

## The complaint

Mr and Mrs H have complained that Zurich Assurance Ltd didn't assess Mrs H's claim for total permanent disability fairly.

## What happened

When Mr and Mrs H took out their mortgage, they also bought a decreasing term assurance policy, which provided them with life and critical illness cover. They maintained the policy even after they'd paid their mortgage off. It ended in 2023.

Mrs H has sadly suffered from poor health for a number of years, which has increasingly restricted her ability to function independently. So in early 2023, she made a claim on the policy.

Zurich accepted the claim under the total permanent disability (TPD) cover provided by the policy. This is defined as:

*"Total permanent disability before age 65*

*In our reasonable opinion, you are, as a result of illness or accident before your 65<sup>th</sup> birthday, irreversibly unable to do the things in three of the six following categories without the assistance of someone else.*

*(I) Personal hygiene - washing or bathing to the extent needed to maintain personal cleanliness.*

*(II) Dressing - putting on and taking off all necessary clothes.*

*(III) Mobility - moving from one room to another or getting in and out of a bed or chair.*

*(IV) Eating and Drinking - eating and drinking once food and drink has been made available.*

*(V) Using the lavatory - getting on and off the lavatory and maintaining personal hygiene.*

*(VI) Continence - controlling the bowel and bladder functions."*

Initially Zurich paid Mr and Mrs H a settlement of £905. They later agreed to backdate the claim to September 2022 and made an additional payment of £12,168.74, made up of an additional sum assured, interest and a refund of premiums.

The additional payment was made because Zurich originally accepted the claim from the date Mr and Mrs H made it. They later recognised this should be backdated to September 2022.

Mr and Mrs H complained about how Zurich had assessed the claim and the settlement paid. Zurich based their assessment on a report prepared at the end of 2022 in relation to Mrs H's eligibility to receive the Personal Independence Payment (PIP) benefit. Mrs H was assessed as eligible and the Department for Work & Pensions (DWP) backdated that entitlement to mid-2021. Mr and Mrs H said that Zurich should do the same, because her

health situation had been the same in 2021 and her assessment had been delayed by Covid 19.

In their response to the complaint, Zurich said the requirements for payment of PIP are different to the policy definition of TPD. And it wasn't appropriate to backdate the claim to mid-2021 because there wasn't evidence to show what Mrs H's capabilities were at that point.

Mr and Mrs H weren't satisfied with Zurich's response and brought their complaint to the Financial Ombudsman Service. Our investigator reviewed the information provided by both parties and concluded Zurich didn't need to do anything different to resolve the complaint.

She noted that, while Mrs H's doctors were supportive of her claim, their submissions didn't show at what point she met the criteria for a payment to be made. And she looked at Mrs H's previous PIP assessment made in 2019 and concluded this showed that, while she undoubtedly struggled with tasks, she wasn't at that point unable to do at least three of them.

Mr and Mrs H didn't agree with our investigator's view. So the matter's 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.

Having done that, I'm not upholding Mr and Mrs H's complaint. It's clear from all I've read they'll find this outcome distressing and I'm sorry about that. I hope it will help if I explain the reasons for my decision.

I've seen from the evidence provided how Mrs H struggles on a daily basis as a result of her health conditions. I do sympathise with her. But I have to base my decision on whether Zurich acted fairly, taking into account the policy terms.

I think the policy term quoted above is clear about how Mrs H's abilities would be assessed. And, like our investigator, I think the PIP assessments show Mrs H met those criteria in her 2022 assessment, but not in her 2019 assessment. To be fair to Mrs H, she hasn't suggested she met the criteria in 2019. But she has said she met them in 2021, at the time to which her PIP claim was backdated.

I have thought very carefully about this. It's not my intention to downplay Mrs H's daily difficulties. But the policy sets out how claims will be assessed. It says:

*"We'll let you know what information we'll need from your doctor, consultant or any other third party."*

Zurich got evidence from Mrs H's doctors. They also took into account the PIP assessments she'd had done previously. And they paid the claim from three months before the 2022 assessment, because it said Mrs H would have been in the same state of health three months earlier. I think that's fair.

I understand why Mr and Mrs H think the settlement should have been backdated as the PIP payment was. But there is simply no documentary evidence to show me that Mrs H was in the same state of health in 2021 as she was at the 2022 assessment. The fact that the DWP chose to backdate the PIP payment without that evidence doesn't mean I can reasonably say Zurich should do the same. While there are similarities in the processes, the two assessments are for different payments, and judged against different criteria. It wouldn't

be fair for me to say Zurich should apply the DWP's approach in preference to the one set out in the policy terms.

I know that Mr and Mrs H were hoping for a different outcome. But, for the reasons I've explained, I don't think Zurich need to do any more to resolve their complaint.

### **My final decision**

For the reasons I've explained, I'm not upholding Mr and Mrs H's complaint about Zurich Assurance Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mrs H to accept or reject my decision before 24 October 2025.

Helen Stacey  
**Ombudsman**