

The complaint

Miss J is unhappy that Legal and General Assurance Society Limited (L&G) terminated her income protection claim.

What happened

Miss J had a group income protection policy in place through her employer. The policy was underwritten by L&G and it had a 'suited occupation' definition of incapacity.

In December 2022, Miss J became absent from work. She suffered from a number of health issues, but mainly pain in her hands prevented her from carrying out her own occupation.

Miss J made a claim under the policy in April 2023, which was accepted by L&G. They agreed Miss J wasn't able to carry out her own or any suited role due to her pain levels and they advised she couldn't return to work until she had responded to treatment.

L&G continued to review the claim and they commissioned a Transferable Skills Analysis (TSA) in November 2024 and a Functional Capacity Evaluation (FCE) in February 2025 to help gain a better understanding of Miss J's functional capabilities.

In March 2025 L&G informed Miss J they would be stopping her benefit payments because the TSA and FCE led them to conclude she was fit to undergo a phased return to work in her own occupation or a suited occupation.

Miss J appealed L&G's decision and referred the matter to this service. Our investigator looked at what had happened. He thought L&G had unfairly ceased Miss J's benefit payment, so he recommended they reinstated the claim and asked them to pay £200 in compensation for unfairly terminating the benefit and causing Miss J upset and worry.

L&G disagreed. In summary they said:

- The report from the Rheumatologist confirmed that for a return to work to be considered there would need to be an individual assessment of Miss J's capabilities and suitable adaptations and adjustments. L&G had followed this advice.
- The TSA identified several roles, with some requiring less hand use and others more dependent on the amenability to adjustments.
- Several of the activities Miss J described as being difficult (including gripping, lifting and handling) were observed during the FCE assessment and the suggested Greeter role would not require these activities to be carried out in a sustained manner.
- The reports L&G obtained indicate clearly that Miss J is suited to other occupations, and as such they have done enough to reach a conclusion on that point on the balance of probabilities.

- They believe the burden is now on Miss J to show she remains totally incapacitated from any job within those occupations because of her condition.

L&G also declined Miss J's appeal. They wrote to her and highlighted they believed she was suited to role of Greeter suggested by the TSA because it didn't require a significant amount of typing or sustained fine motor activity.

Further evidence from Miss J

- In June 2025 Miss J's employer obtained a further occupational report. The physician said Miss J has reduced resilience and stamina and would require significant adjustments to facilitate any form of return to work. They said they were guarded to give a return to work prognosis because of Miss J's functional and tolerance limitations. And they couldn't give reassurance that she will be fit for redeployment to a specific role, as it depends greatly on the precise job demands and her ability to tolerate them, in addition to homeworking and specific equipment.

The report also considered the suited occupations suggested by L&G and said the Greeter role "would still present a challenge due to her severe arthritis".

L&G reviewed this report and confirmed it didn't change their position.

- Miss J also provided evidence from her treating orthopaedic specialist in July 2025. This confirmed she'd been diagnosed with base of thumb arthritis and bilateral carpal tunnel syndrome. Miss J received steroid injections and had surgery planned on both her hands. Miss J said this evidence had also been provided to L&G, but I haven't been provided with any comments from them in this regard, so it wouldn't be fair for me to rely on this evidence.
- Miss J also informed us that she'd had a formal meeting with her employer on 13 July and was told she had until 13th October to secure a new role. But there wasn't anything that didn't involve regular computer use, so she left her job on 30th July 2025.

The case was then passed to me for a decision.

Provisional decision

I issued a provisional decision on 16 December explaining that I was intending to uphold this complaint. I said:

The relevant rules and industry guidelines say the insurer has a responsibility not to avoid claims or terminate them unfairly. The policyholder must provide enough evidence to show that they have a valid claim on their policy. And, once a claim is in payment, it becomes the insurer's responsibility to show that the policyholder no longer meets the definition of incapacity under the policy terms.

Incapacity is defined under Miss J's policy as:

"Suited occupation

the insured member is incapacitated by an illness or injury so that he is unable to undertake all occupations which we consider appropriate to his experience, training or education..."

In this case L&G initially accepted that Miss J was unable to meet the demands of her current occupation, given the significant reliance on her ability to use a computer. L&G agreed Miss J wouldn't be able to return to work because of her pain levels, until she had responded to treatment.

But L&G now believe there are other suited occupations Miss J is capable of, so I've considered all the evidence and expert opinions to decide what I find most persuasive in the circumstances of this case.

It's fair for L&G to periodically review income protection claims to determine whether a claim remains payable. They said they relied on their CMO opinion from June 2024 alongside Miss J's treating rheumatologist's report from July 2024, so I've carefully considered this evidence.

Rheumatologist report

The investigator has already raised concerns that when L&G wrote to the rheumatologist, they didn't provide the correct incapacity policy term under Miss J's income protection plan. Instead, L&G only asked if Miss J was:

“totally unable to perform their occupation... and is likely to remain so permanently”. Which is the test for a claim for total and permanent disability.

The rheumatologist confirmed Miss J's response to treatment had been poor and she was unlikely to fully recover. But he reported a return to work was possible with good pain management and adaptations to her work environment.

I can understand why L&G gave weight to this evidence. But as they asked for this expert opinion in the context of Miss J being permanently unable to perform her own occupation, I find it less persuasive to demonstrate her condition had improved and she was now able to return work in any suited occupation.

Although the opinion confirms a return to work is possible in the future, I don't think it's enough to fairly show Miss J was able to return to work in a suited occupation by March 2025.

The CMO opinion

The CMO conducted a desktop review and said there wasn't enough evidence to conclude the above totally and permanently disabled term had been met. But it didn't give an opinion on the income protection incapacity definition.

The report said further therapeutic interventions and ergonomic adjustments could help improve Miss J's capabilities relative to her role – and it recommended L&G gain a better understanding of Miss J's hand pain.

As the above reports were inconclusive in regard to the suited occupation definition of incapacity in Miss J's policy, I'm pleased to see L&G commissioned a transferable skills analysis (TSA) in November 2024 and then a functional capacity evaluation (FCE) in February 2025, before making their decision on the claim.

However, I still don't think the additional evidence they obtained was enough to fairly terminate this particular claim. I'll explain why:

The TSA

My role here is to assess whether L&G's suggestions of other suited occupations was fair.

Having carefully reviewed the circumstances of this complex case, I don't think L&G should have given so much weight to this report because I don't think the suggested occupations were reasonable.

The TSA recommended the following three roles:

1) Banking Customer Service Adviser (home based) – to provide online, telephone or face-to-face service. The physical demands of the role list using a keyboard and computer and include both sitting and standing. And one of the main skills required is to be able to use a computer.

2) Collector and Negotiator (within banking) – to guide collections and negotiations through telephone work. The physical demands of the role list upper body strength to work with a computer, dexterity, sitting and standing. And one of the main skills required is to be able to use a computer.

3) Greeter – to welcome customers when they arrive and provide general information. The role could be in a car showroom, tourist attraction, supermarket, hotel, or health setting. The physical demands of the role list reaching out, sitting and standing. And one of the main skills required is to be able to carry out basic tasks on a computer or handheld device.

I understand Miss J is unable to do telephone work because of her toilet break requirements. Her employer had taken her off the phones as one of their reasonable adjustments before she became absent, so I don't think the suggestion of other telephone based roles is appropriate for Miss J.

I can also see from L&G's internal claim assessment notes in December 2024 that the claims handler was concerned about the collections and branch banking role because both seemed to require a similar amount of keyboard work as Miss J's own occupation at the time. But it doesn't appear L&G looked into these concerns any further.

The report also states that all three suggested roles are computer based and would require significant adjustments in order to accommodate Miss J's functional needs. The TSA makes the following recommendation for all three roles:

“A comprehensive ergonomic assessment would be necessary to ensure Miss J is comfortable at work and to reduced handling and dexterity tasks with voice dictation software. This assessment should include consideration of seating (to manage back pain), with a possible sit- to-stand desk if appropriate, a suitable chair, mouse and a wireless headset. It may be that Miss J could use a touch screen tablet for typing tasks if this is beneficial to her symptoms.

To manage the demands of work around voice dictation software Miss J may require a reduction in typing work tasks”

In my opinion, the above list of adjustments are significant for computer based roles. So I find the TSA report less pervasive because of that.

I'm also mindful Miss J had already undergone an ergonomic assessment and received a suitable sit-to-stand desk, ergonomic chair, and mousepad from her own employer, and she was still unable to perform her computer based role. So I'm not persuaded these adjustments are reasonable in the circumstances.

In December 2024 Miss J made L&G aware that her employer had also explored dictation software but it was confirmed some form of typing would still remain in the role for dictation to be an effective solution. So even with voice dictation software, I think it's reasonable to conclude these types of telephone and computer based roles would still entail a sustained level of hand activity throughout the working day.

Given Miss J's symptoms of pain, I don't think this is a reasonable expectation for her. And the medical evidence supports that sustained hand activity would likely aggravate Miss J's symptoms further. So taking that all into account, I don't think any of the suggested suited occupations are appropriate in this particular case.

I also have concerns with L&G's suggestion of a greeter position as I don't think it fairly considers Miss J's professional career history, experience and training, which is required under their policy terms.

A greeter position would be suited to most people because the listed required skills are so basic in their nature - for example the ability to work alone or in a team, or a willingness to learn. These are basic skills required in most occupations, so I'm not persuaded L&G fairly took Miss J's professional experience into account when relying on this suggested occupation.

Miss J has also raised concerns about her ability to perform in the greeter role due to her arthritis, and based on the medical evidence I think her concerns are valid.

The FCE

The FCE report said that the functional abilities demonstrated by Miss J didn't represent her overall true capabilities because of numerous inconsistencies and discrepancies during the assessment.

The reports concluded Miss J performed with submaximal effort in an attempt to simulate weakness during both the 5-position grip strength tests, and the palmar pinch test. So the results of both these tests are invalid.

The report also says:

"in situations where an individual has provided poor reliability of effort and there is evidence of symptom exaggeration, it is not possible to comment on their fitness to work, as the true capabilities have not been performed, unless the minimum function demonstrated in the assessment already meets or exceeds the physical demands of the job."

Having carefully read the report, even if Miss J was exaggerating her symptoms, I'm not persuaded the hand functionality she did demonstrate over the 1hr 40min assessment meets the demands of any of the suited occupations suggested by L&G. So, in accordance with the above caveat in the FCE report, I don't think it was fair for L&G to rely on this report as evidence Miss J was fit for work.

To be clear, I don't dispute the report documented some functionality from Miss J such as gripping, lifting and handling being observed during the assessment. But I don't think this is enough for L&G to fairly conclude Miss J can perform the computer based occupations they have suggested (even with dictation software and ergonomic adjustments).

Summary

Whilst I'm pleased L&G obtained up to date medical evidence from several sources, after

carefully considering it all I don't find the evidence persuasive enough to terminate Miss J's claim for the reasons I've set out above.

Although some of the evidence suggests a return to work is possible, the practical reality for Miss J is that the necessary conditions for this to happen are unattainable so I'm not persuaded a return to work is feasible here.

When L&G accepted this claim, they agreed Miss J wouldn't be able to carry out her own or a suited role due to her pain levels, until she had responded to treatment. But the medical evidence all still shows her consistent reporting of hand pain, and I haven't seen any medical evidence to show she had responded to any of the treatment she'd received for her hand. So, after two years of paying this claim, I don't L&G fairly terminated the benefit based on the evidence they had.

I explained I intended to say Legal and General Assurance Society Limited needed to put things right by reinstating Miss J's claim, backdating the benefit payments and adding 8% simple interest. They should also pay £200 compensation for the upset and worry caused to Miss J by unfairly terminating the benefit and the confusion caused in relation to the incapacity definition relied on by L&G's experts to decline her income protection claim.

Responses to my provisional decision

Miss J accepted my recommendations. And L&G confirmed they had nothing further to add.

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.

As neither party has provided further submissions, I see no reason to depart from my provisional decision set out above.

Putting things right

Legal and General Assurance Society Limited need to put things right by:

- Reinstating Miss J's claim. Benefit payments should also be backdated to the date of termination, and 8% simple interest should be calculated from the date each payment was due, up until the date of settlement.**
- Pay £200 compensation for the upset and worry caused to Miss J by unfairly terminating the benefit and the confusion caused in relation to the incapacity definition relied on by L&G's experts to decline her income protection claim.

*Payment will need to be made direct to Miss J as she is no longer employed.

**If L&G considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss J how much it's taken off. It should also give Miss J a tax deduction certificate if she asks, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I uphold this complaint and direct Legal and General Assurance Society Limited to put things right by the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 13 February 2026.

Georgina Gill
Ombudsman