and OH, which Unum has reviewed, as I'd reasonably expect it to do, including with doctors in occupational medicine. I appreciate the CFS clinic set out Mr L's diagnosis and it's clear he's experienced symptoms over a prolonged period. And I'm mindful that Mr L's condition is often multi-symptom and may rely on self-reporting. But I still don't think it was unreasonable for Unum to conclude

that the medical evidence Mr L provided wasn't enough to show that he met the policy definition of incapacity throughout the deferred period and beyond. That's because I still don't think the available medical evidence explains how and why Mr L's symptoms prevented him from carrying out the material and substantial duties of his role between 3 April and 2 October 2023. Therefore, I remain satisfied that Unum didn't act unfairly when it relied on the opinion of its expert doctors when it assessed this claim and decided there wasn't enough objective medical evidence of incapacity.

I understand Mr L believes that Unum became confused by references to his hobby and that they overstate his participation in the events at the time. But Mr L's GP records refer to him taking part in a physical hobby during the deferred period at times during and after the deferred period. So I still don't think it was unfair for Unum to place weight on the available medical evidence when it assessed Mr L's claim, including his reported level of activity.

It's clear that OH has continued to conclude that Mr L remains unfit for work and that since the deferred period ended, he's received therapy for his condition. It doesn't appear that Unum has had a chance to assess this evidence and decide whether it alters its understanding of Mr L's claim. It remains open to Mr L to send this evidence to Unum for its consideration, along with any other new medical evidence he believes supports his claim. It would be for Unum to review the evidence, in line with the contract terms. If Mr L is unhappy with the outcome of any further review of his claim, he may be able to make a new complaint about that issue alone.

I appreciate Mr L feels Unum has acted in bad faith. However, in my view, the available evidence and records show that Unum assessed the medical reports it was sent and the information it was provided with in line with the policy terms. So I'm not persuaded that Unum has treated Mr L unfairly or unreasonably.

Overall, I do sympathise with Mr L's position and I'm sorry to cause him further upset. But I don't find Unum acted unfairly or unreasonably when it relied on the available medical evidence to conclude that Mr L hadn't provided enough evidence to show he had a valid incapacity claim during the deferred period. So I'm not telling Unum to pay his claim.

### **My final decision**

For the reasons I've given above and in my provisional decision, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 11 August 2025.

Lisa Barham  
**Ombudsman**