

## The complaint

Mrs D has complained that Legal and General Assurance Society Limited (“L&G”) declined a critical illness claim under a decreasing term assurance policy.

## What happened

The background to this complaint is well known to the parties so it serves no purpose for me to repeat it in full here. In summary, suffering from several health conditions, Mrs D made a claim for total and permanent disability benefit. L&G declined the claim, it didn’t consider that Mrs D met the policy definition and so benefit wasn’t payable.

Unhappy Mrs D referred her complaint to this Service. Our investigator didn’t recommend that it be upheld, they didn’t find that Mrs D met the criteria for the claim to be paid.

Mrs D appealed. She said that she did feel that she met the policy criteria. Mrs D also made the point that her disabilities fluctuate constantly without pattern or ‘warnings’. She asked that the matter be referred to an ombudsman.

## 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.

I’d like to reassure Mrs D that whilst I’ve summarised the background to this complaint and some sensitive medical information, I’ve carefully considered all the submissions she has made. In this decision though I’ve focused on what I find are the key issues here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts.

The relevant regulator’s rules say that insurers must handle claims promptly and fairly. And that they mustn’t turn down claims unreasonably. So I’ve considered, amongst other things, the contract terms, regulatory rules and the available evidence to decide whether I think L&G treated Mrs D fairly. Having done so, I don’t uphold this complaint. I will explain why.

The starting point here is the policy terms. L&G assessed Mrs D under Total and permanent disability. I find this was fair as there is no other category that her illness/es fall under. The terms provide:

### *Functional Assessment test Disability Criteria*

*Immediately before the onset of disability, if the life assured is:*

- *not in gainful occupation*
- *in gainful occupation and the functional assessment tests disability criteria, is shown in the policy schedule under the occupation definition section, in the event of a claim the sum*

*assured will be payable if all of the following conditions apply:*

*i) the life assured suffers through illness or accident a mental or physical irreversible disability,*

*ii) in the opinion of our Medical Officer the life assured is permanently unable to perform without the direct assistance of another person, three or more of the functional assessment tests listed below:*

***Walking:*** *The ability to walk a distance of 200 metres on flat ground with or without the aid of a walking stick and without stopping or experiencing discomfort.*

***Bending:*** *The ability to get into or out of a standard saloon car and the ability to bend or kneel to pick up an object from the floor and straighten up again.*

***Climbing:*** *Having the ability to climb up a flight of 12 stairs without stopping or suffering severe discomfort.*

***Communicating:*** *The ability to answer a telephone and to take a message.*

***Reading:*** *Having the required eyesight (corrected if necessary) to be able to read a daily newspaper.*

***Writing:*** *Having the physical ability to write legibly using a pen or a pencil without aid.*

L&G didn't conclude that Mrs D met either of the policy requirements in i) or ii) above. I've considered the medical evidence carefully in order to determine if this was a fair conclusion to reach.

From Mrs D's testimony it is clear that she struggles with a myriad of health issues, including long covid which affects her in numerous ways, and ulcerative colitis. I accept too that these conditions fluctuate.

I've taken account of the report from the long covid clinical lead at Mrs D's hospital, and the conclusion that chances of recovery were slim. But I don't find it was unreasonable for L&G to find that there was no definitive evidence that the long covid was permanent or of a mental or physical irreversible disability. I say this too as Mrs D was trialling therapy for her ulcerative colitis so it was reasonable to conclude that there may be improvement potentially impacting her overall health.

Further both limbs of the policy term needed to be satisfied for the claim to be payable. The last three tests are not met – Mrs D can communicate, read and write to the standard set out. The issue here is with the first three assessment tests. L&G commissioned an independent medical report to be completed by an Occupational Therapist. I think that was fair.

It doesn't seem to be disputed that Mrs D can't walk more than 200 metres, so she meets the walking task. The Occupational Therapist concluded that Mrs D managed the stairs with difficulty, pausing on the way up and became very short of breath after completion of the task. With regards to bending Mrs D can get in and out of her car – but it is not a standard saloon which is lower. And I note Mrs D's evidence that she struggles to get off the couch so extra cushions were being provided. She did struggle to bend or kneel but was able to attempt it by supporting herself on the worktop. She has developed techniques so as to avoid bending activities.

Notwithstanding this report L&G's Medical Officer didn't conclude that Mrs D failed the second and third tests – bending and climbing. It is not for me to make a medical conclusion; I am not qualified to do so. But from the medical evidence before me, including the video recordings, I'm not persuaded that this was a wholly unreasonable conclusion to reach – in particular with regard to the bending test. And of course it is the Medical Officer's opinion that the policy term requires.

In making the comments I have I don't wish to make light of the considerable difficulties that Mrs D faces on a daily basis. There is no doubt that these are genuine and well documented. I fully accept that "long covid patients have depleted reservoirs of mental and physical energy". The issue here is the policy terms. The bar set is a high one. The test is not whether she could continue in her occupation, which evidently she can't, or qualifies for state benefits, but whether she meets the criteria set out in both limbs of the policy definition.

At the time of L&G's final response I find, on balance, that its conclusion that there was no definitive evidence of a mental or physical irreversible disability was not unreasonable. This being so she didn't meet the policy criteria whether or not she was permanently unable to perform three or more of the functional assessment tests. I note that L&G has said it is happy to review any additional information that Mrs D wants to submit, this is fair.

In all the circumstances therefore, I don't find that in declining her claim when it did L&G treated Mrs D unfairly, unreasonably or contrary to her policy terms.

I do recognise how disappointing my decision will be for Mrs D, and I'm sorry that it doesn't bring her welcome news.

### **My final decision**

For the reasons given I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 9 February 2026.

Lindsey Woloski  
**Ombudsman**