

## **The complaint**

Miss L has complained that Legal and General Assurance Society Limited ('L&G') avoided her policy and declined her claim.

## **What happened**

Miss L took out an income protection insurance policy underwritten by L&G.

She made a claim as she was too unwell to work but L&G declined the claim. It said she'd answered questions about her health incorrectly when she bought the policy. And it treated this as a careless qualifying misrepresentation, which entitled it to avoid the policy and refund the premiums paid.

Miss L brought her complaint to us and our investigator didn't uphold it as she thought L&G had fairly avoided the policy and declined the claim.

Miss L doesn't agree and has asked for an Ombudsman's decision. And so the case has been passed to me.

## **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 law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

L&G thinks Miss L failed to take reasonable care not to make a misrepresentation when she answered questions about her health incorrectly and failed to declare her referral to a long Covid assessment clinic.

I've looked at the questions asked which say:

*“Apart from anything you've already told us about in this application, during the last 5 years have you been in contact with a doctor, nurse or other health professional for...Any conditions affecting your lungs or breathing...?”*

Miss L answered “yes” to this question and disclosed asthma.

She was also asked:

*“Apart from anything you’ve already told us about in this application, during the last 12 months have you...been referred to or had any investigations in hospital?”*

Miss L answered “no” to this question.

I don’t think Miss L took reasonable care when answering these questions due to her referral to the long Covid clinic as shown in her GP entries since October 2022 which refer to Miss L being ‘forgetful’ with chest symptoms. Miss L has said that she declared her asthma as it was linked to possible long Covid. But I am not satisfied that being forgetful is linked to her asthma. As there were separate symptoms potentially linked to Covid 19, I think the referral should reasonably have been declared as a separate condition to her asthma.

L&G has provided its confidential underwriting evidence which shows that had Miss L declared her referral to the long Covid clinic, it wouldn’t have offered her the policy.

This means I’m satisfied Miss L’s misrepresentation was a qualifying one.

L&G has treated Miss L’s misrepresentation as careless which offers the most favourable outcome – a refund of premiums - and so I agree this is fair.

I’ve looked at the actions L&G can take in accordance with CIDRA. And as it has acted in line with the remedies detailed in CIDRA, I think this is a fair and reasonable outcome to this complaint and I won’t be asking L&G to do anything different.

Miss L doesn’t think L&G’s actions are proportionate but it has acted in line with the relevant law and so I can’t agree that its actions are disproportionate. As the policy never would have been offered, L&G does not need to pay the claim as it would never have been on risk.

Miss L is also unhappy with L&G’s questions and time periods used for the medical questions. This isn’t something I can interfere with as L&G is entitled to decide which questions to ask to assess the risk it is willing to take in line with its commercial judgment. I can check whether the questions asked were clear and I am satisfied that they were.

Miss L has also provided medical evidence to show why she answered some of the questions the way that she did, due to minor issues or conditions that had been resolved. As mentioned above, I think the questions asked were clear. As the policy wouldn’t have been offered due to the above questions, the remainder of the questions aren’t relevant to the outcome.

I am sorry to disappoint Miss L and to hear of her ill health. But I can’t fairly ask L&G to pay her claim or reinstate her policy.

#### Service issues and compensation

Miss L had also complained about the level of service provided by L&G. It offered £300 compensation to Miss L for the delay in sending its written response to her and she accepted this. I am satisfied the £300 offered is fair and reasonable in all the circumstances of this case. Our award bands for compensation for distress and inconvenience can be found on our website. An award of up to £300 is appropriate where the impact has lasted weeks and has caused some distress and inconvenience. The issue was not long lasting and a written response was sent to Miss L in just over a month. So I won’t be asking L&G to increase its

compensation award.

Miss L responded to the investigator's view in detail. I have read everything Miss L has referred to even if I don't explicitly refer to it in my decision. As an informal and alternative dispute resolution service, it is my role to decide complaints as quickly as possible and with minimal formality.

Miss L has provided her comments and medical evidence to disprove what L&G has said about some of her disclosure. L&G is expected to review claims and re review matters when further information is provided. I have seen that it did this, as set out in its final response letter. Complaints handling isn't a regulated activity so I can't review L&G's complaint process.

I note Miss L says these are service concerns as L&G's process and initial assessment was flawed but it has an appeals process which it followed, which is designed to re review any assessment. I am satisfied that this was done in line with what I'd expect.

### **My final decision**

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 11 March 2026.

Shamaila Hussain  
**Ombudsman**