

The complaint

Mr M complains about the refusal of a personal accident claim he made under his motorbike insurance policy, operated by Society of Lloyd's ('Lloyd's').

What happened

Mr M bought his policy online through Hastings Insurance Services Limited on 14 June 2019. He added an additional benefit to his policy application for a further £19.99, set out as enhanced personal accident cover.

The cover comprised a lump sum payment of £20,000, payable in the event that Mr M suffered from one of a number of defined bodily injuries, total permanent disablement or death. It is underwritten by a different third party business.

In mid-July 2019, Mr M had an accident involving his motorcycle, resulting in an injury to his finger. He sadly had to undergo amputation of part of his index finger.

Mr M made a claim under the personal accident insurance within his policy for '*loss of a limb*'. The claim was made via Hastings and thereafter passed to the underwriter. Lloyd's takes responsibility for the actions of the underwriter.

The claim was refused. Communicating with Mr M through Hastings, the underwriter said that the policy terms required the loss of a hand or foot and therefore Mr M's circumstances therefore didn't meet the requirements of a valid claim.

Mr M complained, but Hastings told him that the claims decision remained the same. Mr M therefore pursued his complaint to this service.

Two complaints were set up – one against Lloyd's for the actions of the underwriter and the other against Hastings regarding the sale of the policy. The latter complaint was pursued separately, and I issued a final decision in that complaint in September 2020.

Lloyd's issued its own final response letter to Mr M in February 2020. It said Mr M had been caused inconvenience with the claim in respect of delays when dealing with the underwriter, so it offered him £50 compensation for that.

However, Lloyd's otherwise agreed with the outcome reached by the underwriter. It said it noted the terms set out that the insured person had to be riding on, mounting onto or dismounting onto the insured motorcycle and Mr M had sustained his accident whilst cleaning his motorcycle – which was not one of the defined events.

Further, it said that a finger does not meet the definition of the loss of a limb, and therefore the underwriters had responded in line with the terms and conditions when declining the claim.

Mr M explained that he was in fact mounted on his motorcycle at the time of the accident. He was performing safety checks and the cloth for wiping the motorcycle down got caught in the

chain as he was dismounting.

An investigator from this service then considered the complaint but he also felt the underwriter had fairly rejected the claim and therefore Lloyd's hadn't done anything wrong.

Though he empathised with Mr M's circumstances he felt the policy wording was clear. He appreciated Mr M's point that he said he had in fact mounted his motorcycle at the time of the accident and therefore that aspect of the policy wording had been satisfied in his view. But he said the injury Mr M sustained did not fall within the definition of loss of a limb and therefore he could not fairly ask the underwriter to meet his claim.

Mr M disagreed and asked for the complaint to be passed to an ombudsman.

He referred to a journal which he said was applicable to insurance claims, referencing how it sets out a definition of a finger as an '*upper limb*'. That journal also went further to explain the function and psychological consequences of the loss of a finger or part of the hand, which Mr M explained was relevant to his circumstances.

Further, Mr M said the definition given to him was so short and non-specific (by not including loss of a finger as a subset of the loss of a limb) that this must be taken to mean he has been mis-sold the cover because to refuse loss of a finger is an unfair and unusual restriction. To that end, he supplied an extract of a policy offering from a different insurer which gave a greater set of definitions. That insurer covered loss of a finger/fingers, loss of a thumb/thumbs and loss of toes as separate lower lump sum payments to loss of a hand, foot, or limb.

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, I agree with the outcome reached by our investigator and for the same reasons. That means despite my sympathy for Mr M's circumstances, I do not believe Lloyd's was unfair to refuse a claim payment.

To clarify, I will not be considering any aspects of the sale of the Hastings policy in this decision. That forms the content of the separate complaint, for which I have already issued a final decision.

This complaint concerns the underwriter's actions (for which Lloyd's has responsibility) where it concluded Mr M's circumstances did not meet the requirements of a valid claim.

When determining if an insurer has acted fairly in regard to a claim, I need to consider what the contract of insurance says. Mr M's policy terms set out that:

"If you suffer bodily injury whilst riding on, mounting onto or dismounting from the insured motorcycle, which is being ridden by you and is being used for social, domestic and pleasure purposes (including daily travel between your normal residence and your place(s) of work) during the period of insurance and within the territorial limits and which results in any of the following we will pay:

*Insured Event Benefit Excess
3 Loss of a limb or limbs: £20,000"*

Like our investigator, I recognise Mr M has given further information about his circumstances

- he says he was dismounting from his motorcycle when the accident took place.

However, the definition above goes further and provides specified insured events for which different levels of lump sum payments will be made such as loss of a limb, sight, hearing, speech, total disability or death.. The policy wording therefore provides a glossary for the insured events. For the above benefit, it says:

“Loss of limb(s) means the loss of a hand or foot by physical severance or total loss of use of an entire hand or foot.”

I can see Mr M has supplied a quote from a particular peer-reviewed medical journal on disability and rehabilitation medicine. He believes this is relevant because it sets out that a finger is defined as an upper limb, for the purposes of comparing the prevalence of musculoskeletal complaints in individuals with finger or partial hand amputations.

However, it is not the research paper Mr M has quoted upon which the underwriter or Lloyd's measures a claim. Nor does the journal extract contain relevant law, insurance industry guidance, regulations or otherwise that I must consider in the course of my decision. The information Mr M has provided forms the content of published research for the medical field. I do not believe that has any relevant impact on an insurer deciding how it sets out the glossary terms for a personal accident policy.

Lloyd's (and consequently the underwriter) is entitled to determine the terms of the insurance product it offers, similarly as it is Mr M's choice as to what type of insurance he takes out and from which business. As I've said above, I must look at the wording of Mr M's insurance policy and decide if Lloyd's has acted fairly when assessing a claim against that wording.

I find the policy definition to be clear and unambiguous. I believe a layperson would reasonably understand a limb to mean an arm or a leg – and therefore including a hand or a foot. I do not agree with Mr M's interpretation that the partial amputation of a finger is equivalent to the loss of an upper limb, including a hand.

Nor do I believe that because a differing insurer offers cover for loss of a finger (or more than one finger) that this must be applied to Mr M's policy with Hastings (and this benefit with Lloyd's). I have seen the information Mr M has supplied but it is a different policy, with a multi-level payment scheme based on severity of an injury, seemingly attached to motor vehicle insurance.

Further, it sets out loss of a limb separately. This would support the position that an applicant would reasonably believe that there is a material difference between loss of a limb and loss of a finger, thumb or toe.

I can see how upsetting and debilitating Mr M's injury has been for him and I do not underestimate the impact it has on his particular profession. But I can only uphold a complaint if a business has behaved unfairly in some way, and Lloyd's has not done so. Mr M's circumstances do not meet the claim requirements for payment for loss of a limb under his personal accident benefit.

My final decision

I do not uphold this complaint or make any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 November 2020.

Jo Storey
Ombudsman