

## **The complaint**

Mr M is unhappy that Legal and General Assurance Society Limited declined a claim made on a group income protection policy.

## **What happened**

Mr M has the benefit of a group income protection insurance ('the policy') through his employer, the policyholder. Subject to the remaining terms, the policy can pay out a monthly benefit if Mr M is unable to work due to illness (or injury) after the deferred period.

Mr M was signed off work with "acute stress" in September 2022. Legal and General declined the claim in June 2023 as it concluded Mr M didn't meet the policy definition of incapacity.

The decision was appealed. In its final response letter dated August 2023, Legal and General maintained its position to decline the claim and Mr M brought a complaint to the Financial Ombudsman Service.

Our investigator looked into what happened and didn't uphold his complaint. Mr M didn't agree so his complaint has been passed to me to consider everything afresh to decide.

## **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 has a responsibility to handle insurance claims promptly and fairly. And it shouldn't unreasonably reject a claim.

The policy terms and conditions say that Mr M needs to meet the policy definition of incapacity for the monthly benefit to be paid.

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

It's for Mr M to establish that he has a valid claim under the policy, taking into account the above definition.

For the reasons set out below, I don't uphold Mr M's complaint. I have a lot of empathy for Mr M's situation, and I know he'll be very disappointed, but overall, I think it was fair and reasonable for Legal and General to decline the claim.

- I don't think it was unreasonable for Legal and General to conclude that Mr M wasn't incapacitated throughout the deferred period. It's not disputed that Mr M was signed off work by his GP during (and beyond) the deferred period, initially with "acute stress" and then around halfway through the deferred period, with acute stress reaction (or stress), multiple medical appointments and headaches. But the medical evidence doesn't give a clear picture of how these symptoms specifically impacted his ability to carry out his occupation throughout the deferred period. That's what's

required by the contract of insurance as set out in the policy terms. So, being signed off work by his GP throughout the deferred period doesn't automatically mean the policy definition of incapacity is met. That's because there's a specific policy term which Mr M needs to establish for a claim to be successful.

- The claim form Mr M completed in January 2023 reflects the following as being symptoms stopping him from working: "acute stress, dizziness, headaches and lack of sleep". I'm satisfied that Mr M's symptoms were largely self-reported. There aren't many entries in the GP notes from the deferred period, explaining how Mr M was feeling. The main issues being reported towards the start of the deferred period - in September and October 2022 - were a sore head, lack of sleep and feeling "tired all the time". But it's not clear how these symptoms specifically impacted Mr M's ability to carry out his occupation at that time.
- Mr M was prescribed medication during the deferred period. That included beta blockers and medication to help him sleep. Further, he continued to be prescribed the same dosage of anti-depressant medication he was prescribed in the months leading up to being signed off sick by his GP in September 2022. So, it doesn't look like he required a stronger dosage to help manage his symptoms.
- In around February 2023 – and towards the end of the deferred period – Mr M did have cognitive behavioural therapy. The initial report dated February 2023 reflects that being away from his children was a key trigger for Mr M and there's mention of him having trouble sleeping and concentrating, unable to relax and feeling tired. He was assessed to have severe anxiety and moderately severe depression. It's reported that Mr M didn't feel able to work "at the moment".
- Legal and General vocational clinical specialist also produced a report dated March 2023, at the end of the deferred period. Their psychological assessment scores indicated that Mr M was moderately severely depressed and had severe anxiety. And concludes based on Mr M's "reporting today, in my clinical opinion, based on his presentation, he is unfit for work in this insured role at this time".
- However, the February and March 2023 reports referred to above are from the end of the deferred period. They don't provide much insight into Mr M's symptoms towards the start of the deferred period or why he wasn't able to carry out his occupation then. I'm also conscious that the reports are based on Mr M's self-reporting of his symptoms.
- Although there's mention of Mr M being referred to a psychiatrist for assessment. It doesn't look like this had occurred before the end of the deferred period.
- Mr M has more recently provided the Financial Ombudsman Service with a letter confirming that following a work capability assessment, his claim for universal credit has been accepted. However, this letter is dated around a year after Mr M was first signed off sick with acute stress in September 2022 and I've placed less weight on that decision. That's because I don't know what the capability assessment measured and I'm not persuaded that this supports that Mr M was incapacitated, as defined by the policy, during the entirety of the deferred period.

## **My final decision**

I don't uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or

reject my decision before 4 January 2024.

David Curtis-Johnson  
**Ombudsman**