

## **complaint**

Mrs D's complaint concerns her claim for total and permanent disability ("TPD") benefit under a Total Mortgage Protection Plan ("TMPP"). She thinks that St Andrew's Life Assurance Plc should not have declined the claim.

## **background**

Mrs D took out a TMPP in 2006 for a term of five years. This was in conjunction with a loan she took out at the same time. The policy provided a monthly benefit to protect the loan payments. It also included critical illness benefits, including TPD.

In 2011, Mrs D submitted a claim for TPD benefit. The policy required her to be unable to perform at least three activities of daily living for the benefit to be payable.

St Andrew's declined her claim. It noted the medical evidence did not indicate she was unable to meet the criteria for the benefit to be paid. Following Mrs D submitting further evidence it wrote to her again in 2012 to maintain its decision.

As Mrs D remained dissatisfied she referred the matter to this service. She also contacted St Andrew's to make a further claim for the benefit, based on her health at that time. St Andrew's agreed to send a further claim form and started its investigations. But it then realised the policy was no longer in force. As such, it paid £75 to Mrs D for the inconvenience she had been caused. It also explained it could only consider TPD for the time the policy had been active. It had already done this.

Our adjudicator did not uphold the complaint. He thought the medical evidence at the time the policy had ended, including from her treating specialist, suggested she was only unable to perform in full two of the activities of daily living. So St Andrew's was justified in not paying the claim.

Mrs D did not agree with the adjudicator. She sent us additional medical evidence she felt supported her case. But this didn't change the adjudicator's opinion. He explained the new evidence didn't 'outweigh' the comments of Mrs D's treating specialist from the time the claim was considered.

As the matter remains unresolved, it has been passed to me to consider afresh.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mrs D suffered an injury to her arm in her teens. This left her with some residual problems and lack of movement. In 2010, she had a fall which made the injury significantly worse.

In investigating Mrs D's claim, St Andrew's obtained medical evidence, including from her GP and the specialist who had been treating her. This was so as to ascertain whether Mrs D fulfilled the criteria for TPD benefits.

As noted above, the definition of TPD in the policy was for the policyholder being prevented from being able to perform three activities of daily living. In Mrs D's case, the medical evidence indicated she was unable to perform two activities. This was the opinion of the consultant orthopaedic surgeon who treated her. I note Mrs D's GP thought she fulfilled the criteria for three activities. But more emphasis would normally be placed on the treating consultant's opinion.

I appreciate Mrs D has been seriously disadvantaged physically by the injury to her arm. This has undoubtedly had an effect on her daily life. But for the reasons I've explained, I don't think she fulfilled the criteria for the TPD benefit to be paid. I accept Mrs D is likely to be disappointed by this outcome.

**my final decision**

I do not uphold the complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 30 December 2015.

Doug Mansell  
**ombudsman**