

## **The complaint**

Mrs R is unhappy that Legal and General Assurance Society Limited have declined a claim she made on an income protection policy.

## **What happened**

Mrs R had surgery in June 2024 and took time off work. On her return she began to experience pelvic pain which led to a series of hospital admissions and investigations. Mrs R says she continues to experience chronic pain which has also had an impact on her mental health.

Mrs R made a claim on her income protection policy but it was declined. She complained to Legal and General but they maintained their decision was fair. In summary, their position is that there is no evidence of severe pathology, progressive illness or functional incapacity which supported that she was unable to work. Unhappy, Mrs R complained to the Financial Ombudsman Service.

Our investigator looked into what happened and upheld the complaint. On balance, he was persuaded that the medical evidence supported that Mrs R was unable to work due to incapacity. So, he recommended Legal and General pay the claim, 8% simple interest and £200 compensation for distress and inconvenience.

Legal and General didn't agree. They didn't think the investigator had reasonably explained why their Chief Medical Officer's (CMO) opinion wasn't persuasive. They also highlighted that Mrs R's reporting of her condition was subjective. These further points didn't change our investigator's thoughts about the overall outcome of the complaint. So, the complaint was referred to me to make a decision.

At my request the investigator contacted Legal and General to let them know that my initial thoughts were that Mrs R's complaint should be upheld because Mrs R had experienced complex medical symptoms which indicated her functionality was impaired and that there were opportunities to explore this in more detail before rejecting the claim, for example by instructing a third party to carry out a review of Mrs R's functional capability. He also highlighted, at my request, what I considered to be some of the limitations of the evidence Legal and General had relied on.

Legal and General didn't agree and said that they wanted me to make a final decision. In summary, they remained of the view that their CMO's opinion supported the claim being declined and referred to further commentary in support of this stance. They didn't feel there would have been value in an independent medical report and maintained their view that the complaint shouldn't be upheld.

## **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.

The relevant rules and industry guidelines say that Legal and General have a responsibility to handle claims promptly and fairly. And they shouldn't reject a claim unreasonably.

The policy terms and conditions say that in order to claim on the policy the definition of incapacity must be met. This is defined as:

'...the insured member is incapacitated by illness or injury that prevents him from performing the essential duties of his occupation immediately before the start of the deferred period.

The terms go on to say:

The insured member's capacity to perform the essential duties of his own occupation will be determined whether or not that occupation remains available to him.

I'm not persuaded that Legal and General have fairly declined the claim because:

- Legal and General are entitled to rely on their CMO's medical opinion. However, I also need to consider whether that led to a claims decision which fairly reflected the overall medical evidence, Mrs R's reported symptoms and other evidence that was available. I've carefully considered whether Legal and General acted fairly and reasonably. I don't think they have for the reasons I'll go on to explain.
- Mrs R presented with complex symptoms including endometriosis, ovarian cysts, a surgical scar and a small hernia. She was engaging on an ongoing basis with medical professionals and was taking various medications for her reported symptoms. So, I think it's reasonable to conclude there was clinical information which was relevant to, and supported, the pain and discomfort she was experiencing and reported during the relevant period.
- Given Mrs R's recent medical history and the presentation of her symptoms I remain persuaded that Legal and General ought to have done more to understand Mrs R's functionality before declining the claim. I think there were sufficient differences between the CMO's opinion, the other available medical evidence about Mrs R's symptoms and Mrs R's reporting of her pain that it warranted further exploration. For example, the CMO's comments don't address how Mrs R was expected to carry out a customer facing role whilst experiencing high levels of unmanaged pain and discomfort. I think Legal and General focused on the sedentary and part time nature of Mrs R's job and the lack of clinical explanation for her symptoms rather than how her reported symptoms impacted her ability to do it.
- The CMO highlighted that Mrs R was able to undertake the school run and had travelled on holiday. This was contrasted, in the CMO's opinion, to Mrs R's inability to undertake a sedentary part time role. However, in my view the overall evidence indicates Mrs R experienced ongoing difficulties in carrying out basic tasks, such as the school run, even though she was able to complete them. The CMO's comments on Mrs R's ability to travel were, in my view, based on a number of assumptions about how she travelled and how she was supported with that journey. I also don't think it's reasonable to equate managing to do certain tasks with an ability.
- In the circumstances of this case, I'm persuaded that Legal and General ought to have instructed an independent medical examination and/or functional capacity assessment before declining the claim. This, in my view, would have given a greater insight into her functional ability to carry out her specific role. And Mrs R would have

had the opportunity to comment and engage with some of the concerns raised about her reported level of functionality. I think that this information would have materially altered the understanding of Mrs R's condition and how it impacted her ability to work.

- The CMO pointed to the significance of Mrs R being pointed back to the primary care setting. However, based on the available evidence, I don't think that means that there was an acceptance her symptoms had resolved. It also doesn't automatically follow that Mrs R's functionality had improved – rather that the management of her symptoms could take place in that setting. So, this further persuades me that it would have been fair and reasonable to conduct further independent inquiries into Mrs R's functionality before declining the claim.
- Mrs R has since left her employment and in my view, given the passage of time, there's little value in now completing an independent review of Mrs R's functionality. So, I think it's fair and reasonable for Legal and General to pay the claim in line with the remaining policy terms. They should also pay 8% simple interest from the date the claim was first declined until the date of settlement.
- I also think Mrs R has been impacted by the unfair decline of her claim – it added to her distress at an already difficult time when she was struggling with both her physical and mental health. The payment of her income protection claim would have avoided some of the financial and mental health challenges she's experienced as a result. So, I think Legal and General should pay £200 for the distress and inconvenience caused.

### **Putting things right**

Legal and General needs to put things right by paying Mrs R:

- The policy benefit in line with the remaining policy terms
- 8% simple interest per annum from the date that the claim was initially declined until the date of settlement. If Legal and General considers that it's required by HM Revenue & Customs to take off income tax from any interest paid, it should tell Mrs R how much it's taken off. It should also give her a certificate showing this if they ask for one. That way Mrs R can reclaim the tax from HM Revenue & Customs, if appropriate.
- £200 compensation for the distress and inconvenience caused by the claim being unfairly declined and the resulting impact on Mrs R.

### **My final decision**

I'm upholding this complaint and direct Legal and General Assurance Society Limited to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 27 March 2026.

Anna Wilshaw  
**Ombudsman**