

The complaint

Mr M complains because a Society of Lloyd's syndicate declined his claims under his absence insurance policy.

All references to Society of Lloyd's include the scheme administrators named in the policy terms and conditions as being appointed to deal with claims on its behalf.

What happened

Mr M held an absence insurance policy (also marketed as locum insurance), with the benefits provided by Society of Lloyd's. Mr M was sold the policy in 2015 by, and the policy subsequently renewed through, a broker who I'll call 'P'.

Mr M says he has always been a self-employed partner in a medical practice. In October 2018, Mr M took 24-hour retirement but continued to work at the practice. In March 2020, Mr M left the practice and intended to work as a locum. However, as Mr M received a Covid-19 shielding letter, this didn't happen.

In August 2020, Mr M asked P whether he could claim under the policy as he was unable to work because he was shielding. P said this wasn't something that was covered under the policy.

In October 2020, Mr M told P he was unable to work because of an exacerbation of Crohn's disease the previous month. Mr M completed a claim form, which P sent to Society of Lloyd's in January 2021. In February 2021, Society of Lloyd's wrote to Mr M's GP to ask about Mr M's medical history. Society of Lloyd's also asked Mr M for evidence of his earnings in the 12 months leading up to his inability to work due to Crohn's. Society of Lloyd's chased Mr M's GP for the information it had requested several times but, ultimately, this was never received. In July 2021, Society of Lloyd's asked Mr M for confirmation of his employment details. Mr M said he had already sent this to Society of Lloyd's in February 2021. In September 2021, Mr M sent Society of Lloyd's a letter outlining his employment history.

On 24 September 2021, Society of Lloyd's wrote to Mr M and said his claim wasn't covered because he hadn't been working since April 2020.

Unhappy, Mr M complained to both P and to Society of Lloyd's.

Society of Lloyd's sent Mr M a first response to his complaint on 23 November 2021. It said Mr M's claim for shielding wasn't covered under his policy, and his claim for inability to work due to Crohn's wasn't either. Society of Lloyd's refunded the premiums which Mr M had paid for the policy between 1 April 2020 and 29 October 2020. Society of Lloyd's sent Mr M a final response letter in September 2022. It said Mr M's policy should have been amended when he retired from the medical practice but, despite this, it had considered his claim. Society of Lloyd's maintained its position that the claim relating to Crohn's wasn't covered but paid Mr M £350 compensation for its delays and communication failings.

As Mr M remained unhappy, he brought the matter to the attention of our service. One of our investigators looked into what had happened and said she didn't think Society of Lloyd's had acted unfairly or unreasonably by declining Mr M's claims. She said she thought the £350 compensation which Society of Lloyd's had paid was fair and reasonable for the trouble and upset Mr M experienced.

Mr M didn't agree with our investigator's opinion so the complaint was referred to me. I made my provisional decision about the complaint in June 2023. In it, I said:

'When making this provisional decision, I can only comment on the regulated activities that Society of Lloyd's is responsible for. These are the decision to decline Mr M's claim and the delays in doing so.

P is a different financial business to Society of Lloyd's and is regulated by the Financial Conduct Authority in its own right. Society of Lloyd's isn't responsible for anything P did. So, if Mr M is unhappy with how this policy was sold or renewed, with any of the information given to him by P or with P's delays, then he'd need to bring a separate complaint to our service about P. If Mr M wishes to do this then he should let our investigator know when responding to my provisional decision.

Industry rules set out by the regulator say insurers must handle claims promptly and fairly, provide appropriate information on the progress of a claim and shouldn't unreasonably reject a claim. I've taken these rules into account when making my provisional decision.

I understand Society of Lloyd's says the purpose of this insurance is to provide benefits to a medical practice if Mr M was unable to work. And the policy does say this is the aim. However, as Mr M has correctly pointed out, the policy is held in his own name. According to the 2019 policy schedule, Mr M is both the 'insured' and the 'insured person'. So, any benefit due under the contract of insurance would be payable to Mr M as the 'insured'.

But I don't think any benefit is due to Mr M, as I don't think either of his claims are covered under his policy.

The terms and conditions of Mr M's policy provide for payment of a weekly benefit (after a deferred period) if an insured person is totally unable to carry out their usual occupation due to illness or accidental bodily injury.

I understand Mr M says 'shielding' isn't mentioned in his policy. It doesn't need to be. It's not possible for a policy to list every risk that is and isn't covered. I don't think isolating to prevent or reduce the risk of contracting Covid-19 (even if an existing illness is the reason why isolation is advised) can fairly be categorised as an illness (or an accidental bodily injury) which this policy covers. The fact that some employers may have paid employees sick pay for shielding and/or that another of Mr M's insurance policies may have covered a claim for shielding isn't relevant to my decision about whether I think Society of Lloyd's needs to pay Mr M's claim under this policy. Mr M's other insurance policy may have different terms and conditions and/or the other insurer may have chosen to honour claims for shielding as a commercial decision. The terms and conditions of Mr M's contract with Society of Lloyd's set out its obligations to Mr M, and I don't think a claim for shielding is covered.

Mr M didn't have a usual occupation at the time he became unable to work due to Crohn's. He wasn't working at the time and therefore had no income at the time for this policy to protect. This means Mr M's second claim isn't covered under the terms and conditions of his policy either – regardless of the reason why he wasn't working or what his intentions were when he left the medical practice in March 2020. I understand Mr M's accountant has

confirmed his earnings for the 12 months up to the point he became unable to work due to Crohn's and Mr M wants Society of Lloyd's to pay him a percentage of these earnings, but this isn't how the policy operates. The policy pays a weekly benefit in respect of each complete week that Mr M would ordinarily have worked were it not for his incapacity. The policy has no provision for the payment of a claim based on historic earnings or loss of income which was envisaged but never earned.

So, while I'm sorry to disappoint Mr M, I don't think either of his claims are covered under his policy. I think the position Society of Lloyd's took in giving Mr M a refund of premiums from 1 April 2020 to 29 October 2020 is fair and reasonable in the circumstances.

Society of Lloyd's isn't responsible for any delays by P in sending information to it. Society of Lloyd's also isn't responsible for Mr M's GP's failure to respond. However, even leaving these issues aside, I don't think Society of Lloyd's handled Mr M's second claim within a reasonable timeframe and I don't think Society of Lloyd's communicated with Mr M as clearly as it could have about what information it needed and why. Society of Lloyd's has acknowledged these issues and has paid Mr M £350 compensation. I've taken into account our published guidance on the payment of compensation for distress and inconvenience and I'm satisfied that a payment of £350 is fair and reasonable in the circumstances for the impact of Society of Lloyd's actions on Mr M.'

Mr M didn't respond to my provisional decision. Society of Lloyd's replied and said it agreed with the outcome I'd reached. However, Society of Lloyd's said my statement that Mr M was both the 'insured' and the 'insured person' under this policy was factually incorrect. Society of Lloyd's said the absence insurance proposal form, of which it provided me with a copy, stated that the proposer was Mr M's practice, at the practice address. Society of Lloyd's said the 'insured' noted on the policy schedule was therefore Mr M in his capacity at the practice, at the practice address.

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.

I note what Society of Lloyd's has said about the 'insured' and the 'insured person', but I don't agree with its submissions that I've made a factual inaccuracy in my provisional decision. While it's clear from the new evidence which Society of Lloyd's has now provided (the absence insurance proposal form) that the proposer of the insurance was Mr M's practice, I still don't think it's clear from the 2019 insurance policy schedule that any benefits would be payable to the practice rather than to Mr M directly.

But, in any event, and regardless of why Society of Lloyd's agreed to consider Mr M's claims, I don't think the claims are covered under this policy for the reasons set out in my provisional decision. So, I won't be directing Society of Lloyd's to do anything further.

My final decision

My final decision is that 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 9 August 2023.

Leah Nagle
Ombudsman