

## The complaint

Mr B complains that The Prudential Assurance Company Limited unfairly turned down his income protection claim when he was no longer able to work.

## What happened

Mr B took out an income protection policy with Prudential in 1998, through a financial adviser. In the five years prior to this, he had fractured a bone in his back, and disclosed this as part of his application for the policy. Prudential added an exclusion to Mr B's policy in relation to his medical history. The exclusion is as follows.

*“No Income Benefit shall be payable under this policy from any disability arising directly or indirectly from;  
(i) any disorder of, or any injury to the spine, its intervertebral discs, nerve roots or supporting musculature and ligaments”*

In 2017, Mr B began seeking medical advice for pain in his neck. He was later diagnosed with “*cervical spondylosis with associated compromise of right C4 nerve root*”. And contacted Prudential about making a claim against his policy.

As a result of his condition, Mr B was no longer able to work in his role as a train driver, and took early retirement.

Prudential turned down Mr B's claim. It said this was because the cause of Mr B's claim fell within the exclusion on his policy in relation to conditions of the spine. It said the exclusion covered the whole spine and components including the neck.

Mr B complained to Prudential. He said his claim didn't relate to a spinal injury and said he thought his claim either had not been investigated properly, or Prudential just didn't want to pay it.

Prudential said it would review Mr B's claim again and requested his medical records and information from his employer. However after doing so, Prudential told Mr B it hadn't changed its position on his claim.

Unhappy with Prudential's response, Mr B brought his complaint to this service.

An investigator here looked into what had happened and said he thought Prudential hadn't unfairly declined the claim. He thought the policy exclusion was clear, and was satisfied that Mr B's condition fell within the exclusion. He said Mr B had later raised that he thought the exclusion was too broad and unfair. However the investigator thought the exclusion had been made clear to Mr B, and noted that he had not raised concerns about the fairness of it when he took the policy or at any annual renewal.

Mr B rejected the investigator's view. He said his policy had an extensive exclusion and he didn't remember seeing any policy wording at the time of the sale.

Prudential didn't respond to the investigator's view with any comments.

As Mr B disagreed with the investigator's view, the case has been passed to me to make a final decision.

### **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.

And having done so, I've reached the same conclusion as the investigator, and for broadly the same reasons.

Insurers have a responsibility to deal with claims promptly and fairly, and should not reject a claim unreasonably. And in this case, I don't think Prudential has done anything wrong. I'll explain why.

I've seen evidence of the policy application form completed in 1998 and signed by Mr B. Within this form Mr B declared that in the five years prior to taking the policy, he had damaged a bone in his back.

Prudential requested more information about Mr B's medical history from his GP. And subsequently applied an exclusion to his policy relating to the spine, its intervertebral discs, nerve roots and supporting musculature and ligaments.

I understand that Mr B no longer disputes that his condition in relation to his neck is caught by the exclusion on his policy covering the spine and its connected parts. And I'm satisfied that Prudential has shown, through medical evidence, that the exclusion has been applied fairly.

However, Mr B has said he still doesn't think the exclusion that was applied to his policy was fair, as it's so broad. So I've considered this remaining point.

Prudential had the right to apply an exclusion as it saw fit when offering a policy to Mr B. But, Mr B didn't have to agree to the exclusion – if he was unhappy with it, he didn't have to take out the policy. And I've seen no evidence that Mr B had previously raised that he thought the exclusion was unfair.

Mr B has also said that he doesn't recall being provided with the details and terms of his policy when he took it out with a financial adviser. And he said he's not seen anything signed by him which proves he received the information. If Mr B has a separate complaint about the actions of his financial adviser then that would need to be directed to that party.

This is a complaint about Prudential and not Mr B's financial adviser. So I haven't looked into the actions of the financial adviser any further than to ascertain that Prudential has acted fairly. I've seen evidence that Prudential provided Mr B's financial adviser with details of the exclusion it added to the policy. This is in the form of a letter Mr B's financial adviser sent him confirming the setup of his policy and advising of the exclusion which has been applied. This letter provided the full wording of the exclusion which was added to the policy. And the financial adviser later confirmed to Prudential that Mr B wanted to go ahead with the policy. In providing details of the exclusion to Mr B's chosen adviser, I'm satisfied that Prudential has acted fairly.

Whilst I appreciate that my decision will come as a great disappointment to Mr B, I'm satisfied that Prudential has not turned down his income protection claim unfairly.

**My final decision**

For the reasons I've given it's my final decision that I do not uphold this complaint and I make no award against The Prudential Assurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 September 2020.

Gemma Warner  
**Ombudsman**