An tOmbudsman Seirbhísí Airgeadais agus Pinsean
Financial Services and Pensions Ombudsman

Decision Ref:	2018-0202
Sector:	Insurance
Product / Service:	Income Protection and Permanent Health
Conduct(s) complained of:	Rejection of claim - fit to return to work
Outcome:	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

Background

The Complainant was a member of a Group Income Protection Scheme. The Grantees of this Scheme are a named Trade Union, the individual members of which can organise cover through the Grantees' Broker, which administers the policy. The Company is the Insurer of this Scheme, responsible for underwriting the applications for cover and assessing the claims. The Complainant ceased to be a member of the Group Income Protection Scheme on 22 May 2015, when he retired.

The Complainant's Case

The Complainant submitted an income protection claim to the Company on 16 June 2015, as he was unfit to work due to *"psychiatric work related stress"*, with symptoms of *"stress and anxiety"*. The Complainant had been placed on certified sick leave from 2 October 2014 and his sick pay entitlement was reduced to 50% of his salary with effect from 8 January 2015. The Complainant later took early retirement on ill health grounds on 22 May 2015. The Company, however, declined his income protection claim on 29 September 2015 as it concluded from the medical evidence obtained that the Complainant did not meet the policy definition of disablement, a decision it later upheld on appeal on 7 March 2017.

In his correspondence to this Office dated 14 March 2018, the Complainant submits, as follows:

> *"I officially retired from my position…on the 22/5/15 due to ill health and permanent infirmity. This disability was brought about by a toxic work environment and a*

situation of workplace bullying and harassment which my employer, despite numerous formal and informal requests, failed to address.

I was unable to continue in my employment and work in my previous role due to escalating anxiety and stress which I suffered at work and during the subsequent periods out of work, whilst on sick leave. These diagnoses were certified and confirmed by my family doctor, [Dr K. McP.] *and my consultant psychiatrist* [Dr J. H.]*…My symptoms include sleep disturbance, depression, weight loss, anxiety, heart palpitations, memory problems and suicidal ideation. …*

[I] *specifically point to the report of my own consultant* [Dr J. H.]*. It is stated clearly in his report of the 20/11/16 that "*[The Complainant] *is unable to return to his previous work as to do so would lead to a relapse in his mental health symptoms. It does seem to me as if* [the Complainant] *fulfils the definition of total disablement under the policy". There is no realistic possibility of my being able to return to work with* [my Employer] *to carry out duties pertaining to my "normal occupation". I am not capable of and will never be capable of returning to work.*

[The Company] *arrived at their decision to decline my claim based on reports obtained from their own nominated consultants,* [Dr P. W.] *and* [Dr D. M.] *and wholly disregarded the reports of my consultant psychiatrist* [Dr J. H.]*".*

In addition, the Complainant's Representative sets out his complaint, as follows:

"[The Company]*, in arriving at their decision have relied upon the medical examinations carried out by* [the Company's] *nominated psychiatrists, namely* [Dr P. W.] *and* [Dr D. M.] *and haver, in effect, wholly disregarded the report of* [the Complainant's] *psychiatrist,* [Dr J. H.]*.*

The reality is that [the Complainant] *is unable to carry out the duties pertaining to this "normal occupation" by reason of disablement as defined in the Definition. This is in stark contrast to* [the Complainant's] *exemplary work attendance record over a 30 year period up until June 2013.*

The Complainant *"wants* [the Company] *to admit and accept my claim. I firmly believe, and am so advised, that my claim should be admitted"*.

The Complainant's complaint is that the Company wrongly or unfairly declined his income protection claim.

<u>The Provider's Case</u>

Company records indicate that it received an income protection claim from the Complainant on 16 June 2015, wherein he listed the exact nature of his condition as *"psychiatric work related stress"*, his symptoms as *"stress and anxiety"* and the date he had ceased working as *"02/10/2014"*. The Complainant's Employer subsequently advised that the Complainant had been placed on certified sick leave from 2 October 2014 and that his sick pay entitlement

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was reduced to 50% of his salary with effect from 8 January 2015. The Company notes that this date ties in with the expiry of the deferred period under the policy that the Complainant was required to serve before a claim could be considered. This deferred period is defined as the aggregate of the first 92 days in any 12 month period of disablement, or the aggregate of the first 183 days in any four year period of disablement.

In addition, the Company notes that the policy also outlines the timeframe in which claims should be notified, as follows:

> *"Fully completed claim forms must be returned to the Company not later than 2 months prior to the end of the Deferred Period …*
>
> *If fully completed claim forms are not received within 3 months after the expiration of the Deferred Period, no amount of Benefit shall be paid by the Company under this Policy in respect of that Insured Person".*

As the Complainant did not submit his income protection claim to the Company until June 2015, some five months after the expiration of the deferred period. However, despite this late notification, the Company agreed to consider the Complainant's claim. An income protection claim is paid where the policyholder meets the policy definition of disablement, as follows:

> *"Total disablement shall be deemed to exist where (a) the Insured Person is unable to carry out duties pertaining to his normal occupation by reason of disablement arising from bodily injury sustained or sickness or illness contracted and (b) the Insured Person is not engaging on a full-time or part-time basis in any other occupation (whether or not for profit or reward or remuneration, including benefit in kind)".*

As part of its assessment of his claim and in order to determine whether or not he met this policy definition of disablement, the Company arranged for the Complainant to attend an independent medical examination with Dr P. W., Consultant in General Adult Psychiatry, on 29 July 2015. The ensuing report from Dr P. W. dated 29 July 2015 advised, among other things, as follows:

> *"*[The Complainant's] *symptoms are mild in severity … his current symptoms are not having a significant impact on his activities of daily living … I believe* [the Complainant] *has the ability to return to his job … His current symptoms are not of a severe nature that would prevent him doing his job".*

The Company wrote to Dr P. W. on 24 August 2015 to clarify some points made in his report of 29 July 2014 and his reply, dated 1 September 2015, advised, among other things, as follows:

> *"In terms of his mental health, I feel* [the Complainant] *has not lost the skills he built up over years of experience working in local authorities and could return to work…I feel the two issues of workload and mental health difficulties need to be separated.*

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> *It would appear the duties attached to his role need to be looked at rather than attributing his difficulties to poor mental health alone"*.

As a result, and based on the medical evidence received, the Company concluded that the Complainant did not meet the policy definition of disablement and that he was fit to return to work. The Company informed the Complainant by way of correspondence dated 29 September 2015 that it was unable to admit his claim and advised that any appeal should be submitted within three months of the date of that letter, that is, by 29 December 2015.

The Company was subsequently contacted by the Complainant's Representative regarding his intention to appeal the decision. As a result, the Company wrote to the Complainant's Representative on 27 January 2016 to advise that it would be happy to consider any up-to-date objective specialist evidence that he may wish to submit in support of the appeal.

Some 11 months later, on 19 December 2016, the Company received correspondence from the Complainant's solicitor, enclosing a report from Dr J. H., Consultant Psychiatrist, dated 20 November 2016. This appeal was significantly late and under normal circumstances the Company would not have considered it. The Company also notes that the Complainant's only attendances with his treating specialist appear to have been made by self-referral and also for the purposes of appeal rather than him requiring any ongoing treatment. Even though it was under no obligation to process an appeal, in order to be fair the Company arranged for the Complainant to attend for a full independent medical examination with Dr D. M., Consultant Psychiatrist and his ensuing report dated 9 February 2017, advised, among other things, as follows:

> *"*[The Complainant] *was not depressed or anxious…He is on no treatment of any kind since he finished his counselling in December 2014…It is my opinion that* [the Complainant] *is currently fit to carry out his occupation on a full time basis…* [The Complainant] *stopped work due to distress he experienced as a result of bullying and harassment…Because the IR problem could not be resolved, in order to alleviate his distress and maintain an income* [the Complainant] *retired on ill health grounds…nobody can be expected to continue in such an environment without experiencing distress. This does not imply a mental illness or disability. The solution to this is to address the toxic work environment. Just because this toxic work environment could not be solved it does not imply that* [the Complainant] *had a mental illness or injury"*.

As a result, the Company wrote to the Complainant on 7 March 2017 to advise that as it remained the opinion of the Company that the Complainant was fit to carry out the duties of his occupation, that his appeal was unsuccessful.

In this regard, the Company notes that the reports from two independent psychiatrists both confirm that there are no medical issues preventing the Complainant from carrying out his duties. In addition, the Company states that it is satisfied that it is clear from all of the medical evidence received throughout its assessment of the claim that there were workplace difficulties that contributed to the Complainant's absence from work and subsequent early retirement.

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In its correspondence to this Office dated 8 May 2018, the Company advises, as follows:

> *"In relation to the weight of medical evidence I would like to clarify what is meant by this. The two independent medical examiners have a sole task of assessing fitness for work. They have no therapeutic or ongoing relationship with the individual and their brief is to provide detailed objective medical reports which back up their opinion on whether or not a person is fit. It is clear from both reports that detailed assessments were undertaken…I confirm it is not a numbers game regarding how many doctors have different opinions.*
>
> *What is important is the detailed and objective reports showing how those conclusions were reached which provides weight to the medical reports. I still believe the weight of detailed medical objective evidence shows* [the Complainant] *to be fit for his role, and I confirm opinions from all doctors were taken into consideration.*
>
> *There are usually separate criteria to assessment of an income protection claim and for someone to ill health early retire. Whilst, I accept in many cases the cause may be similar, if not the same, the fact is whether an individual has early retired or not will not have any bearing on how we assess if someone is medically fit or not whilst looking at an income protection claim"*.

When assessing claims of this nature, the Company must be guided by the objective medical evidence obtained during the course of the claim. In the Complainant's case, the weight of this evidence confirms that he is capable of carrying out the duties of his normal occupation on a full time basis and that his absence was due to work place rather than medical issues. In this regard, these industrial relations issues cannot be a factor for the Company when assessing income protection claims and a claimant must be unfit for work due to medical reasons in order to be eligible for income protection benefit. Whilst the Company also notes that the Complainant has taken early retirement from his role and therefore has no job to return to, this cannot however be a factor in its decision.

The Company states that it is satisfied from the medical evidence obtained that the Complainant did not meet the policy definition of disablement and that it thus declined his income protection claim in accordance with the policy terms and conditions.

Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint.

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Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties on 17 October 2018, outlining the preliminary determination of this office in relation to the complaint.

The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

In the absence of additional submissions from the parties, my final determination is set out below.

The complaint at hand is, in essence, that the Company wrongly or unfairly declined the Complainant's income protection claim. In this regard, the Complainant submitted an income protection claim to the Company on 16 June 2015 stating that he was unfit to work due to *"psychiatric work related stress"*, with symptoms of *"stress and anxiety"*.

The Complainant had been placed on certified sick leave from 2 October 2014 and his sick pay entitlement was reduced to 50% of his salary with effect from 8 January 2015. He later took early retirement on ill health grounds on 22 May 2015. The Company, however, declined his income protection claim on 29 September 2015 as it concluded from the medical evidence obtained that the Complainant did not meet the policy definition of disablement, a decision it later upheld on appeal on 7 March 2017.

In his correspondence to this Office dated 14 March 2018, the Complainant submits, as follows:

> *"I officially retired from my position…on the 22/5/15 due to ill health and permanent infirmity. This disability was brought about by a toxic work environment and a situation of workplace bullying and harassment which my employer, despite numerous formal and informal requests, failed to address.*
>
> *I was unable to continue in my employment and work in my previous role due to escalating anxiety and stress which I suffered at work and during the subsequent periods out of work, whilst on sick leave. These diagnoses were certified and confirmed by my family doctor,* [Dr K. McP.] *and my consultant psychiatrist* [Dr J. H.]*…My symptoms include sleep disturbance, depression, weight loss, anxiety, heart palpitations, memory problems and suicidal ideation. …*
>
> [I] *specifically point to the report of my own consultant* [Dr J. H.]*. It is stated clearly in his report of the 20/11/16 that "*[The Complainant] *is unable to return to his*

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previous work as to do so would lead to a relapse in his mental health symptoms. It does seem to me as if [the Complainant] *fulfils the definition of total disablement under the policy". There is no realistic possibility of my being able to return to work with* [my Employer] *to carry out duties pertaining to my "normal occupation". I am not capable of and will never be capable of returning to work.*

[The Company] *arrived at their decision to decline my claim based on reports obtained from their own nominated consultants,* [Dr P. W.] *and* [Dr D. M.] *and wholly disregarded the reports of my consultant psychiatrist* [Dr J. H.]".

Income protection claims, like all insurance policies, do not provide cover for every eventuality; rather the cover will be subject to the terms, conditions, endorsements and exclusions set out in the policy documentation. As a result, the Complainant must satisfy the policy definition of disablement in order to have a valid income protection claim. In this regard, Section 1, 'Disablement', of the applicable Income Protection Benefits policy document provides, as follows:

"For the purpose of this Policy

(i) total disablement shall be deemed to exist where (a) the Insured Person is unable to carry out duties pertaining to his normal occupation by reason of disablement arising from bodily injury sustained or sickness or illness contracted and (b) the Insured Person is not engaging on a full-time or part-time basis in any other occupation (whether or not for profit or reward or remuneration, including benefit in kind)".

As part of its claim assessment, the Company arranged for the Complainant to attend for an independent medical examination with Dr P. W., Consultant in General Adult Psychiatry and I note that his ensuing report dated 29 July 2015 advises, as follows:

*"**7. Reasons** **[the Complainant]** **said he cannot work***

7.1 [The Complainant] *said "I wouldn't be able to go back to work". He has lost confidence in himself and in his employer for not dealing with or acknowledging his difficult work situation. He said he would struggle with presentations…and does not see himself returning to work even if his line manager was no longer there.*

7.2 His reported interpersonal difficulties with his line manager and alleged bullying against him. He tried unsuccessfully to resolve the difficulties on a number of occasions. He requested a transfer but this was not granted and made a formal complaint through his Solicitor just prior to going on sick leave …

***15. Conclusions** …*

Q4 In your opinion, is [the Complainant] *currently fit to carry out his normal occupation on a full time basis?*

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I believe [the Complainant] *has the ability to return to his job. However, he has strong anxiety and avoidance behaviour around work. His confidence to do his job has suffered and he fears a recurrence of symptoms if he returns to work. His current symptoms are not of a severe nature that would prevent him doing his job.*

Q5 *In your opinion, if* [the Complainant] *is currently unfit to work on a full time basis, is he currently fit to commence work on a phased return to work basis?*

[The Complainant] *has worked with* [his Employer] *most of his life. He reports low self confidence but I do not feel he has lost the ability to do his job and he could return on a full time basis. Resolution of the I.R. issues that precipitated his sick leave in the first place would be desirable.*

Q6 *What is the future prognosis of the condition?*

[The Complainant] *is functioning well at the moment and his recovery has been sustained over time. He does not feel he would cope with a return to work and is somewhat relieved to have taken early retirement. A return to work would probably result in an increase in anxiety especially in the initial stages and is something* [the Complainant] *is keen to avoid"*.

I note that further correspondence from Dr P. W., Consultant in General Adult Psychiatry, dated 1 September 2015 advises, as follows:

"In terms of his mental health, I feel [the Complainant] *has not lost the skills he built up over years of experience working* [with his Employer] *and could return to work.*

Clearly, one person can only do so much and if the duties he was asked to fulfil were excessive then this is best addressed by reducing his workload. I feel the two issues of workload and mental health difficulties need to be separated. It would appear the duties attached to his role need to be looked at rather than attributing his difficulties to poor mental health alone.

In terms of his anxiety and the likelihood it would increase upon a return to work, this is to be expected in anyone returning after a prolonged absence. The anticipatory anxiety that he is likely to experience should ease as time goes by".

In addition, I also note the Report from Dr J. H., the Complainant's own treating Consultant Psychiatrist, dated 20 November 2016, as follows:

"…in April of 2013 [the Complainant's] *role changed and he also got a new line manager.* [The Complainant] *described being the subject of a series of incidents of a bullying nature of increased severity involving this line manager. This led to* [the Complainant] *presenting with signs and symptoms of depression and anxiety. These included hyperventilation, palpitations, headaches, disengagement from family, sleep disturbance, constant unfocused worry, and distraction from normal activities.*

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He also had suicidal ideation and a death wish. He also had physical symptoms of nausea and vomiting and weight loss of 1.5 stone over the course of a year. Efforts were made by himself and by his union representatives and legal representatives to get [his Employer] *to resolve the governance issues at work which had led him to these symptoms. Despite his long experience, his qualifications and his expertise* [his Employer] *were unable to move him to another area of work that would take him away from the line manager that was causing his symptoms. The prime driver in* [the Complainant's] *subsequent disablement was the relationship that developed between him and the manager whose management style with* [the Complainant] *was of a dismissive, demeaning and aggressive nature.*

When I assessed [the Complainant] *in April of 2015 he had been off work for some time under a medical certification from his general practitioner, I recorded that he still seemed to present with mild depressive symptomatology but that the major symptoms had disappeared since he had been on sick leave and out of contact with his line manager, My opinion at the time he had a mixed anxiety and depressive reaction in response to the negative relationship he had with his line manager. The only way to sure this was to remove him from that situation. This clinical impression was supported by the reduction of his symptoms once he was on sick leave and away from the line manager. It was also supported by the fact that any thought of return to work or any occasion that brought him near the building where he had been based caused a recurrence of symptoms …*

I have reviewed the reports of my colleague Dr P. W.]*. Both reports seem to emphasise the issue of workload as being at the root of* [the Complainant's] *problems. My original and follow up assessments clearly indicate that workload was a side issue as regards* [the Complainant's] *ill health,* [The Complainant] *attempted to address his concerns about the workload he was experiencing with his line manager. It was the manager's response to these attempts that resulted in the mental health problems that* [the Complainant] *suffered from and that led to his early retirement from work …*

Summary and Conclusion

[The Complainant]*, a man of wide experience and specialisation in working in a highly responsible job…suffered mental health problems secondary to a negative relationship he had with his line manager. Efforts on his behalf to resolve these were unsuccessful. This led to his health deteriorating to the extent that he was unable to carry out his work. His symptoms generalised outside the specific work relationship. My recent review of* [the Complainant] *lead me to the opinion that he should seek therapy for his continuing symptoms of depression that have resulted from this most unfortunate occurrence in his life.*

[The Complainant] *is unable to return to his previous work as to do so would lead to a relapse in his mental health symptoms. It does seem to me as if* [the Complainant] *fulfils the definition of total disablement under the policy as he is not able to carry*

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out the duties pertaining to his normal occupation and he is not engaging on a full time or part time basis in any other occupation". ".

I note that as part of his appeal, the Company arranged for the Complainant to attend for an independent medical examination with Dr D. M., Consultant Psychiatrist and his ensuing report dated 9 February 2017, advises, as follows:

*"**Background:** …*

At interview today [the Complainant] *said that the main issue was with his new line manager.* [The Complainant] *said that he always had a good record, had no sick leave until his new manager took over in June 2013. He said following that was 18 months of bullying and harassment. This new manager humiliated him at meetings. This led to his depressive and anxiety symptoms. He said on one or two occasions he felt suicidal.*

In addition there was a threefold increase in his workload. [The Complainant] *felt that he could cope with a workload but that the bullying and harassment was not dealable with. He went through the usual procedures of approaching his line manager who said he would deal with it. When it was not dealt with he engaged a solicitor. He also engaged with his union. None of these agencies were able to resolve the conflict with his manager. He said he was advised that his only option was to retire. He says that he is 'still not over it'.*

He said he is certainly feels [sic] and is a lot better now than he was when he was at work. He said, however, he thought he would be over it but that the whole experience has taken something from him. He feels let down by the organisation that they supported the bully and closed ranks to protect themselves …

Treatment

He had counselling for eight sessions…He has had no other treatment. He has not had any medication. He is not on any treatment at the moment …

[The Complainant's] ***Perception of What is Stopping him from Working:***

He said with regard to going back to his old job that he would not be able to face the pressure of a job where he was managing 14 supervisors and 100 staff. He said the thought of it fills him with dread. He feels he would not be able to handle it. Also as the same personnel issues exist he would have a recurrence of his symptoms, such as headache, poor sleep and hyperventilation when he got a phone call from his manager. With regard to returning to work in general he said that he would love to work part time or full time but he felt given his current condition he would not be able to give a commitment to be able to attend and follow through on things. He said this would apply even in a non-toxic work environment. He has no plans to return to work. He has had no treatment since December 2014 when he finished his counselling. He

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has had no medication. He has had no vocational rehabilitation. He said he was busy at home as his wife was working full time and was out from 8am until 8pm …

4. Is [the Complainant] *currently fit to carry out his normal occupation on a full time basis?*

It is my opinion that [the Complainant] *is currently fit to carry out his occupation on a full time basis. This is based on the following:*

i. [The Complainant] *stopped work due to distress he experienced as a result of bullying and harassment.*

ii. Even though he went through the normal procedures of talking to his manager, his union and engaged a solicitor, he was unable to resolve these industrial relations issues.

iii. Nobody can be expected to work in such a toxic environment without experiencing distress.

iv. Because the IR problem could not be resolved, in order to alleviate his distress and maintain an income [the Complainant] *retired on ill health grounds.*

v. Because of the toxic work environment nobody can be expected to continue in such an environment without experiencing distress. This does not imply a mental illness or disability.

vi. The solution to this is to address the toxic work environment. Just because the toxic work environment could not be solved it does not imply that [the Complainant] *had a mental illness or injury.*

vii. [The Complainant] *is functioning fully from early in the morning until late at night. He is running the household, learning a language and taking exercise. He is able to take enjoyment in his activities.*

viii. While he is not mentally ill he could be described as not happy with his situation as he is young to retire and left under difficult circumstances. However, this unhappiness does not equate to a mental illness. The benefits of work are well documented.

ix. [Dr J. H.]*, in his report* [dated 20 November 2016]*, stated that because there was a negative relationship with his line manager, causing symptoms, that 'the only way to cure this was to remove him from the situation', and 'this clinical impression was supported by the reduction of symptoms once he was on sick leave and away from the line manager'*. [Dr J. H.] *notes that '…management style with* [the Complainant] *was of a dismissive, demeaning and aggressive nature' – Being unable to work under such conditions is normal and while distressing does not imply disability. If an employee is in dispute due to being bullied, the dispute should be addressed. Designating the employee as disabled, a path of least resistance, to sidestep the problem for all parties is not appropriate.*

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x. *This assessment would seem to receive some support from the fact that he has had no substantive treatment. He has not been treated by a psychiatrist apart from seeing* [Dr J. H.] *for two reports. He is much better away from the situation. He had not taken* [Dr J. H.]*'s advice for therapy. He has had no medication at any stage for a psychiatric problem and mas made no efforts to find another job or for vocational rehabilitation.*

xi. *When asked had he looked for other jobs he said he was too busy as his wife was working full time and was out from 8am until 8pm …*

6. What is the prognosis of the condition?

The prognosis is that [the Complainant] *does not currently have a psychiatric diagnosis and if he were to work in a safe and healthy work environment would be able to function adequately"*.

I note that the Complainant advises in his correspondence to this Office dated 14 March 2018, as follows:

> *"I also developed heart trouble in 2015, which I attribute directly to the circumstances I found myself in. I am currently in the care of the Mater Private Hospital cardiology unit.*

I note that in its reply dated 4 April 2018, the Company advises, as follows:

> *"*[The Complainant] *references cardiac issues from 2015 which he did not reference on his claim form, nurse interview* [or] *examination with* [Dr P. W.]. [Dr J. H.] (the Complainant's own treating doctor) *made no reference to a cardiac issue either. From* [Dr D. M.]*'s report, it was noted* [the Complainant] *had cardiac palpitations in late 2015 for which he was investigated and no abnormality was found. He further notes these palpitations are not an issue for him now and that he is* [on] *medication for this. I am satisfied we were correct to assess* [the Complainant's] *claim on mental health grounds and had no reason to review for cardiac issues which inferentially appear to have occurred after we made our decision on the claim and in any event, were thankfully not a serious problem at the time"*.

In this regard, as the Complainant submitted an income protection claim to the Company on 16 June 2015 stating that he was unfit to work due to *"psychiatric work related stress"* with symptoms of *"stress and anxiety"* and had been placed on certified sick leave from 2 October 2014, I accept the Company's position that it was correct to assess the Complainant's claim on mental health grounds and that there was no information advanced at that time, or since, to warrant a reassessment of the claim submitted with regard to cardiac issues.

Having examined all of the documentation before me, I accept that it was reasonable for the Company to conclude from all of the medical evidence received throughout its assessment of the Complainant's claim, including the Report from the Complainant's own

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treating Consultant Psychiatrist, Dr J. H., dated 20 November 2016, that there were workplace difficulties that contributed to the Complainant's absence from work and subsequent early retirement and that the Complainant did not meet the policy definition of disablement. As a result, I accept that the Company declined the Complainant's income protection claim in accordance with the policy terms and conditions.

For the reasons set out above, I do not uphold this complaint.

Conclusion

My Decision pursuant to ***Section 60(1)*** of the ***Financial Services and Pensions Ombudsman Act 2017***, is that this complaint is rejected.

The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.

GER DEERING
FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

12 November 2018

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will publish legally binding decisions in relation to complaints concerning financial service providers in such a manner that—

(a) ensures that—

(i) a complainant shall not be identified by name, address or otherwise,
(ii) a provider shall not be identified by name or address,
and

(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.