

The complaint

Mr F complains that MetLife Europe d.a.c has turned down an incapacity claim he made on a group income protection insurance policy.

What happened

The background to this complaint is well-known to both parties, so I've set out a summary of what I think are the key events.

Mr F is insured under his employer's group income protection insurance policy. The policy includes a deferred period of 26 weeks.

In May 2022, Mr F saw his GP, suffering with an infection caused by a flare-up of long-standing Crohn's disease. In June 2022, Mr F was signed-off from work suffering from work-related stress. As Mr F remained unfit for work, his employer made an incapacity claim on the group policy on Mr F's behalf. Mr F said that he was suffering from work-related stress and a flare-up of Crohn's Disease.

MetLife assessed Mr F's claim. It reviewed evidence from Mr F's GP, along with records from occupational health. Ultimately, MetLife concluded that Mr F was suffering from work-related stress. It said it hadn't seen sufficient medical evidence to support a conclusion that Mr F was suffering from a pervasive mental health issue, or a sustained flare-up of Crohn's disease which was significantly affecting his level of function. Therefore, MetLife concluded that Mr F hadn't met the policy definition of incapacity for the whole of the deferred period and so it turned down the claim.

Mr F was unhappy with MetLife's decision and he provided further evidence from his GP in support of his position. He also provided evidence to show that he'd been awarded Personal Independence Payments (PIP). However, MetLife maintained its decision and so Mr F asked us to look into his complaint.

Our investigator didn't think Mr F's complaint should be upheld. She thought the medical evidence indicated that Mr F's symptoms during the deferred period were mainly due to work-related stress. And she felt the evidence showed that it wasn't an illness which was preventing Mr F from returning to work, it was his work situation. She didn't think it had been unfair for MetLife to turn down Mr F's claim.

Mr F disagreed. In summary, he said his concern was that he hadn't been paid due to his work issues, which had caused a mental breakdown. He said he was surprised that the investigator hadn't asked for evidence of the bullying he'd suffered, which had led to his breakdown and caused a flare-up of Crohn's disease. He set out what had happened and that he'd been threatened with losing his job and had been constantly harassed by management. He questioned where in the policy MetLife stated that it didn't cover mental-health issues, whether related to work stress, or general life. He was also unhappy because he'd received information from his employer in which MetLife had stated that it didn't cover work-related stress.

Subsequently, in June 2023, Mr F provided a further letter from his GP. This explained how Mr F's Crohn's disease symptoms affected him and why Mr F had been unable to carry out his own occupation.

The investigator forwarded the evidence to MetLife for its comments. But it didn't think that the new evidence showed that Mr F had been incapacitated by Crohn's disease throughout the 26-week deferred period. And having reviewed the new medical evidence, the investigator still didn't think MetLife had treated Mr F unfairly.

Mr F still felt that it had been unfair for MetLife to turn down his claim and so the complaint's been passed to me 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.

Having done so, whilst I'm very sorry to disappoint Mr F, I don't think it was unfair for MetLife to turn down this claim and I'll explain why.

First I'd like to reassure Mr F that while I've summarised the background to his complaint and his detailed submissions to us, I've carefully considered all he's said and sent us. I'm very sorry to hear about the circumstances that led to Mr F needing to make a claim and I don't doubt how upsetting and worrying the situation has been for him and his family. Within this decision though, I haven't commented on each and every point he's made and nor do our rules require me to. Instead, I've focused on what I consider to be the key issues.

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 terms of the policy and the available medical and other evidence, to decide whether I think MetLife handled Mr F's claim fairly.

I've first considered the terms and conditions of the policy, as these form the basis of Mr F's employer's contract with MetLife. Mr F's employer made a claim on his behalf for incapacity benefit, given he wasn't fit for work. So I think it was reasonable and appropriate for MetLife to consider whether Mr F's claim met the policy definition of incapacity. MetLife provided cover for Mr F's own occupation. I've turned then to look at MetLife's definition of 'incapacity'. This says:

'Unable to perform their own occupation - an insured member, eligible employee or eligible partner, is incapacitated if:

- *they are unable to perform, due to illness or injury, the material and substantial duties required of them in their own occupation which they were performing immediately prior to being incapacitated; and*
- *are not following any other occupation.'*

MetLife has also defined what it means by 'material and substantial duties' as follows: *'occupation-related duties that:*

- *are normally required for the performance of an occupation; and*
- *cannot be reasonably omitted, changed or modified.'*

This means that in order for MetLife to pay incapacity benefit, it must be satisfied that a member is suffering from an illness which prevents them from carrying out the material and substantial duties of their own occupation. And that the illness would prevent them from carrying out those material and substantial duties for *any* other employer or in any other

workplace – it doesn't mean that a member can't carry out their substantive role for their current employer only.

The policy says that MetLife will pay incapacity benefit once a member has been continuously incapacitated for the full deferred period and afterwards. In this case, it means that Mr F needed to be continuously incapacitated for the full 26-week period and afterwards in order for benefit to be paid. Mr F's deferred period ran between June and December 2022.

It's a general principle of insurance that it's for an insured member to show they have a valid claim on their policy. This means it was Mr F's responsibility to provide MetLife with enough evidence to demonstrate that his illness had led to him being unable to carry out the duties of his own occupation for the full 26-week deferred period and afterwards.

MetLife assessed the evidence Mr F provided in support of his claim. While it sympathised with Mr F's position, it concluded that he wasn't suffering from a mental or other illness which resulted in continuous incapacity for the entire deferred period. Instead, it felt that Mr F was suffering with a reaction to his workplace circumstances that most likely didn't amount to a defined medical problem.

I've first looked at the claim forms completed by both Mr F and his employer. Mr F said he was suffering from *'Crohn's disease and anxiety and stress (work)'*. The claim form asked what Mr F believed to be the cause of his illness. Mr F answered: *'work stress'*. Mr F's employer said that the cause of Mr F's absence was *'work-related stress'*. The form asked Mr F's employer to what extent the illness affected Mr F's ability to carry out the main activities of his role. His employer answered: *'claimant is unable to attend work due to work related stress, linked to alleged bullying and harassment.'* This supports Mr F's later account to us that he felt his workplace issues had led to a mental breakdown.

Next, I've considered the available medical evidence for the period spanning the deferred period – June to December 2022. I've carefully considered both Mr F's fit notes for the relevant period, along with his GP's records. I've seen copies of fit notes for June, July, August, October and December 2022. On each note, the doctor has recorded that Mr F wasn't fit for work due to work-related stress.

Mr F's GP records broadly correlate with the diagnosis set out by the GP on each fit note. On 16 June 2022, the GP recorded that Mr F had been under a lot of stress, due to bereavements and *'a lot of stress from work.'* The note says that Mr F intended to self-refer to talking therapy and it seems he was prescribed an anti-anxiety medication.

On 30 June 2022, the GP records state that: (Mr F) *'has had meeting with HR at work. Has been sent home. Advised to take some time off work. Spoke to Union, advised to take some time off work'*. At this point, a fit note was issued, which, as I've explained above, recorded that Mr F was unfit for work due to work-related stress.

In July 2022, the GP noted that Mr F's employer had been in touch to advise him to undergo occupational health assessment. The GP stated that a fit note was being issued and that Mr F *'will consider phased return/amended duties at this stage, otherwise alternative job.'*

Subsequently, in September 2022, Mr F discussed other medical issues with his GP. Amongst other medical issues, the GP recorded: (Mr F) *'has been allegedly bullied. Has contacted HR. Has been off from work...OH (occupational health) involved.'*

I appreciate that the GP notes show that at times between June and December 2022, Mr F suffered from other medical problems, including sciatica and Covid-19. And there is reference to Mr F's long-standing history of Crohn's disease. But there's no indication in

either his medical records or the fit notes that Mr F was incapacitated and prevented from working by any cause other than work-related stress during the deferred period.

In September 2022, Mr F also saw a consultant occupational health physician. I've carefully considered their report and set out what I think are their main points:

'Mr F has told me that he is currently off work due to alleged workplace issues which he described to me as bullying. He discussed several events and issues which he explained justify his views...

He described an associated detriment to his emotional health...his inflammatory bowel disease has been more troublesome...

Mr F understands that I am not able to comment on matters of truth or veracity. Nonetheless, what is clear is that the reported work events have contravened his principles of how he feels things should be done and handled...Such views are known to lead to what is more widely termed as moral injury...

Mr F is currently unfit for work due to elevated levels of anxiety.

The timescale for return to work I doubt will be medically driven. Specifically, I do not anticipate changes in medication to lead to a sustainable return to work and a limited role for counselling, given the apparent presence of significant moral and ethical issues underlying his current absence.

I believe these would need to be addressed to a mutually satisfactory conclusion to result in a return to work...If (Mr F's concerns) can be addressed, it is entirely plausible that he may return to work soon thereafter.'

It appears that the occupational health physician concluded that the main reason for Mr F's absence was work-related stress and the workplace issues he was experiencing. While the report references Mr F's Crohn's disease being more troublesome, it doesn't suggest that this condition caused symptoms which were the cause of Mr F's incapacity.

Mr F spoke with another consultant occupational health physician in March 2023. They considered that Mr F was unfit to work due to a significant exacerbation of Crohn's disease. At this point, it appears that Mr F's workplace issues had been resolved. But in summary, the physician stated that Mr F had reported that since June 2022, he'd experienced worsening and debilitating symptoms of Crohn's disease. This evidence suggested that by March 2023, over two months after the deferred period had ended, workplace stress was no longer a reason for Mr F's absence.

But on the basis of the overall evidence which was provided to MetLife at the time it decided to decline Mr F's claim, I don't think it was unreasonable for it to conclude that the main reason Mr F was off work was due to work-related stress. The majority of the available medical evidence (and Mr F's own account) point to this being the main reason for his absence. I don't think there was enough medical evidence to indicate how or why Crohn's disease or any other illnesses during the deferred period caused Mr F a sustained period of incapacity.

I'm mindful though that since MetLife issued its decision to turn down the claim and again since our investigator issued her assessment; Mr F's GP has provided further evidence. I've gone on to think about whether it was fair for MetLife to maintain its position.

In April 2023, Mr F's GP wrote to MetLife in support of Mr F's position. They said:

'I am writing to confirm that since May 2022, he has had significant flare-ups of both his Crohn's disease, but also his mental health, simultaneously. So, I can confirm that he has not been fit to work due to both physical and mental health problems since June 2022'.

The letter further referred to Mr F's self-management for Crohn's disease with steroids. The GP stated: *'Consequently, his medical record may underrepresent his level of illness, but safe to say he has been significantly unwell and unable to work through this period.'*

MetLife considered the GP's evidence and accepted that Mr F may have suffered flare-ups during the deferred period which he self-managed. But it felt the letter affirmed that there was little in the medical records to show the impact on Mr F's function during the relevant time. Nor did it think that the letter indicated that there'd been a sustained impact on Mr F's function throughout the entire deferred period which meant he'd been unable to perform the material and substantial duties of his role. I don't think this was an unreasonable position for MetLife to take, taking into account the content of the fit notes, medical records and occupational health report.

Mr F subsequently provided a second letter from his GP, dated 27 June 2023. This letter explained how Crohn's disease affected Mr F's ability to work and stated that *'during flares, he is significantly unwell.'* The GP further explained the symptoms Mr F experienced during a flare-up and that in Mr F's case, his illness could also cause recurrent UTIs.

MetLife had an opportunity to comment on the letter. It felt that some of the GP's comments were a general description of the symptoms of Crohn's disease. It said there was only one mention of a UTI in Mr F's medical records and that this would only have led to a short period of absence. It acknowledged that Crohn's was a debilitating disease, but in this case, the contemporaneous evidence (and Mr F's own words) showed that the primary reason for his absence were the workplace issues.

I've thought very carefully about all of the evidence that's been provided, including the GP's letter of June 2023. It's important I make it clear that I'm not a medical expert. In reaching a decision, I must consider the evidence provided by both medical professionals and other experts to decide what evidence I find most persuasive. It's clear that Mr F was suffering from symptoms which can also be indicative of a significant mental health condition and it's also clear that he has a long-standing history of a debilitating condition which can cause serious flare-ups. I'm conscious that Mr F was prescribed anti-anxiety medication and was referred to talking therapy. And I'm aware he's also been awarded PIP.

But, taking into account the totality of the medical and other evidence available to MetLife, I think it was reasonable for MetLife to conclude that the evidence showed Mr F was suffering from an understandable reaction to the workplace situation in which he found himself. And that the main reason for Mr F's absence between June and December 2022 was likely the workplace stress he was experiencing as opposed to a mental health condition. It also seems, from the first occupational health consultant's report, that Mr F wouldn't be in a position to return to work until the workplace issues had been resolved. I think this evidence points towards the main cause of Mr F's absence being the workplace issues. I think it indicates too that he was suffering from an understandable reaction to his personal circumstances - rather than a functionally impairing mental illness, or a sustained impact on his function as a result of Crohn's disease.

This means I don't find that MetLife acted unfairly when it decided that Mr F wasn't suffering from a significant mental health condition or other functionally impairing illness, during the deferred period, which prevented him from carrying out the material and substantial duties of his occupation. I'd add too that I don't think it was unreasonable for

MetLife to make an early indication to Mr F's employer that if the claim was found to be down to work-related stress, then it was unlikely to be covered. That was its assessment based on the information it had seen at that point.

Overall, I don't think it was unfair for MetLife to conclude that Mr F's absence wasn't due to an incapacity in line with the policy definition. Instead, I think it fairly concluded that the main cause of Mr F's absence was more likely due to workplace stress and a reaction to his circumstances. So despite my natural sympathy with Mr F's position, I find it was fair and reasonable for MetLife to turn down his income protection claim.

My final decision

For the reasons I've given above, my final decision is that I don't uphold this complaint,

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 28 August 2023.

Lisa Barham
Ombudsman