

## The complaint

Mr L complains that Zurich Assurance Ltd declined a claim under an income protection policy.

## What happened

Mr L holds income protection cover through his employer. The policy pays a benefit if Mr L is unable to work due to an illness or injury, and the deferred period is 26 weeks.

Mr L was signed off by his GP due to stress induced anxiety on 12 March 2024, and he hasn't returned to work. He made a claim to Zurich for an income benefit. Zurich declined the claim as it said the reason for Mr L's absence was work-related stress and pressures with workload, rather than due to an underlying illness.

Mr L says he's been diagnosed with a generalised anxiety disorder, and he's medically unfit to work. He says this is supported by information from his GP, a psychologist, therapists and an occupational health ("OH") practitioner. He wants Zurich to accept his claim.

One of our investigators reviewed the complaint. Having done so, she thought that Zurich had acted fairly and reasonably when it declined the claim, for the reasons it did. In short, she didn't think there was enough medical evidence to show that Mr L's absence was due to an illness. Rather, the evidence suggested this was mainly due to work-related stress. So, the investigator didn't think there was enough medical evidence to show Mr L was prevented from performing the material and substantial duties of his employment.

Mr L didn't agree with the investigator's findings. In short, he explained that it was his depression and anxiety that rendered him incapable of performing his role. Mr L also explained that when Zurich carried out an Independent Medical Examination ("IME"), he had spent days preparing for this by capturing written notes, which would have falsely given the impression that he was mentally competent.

As no agreement was reached, the complaint was passed to me to decide. I issued my provisional decision in January 2026. Here's what I said:

*"Industry rules set out by the regulator (the Financial Conduct Authority) say insurers must handle claims fairly and shouldn't unreasonably reject a claim. I've taken these rules, and other industry guidance, into account when deciding what I think is fair and reasonable in the circumstances of this complaint.*

*It's for Mr L to show that he has a valid claim under the policy. To do so, he needs to show that he was incapacitated in line with the policy terms for the duration of the deferred period, and beyond. The deferred period ran from 12 March 2024 until 10 September 2024.*

*The policy defines incapacity as follows:*

*"Incapacity or Incapacitated means an illness or injury that causes the Member to be unable to work and is applicable under this policy.*

[...]

*For any of the following definitions of incapacity, we won't consider the Member to meet any definition of incapacity if the reason for the Member being unable to perform the Material And Substantial Duties is due to a breakdown in an employment relationship.*

[...]

*The Member cannot perform the Material And Substantial Duties of their employment and they're not doing any paid work.*

[...]

*Material And Substantial Duties means the duties that are the essential activities for which a Member is employed that take up a significant proportion of their time."*

*So, Mr L needs to show that he cannot perform the material and substantial duties of his employment due to an illness. I've reviewed the evidence to decide if Zurich acted fairly and reasonably when it declined the claim based on the evidence it had. Having considered everything, I'm currently not persuaded that it did for the following reasons:*

- Mr L worked as a senior director, working both from home and from the office, and he needed to travel between offices within a city. There are no mentions if Mr L's employer could've made any reasonable adjustments to his role, including the need to travel. However, I can see that Zurich considered the claim based on these requirements being part of Mr L's employment, so I've accepted they are.*
- I can see that Mr L was diagnosed with depression already in 2021, and he had started to take antidepressant medication after this. The GP signed him off on 12 March 2024 due to stress-induced anxiety after suffering a panic attack as a result of working long hours at work. Mr L's antidepressant medication was adjusted after he was signed-off work. The GP said on 30 May 2024 that they didn't think Mr L's mental health was stable enough for employment, and it was difficult to remove the pressures associated with his role. The GP considered Mr L's cognitive function to be slightly reduced below normal function, and his walking to be moderately reduced.*
- Following this, Zurich instructed an IME, which was carried out on 20 June 2024 by a consultant clinical psychologist. The assessment interview was carried out by a video call. The psychologist concluded that Mr L didn't meet the criteria for a substantive mental health problem. Rather, they said Mr L presented with work-related stress caused by working excessive hours for an extended period of time. The psychologist said Mr L's stress reaction was a natural response to his workplace situation.*
- Whilst this was an independent review, I'm mindful that Mr L only met with the psychologist once. He's also provided reports from his own psychologist, who treated him over a longer period of time. Overall, I'm minded to place more weight on Mr L's own psychologist's reports for this reason. Additionally, both experts are psychologists, so I don't think either hold a qualification that carries more weight than the other in the circumstances.*
- Mr L has provided a report from his psychologist, who is a registered counselling psychologist, dated 19 August 2024. In this report, they said Mr L was assessed with a diagnosis of moderate depression and generalised anxiety disorder. Zurich's Chief Medical Officer ("CMO") said that it wasn't clear what was the basis of the diagnosis, other than the results of the psychometric tests which weren't sufficient for a diagnosis to be made.*

- *I do think this report makes it clear that Mr L wasn't merely suffering from workplace stress. The psychologist said Mr L experienced panic attacks weekly, he wasn't able to leave his home due to his anxiety disorder, and he presented with symptoms of very low mood, difficulty with concentration, low motivation, excessive anxiety and worry about a number of events. They also said this wasn't merely work-related burnout. It's difficult to see how Mr L could've continued to work with these severe symptoms, considering the requirements of his employment.*
- *I don't find Zurich's comments about how the diagnosis was made material to the outcome of the complaint. Mr L had already previously been diagnosed with depression, and the GP also referred to anxiety. The psychologist treated Mr L and described his symptoms in detail. It seems to me that they were best placed to set out the condition(s) Mr L was suffering from. It's unclear what else Zurich would expect to see in a psychologist's report when confirming a diagnosis.*
- *The psychologist also sent a further report in December 2025 which Zurich has now had the opportunity to consider. They explained further that Mr L's depression, anxiety and work-related burnout significantly impaired his ability to function in his personal and work life. And the symptoms affecting his ability to work were cognitive, emotional, physical and behavioural. I think these comments support that Mr L was prevented from carrying out the material and substantial duties of his employment due to an illness, in line with the policy terms.*
- *An OH review was carried out by an OH nurse advisor on 7 November 2024. Mr L had reported a significant impact on managing his activities of daily living due to his psychological health, which the nurse advisor thought made him temporarily medically unfit to sustain a return to work. The nurse advisor also anticipated that Mr L's stress related anxiety symptoms that he related to work would likely continue until these were discussed. And he was unlikely to resolve the issues reported as affecting his mood until Mr L engaged with therapeutic support, addressed his workplace concerns and undertook further learning to understand the current symptoms impacting his psychological health and their management successfully.*
- *I think it's important to note that the OH review would have naturally focused on Mr L's work, the impact his symptoms had on his work, as well as give an indication of his ability to return to work. So, I don't think this report confirms that Mr L's symptoms only related to work – rather, they merely focused on work due to this being an occupational health review.*
- *I appreciate work-related stress and burnout are clearly set out as a factor in Mr L's absence, and likely a trigger for it. But I don't think this means that Zurich can fairly decline the claim. For the reasons I've set out in this decision, I think there's sufficient evidence to show that Mr L has underlying illnesses that prevent him from working. Additionally, I haven't seen anything to suggest Mr L's symptoms improved after he stopped working. This would've suggested the absence was mainly work-related.*
- *I can also see that Mr L first completed guided self-help therapy, followed by cognitive behavioural therapy ("CBT"). The letters about these refer to Mr L reporting symptoms of a panic disorder, low mood and anxiety, as well as his scores for psychometric tests for depression and anxiety. Mr L's CBT therapist said on 30 January 2025 that Mr L reported experiencing severe physical symptoms of panic when going out of the house or completing everyday tasks. These further support that Mr L's absence is due to an illness, rather than work-related stress.*

- *Mr L has explained that when Zurich declined the claim, he lost access to his private health insurance which has impacted his ability to get treatment and has had an impact on his recovery. It's also clear that being without an income has had a financial impact on Mr L. So, I think Zurich has caused Mr L significant distress and inconvenience when it unfairly declined the claim. I think it should pay him £700 to compensate him for this."*

Zurich didn't accept my provisional findings. It said the evidence strongly indicated that Mr L's absence was due to work-related stress and a breakdown in the employment relationship. Zurich acknowledged that Mr L may have experienced some degree of mental health incapacity, but it didn't consider this to have been severe enough to prevent him from returning to work during the deferred period. In summary, it made the following key arguments:

- Mr L's employer had discussed unsatisfactory performance with him immediately before the absence. And Mr L stated during a call in May 2024 that his absence was due to significant work pressure and demands. He described experiencing a panic attack after a period of long hours and rising stress in a high-pressured role.
- The GP noted "stress induced anxiety" resulting from long hours at work as the reason for absence and was reluctant to recommend a long-term absence. Another GP assessed Mr L's cognitive function to have reduced only slightly. And they noted the challenge of removing work-related pressures, which indicated a capability issue rather than an underlying medical issue.
- During the IME, Mr L exclusively referred to work-related stressors, and he confirmed no other factors contributed to his absence. And the IME report concluded that Mr L was capable of returning to work within four weeks, which would have been within the deferred period.
- Mr L's psychologist's letter was written after Mr L's claim was declined. They didn't recommend that he remained off work and, instead, suggested a referral to OH. The psychologist also didn't clarify what events Mr L was worried about. However, Zurich considered these to appear work-related, given the context and recommendation for an OH referral.
- Whilst the psychologist's letter referenced moderate depression and generalised anxiety disorder, this was based on self-reporting, and such diagnoses don't necessarily preclude a return to work. Zurich's CMO raised concerns about how the diagnoses had been made, and the other medical evidence indicated work-related stress as the main issue.
- The OH review found that Mr L's absence was caused by feeling overwhelmed by workload, extended hours and limited support. The report also noted an improvement in his mood, which Zurich said may have been because he had not been at work for a long period of time. The report also suggested a return to work would be feasible after addressing workplace issues.
- Mr L's psychologist's later letter reiterated earlier points based on Mr L's own reporting and didn't state he was unfit for work. This letter was inconsistent with the OH report, which confirmed improvement and stability.
- Zurich didn't consider a declined income protection claim to have had an impact on Mr L's private health insurance cover with his employer.

Mr L responded to my provisional decision and said he had nothing further to add, except he wanted to know if I would also take into consideration the fact that his employer ceased making pension contributions as a result of Zurich declining his claim. He also explained that he lost access to both private health and dental insurance after he was no longer receiving pay, and he provided an email from his employer confirming this.

As both parties have now had the opportunity to review and respond to my provisional findings, I'm issuing my 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.

Firstly, I've considered all the points Zurich has raised, and how it has interpreted the evidence available. However, I've focused on the evidence, and points, that I consider to be material to the outcome of the complaint, as I'm required to do.

Zurich has now provided two new pieces of evidence that weren't provided previously – these are the employer claim form, and the notes from a phone conversation Zurich had with Mr L in May 2024. However, all of its other comments are based on evidence that I already considered when reaching my provisional decision.

I appreciate it's noted in the employer claim form that there had been discussions around Mr L's performance being unsatisfactory prior to his absence. But this is the only reference I can see about this. For example, I haven't seen anything to suggest an ongoing dispute. Mr L said during the IME that the contact with his employer was limited to sending fit notes to HR. And the GP noted in the claims medical report on 30 May 2024 that there were "*no issues with manager/team*".

So, I don't think Zurich has shown that Mr L's absence was "*due to a breakdown in an employment relationship*". Zurich appears to also have referred to this in the context of work-related stress, working long hours and high pressure. But I don't consider these to be evidence of a *breakdown* in employment relationship.

Zurich says Mr L confirmed during the IME that no other factors contributed to his absence. But this seems to be Zurich's own interpretation of the report. The report sets out that Mr L was asked to explain why he became absent from work in mid-March. And this is the question Mr L answered. He was asked if there was anything else he wanted to say or felt the assessor should know in order to have a complete enough picture of his situation, and he said there wasn't.

However, I already accepted in my provisional decision that work-related stress and burnout were clearly set out as a factor in Mr L's absence, and likely a trigger for it. But this doesn't mean Zurich can fairly decline the claim on this basis. This is because I don't think the evidence shows that these factors were the reason for Mr L's continued absence – rather, I'm persuaded that the evidence shows this was due to underlying mental health illnesses.

Mr L's absence started after he had a panic attack. And the medical evidence shows that he continued to suffer from panic attacks, even whilst off work. Mr L was referred to talking therapies and assessed on 24 June 2024, and symptoms of panic disorder were noted. He completed the guided self-help, and following this, he was referred to CBT for panic disorder. Mr L's psychologist explained in August 2024 that he was experiencing panic attacks weekly, and he was too anxious to leave the house. These assessments were done months after Mr L had stopped working.

Mr L was also diagnosed with depression already in 2021, and he was taking regular medication for this. The medication was changed after he became absent, and Mr L's psychologist referred to a diagnosis of depression in August 2024. There are also several letters from therapists referring to symptoms of panic or panic disorder, and several references to anxiety, including a diagnosis by Mr L's psychologist. So, I think the medical evidence supports that Mr L had underlying mental health illnesses.

I still find Mr L's psychologist's reports the most persuasive evidence with regards to his ability to work. They said that Mr L's depression, anxiety and work-related burnout significantly impaired his ability to function in his personal and work life. The psychologist also listed several symptoms including difficulty with concentration and ability to sustain focus, very low mood, low motivation, excessive anxiety, chest pain, racing heart, disturbed sleep, low energy and fatigue patterns. And they said all these factors persisted to further lead to feelings of failure and withdrawal, which worsened his depression and anxiety. It's difficult to see how Mr L could have continued to work in his employment considering his diagnoses of depression, anxiety and panic disorder, and the resulting symptoms.

I already addressed Zurich's argument about how the psychologist reached the diagnoses in my provisional decision, and it hasn't provided any new arguments that would change my findings on this.

I appreciate the psychologist didn't confirm the duration of Mr L's symptoms, and if these impacted him throughout the entire deferred period. But I think all the other evidence supports that they did. The absence started with a panic attack, Mr L's GP confirmed in May 2024 that his mental health wasn't stable enough for employment, and several therapists referred to Mr L's symptoms of panic and anxiety prior to the psychologist's assessment.

Zurich considers the OH report to support that Mr L's absence was due to work-related factors. But the report concluded that Mr L had reported a significant impact on managing his activities of daily living due to his psychological health, and this would likely make him temporarily medically unfit to sustain a return to work. The OH report did also refer to workplace concerns, and stress related anxiety symptoms that Mr L related to work – but there's nothing in the report to conclude that the continued and ongoing absence was solely or primarily caused by these issues.

Overall, I'm persuaded that Mr L has provided enough evidence to show that he was unable to work in his employment due to his mental health illnesses throughout the deferred period. So, Zurich should accept Mr L met the definition of incapacity and pay his claim in line with the remaining terms and conditions of the policy.

Mr L has provided emails with his employer with regards to his private health insurance, which was a taxable benefit deducted from his pay. He was told he would no longer be eligible for his benefits as the employer was unable to collect the payment through payroll. So, this supports that Mr L wasn't able to access his private health insurance when Zurich declined to pay the income benefit.

For completeness, even if Mr L's private health insurance would have ended simply because he was no longer receiving his usual pay, then I'm satisfied that being without the income benefit would have had an impact on his ability to seek private healthcare. So, I'm not persuaded to change my findings on the distress and inconvenience the unfairly declined income protection claim had on Mr L.

Lastly, Mr L has said his employer couldn't pay his pension contributions when he was no longer receiving pay, or an income benefit. But I think this is something Mr L would need to resolve with his employer, after receiving the income benefit retrospectively, as appropriate. Ultimately, Mr L was entitled to an income benefit under the policy with Zurich, which is what I've considered under this complaint. The policy included an option for his employer to protect the pension contributions, but this wasn't selected. So, I don't think I could fairly hold Zurich responsible for Mr L's employer's decision to stop making the pension contributions. And I think the compensation for distress and inconvenience caused fairly reflects any additional distress and inconvenience in Mr L having to resolve the matter with his employer, as appropriate.

### **My final decision**

My final decision is that I uphold this complaint and direct Zurich Assurance Ltd to take the following action:

- accept Mr L met the policy definition of incapacity for the duration of the deferred period and pay the claim in line with the remaining terms and conditions of the policy,
- add 8% simple interest\* from the date the benefit payments should have been made until settlement, and
- pay Mr L £700 compensation\*\* for the distress and inconvenience caused.

\*If Zurich considers that it's required by HM Revenue & Customs to take off income tax from the interest, it should tell Mr L how much it's taken off. It should also give Mr L a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

\*\*Zurich must pay the compensation within 28 days of the date on which we tell it Mr L accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% simple per annum.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 23 March 2026.

Renja Anderson  
**Ombudsman**