DRN-2628590

The complaint

Mrs F and the estate of Mr F complain about poor service from The Prudential Assurance Company Limited in connection with benefits paid from the late Mr F's pension policies.

What happened

Mr F held a number of pension policies with Prudential. He became ill in 2019, and sadly passed away the same year. Mrs F (for herself and on behalf of Mr F's estate) says Prudential's service was poor in connection with handling the policies. She says it failed to promptly deal with a serious ill health claim, and wrongly paid the benefits from one of the policies to Mr F's estate. This meant the proceeds had to be shared between Mrs F and other beneficiaries under Mr F's will.

Prudential accepted that its service had been poor. In particular, it said:

- When Mr F became ill, he was told that Prudential couldn't meet him in hospital to give advice, when this wasn't the case.
- Its explanation about drawdown wasn't as clear as it should have been.
- Mrs F had been given the impression that death benefits from the policies would be paid to her.

In light of the very distressing circumstances Mrs F was in at the time, Prudential paid £1,000 for the trouble and upset caused.

Prudential didn't accept there had been any delay in processing the serious ill health claim. And it said the death benefits had been paid correctly, even if Mrs F had been under the wrong impression that the whole amount would be paid to her.

Mrs F was unhappy with Prudential's response, so she referred the matter to this service. Our investigator concluded that the compensation paid by Prudential was fair, and he didn't consider it needed to do anything else. He acknowledged there had been mistakes by Prudential, but he was satisfied that the amount of compensation was appropriate in the circumstances.

The investigator concluded that the death benefits had been correctly paid, and he didn't find there had been any unnecessary delay in processing the serious ill health claim.

Mrs F didn't agree with the investigator's conclusions, so the complaint has been passed to me for review.

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.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my conclusions on the balance of probabilities – that is, what I think is most likely to have happened in light of the available evidence and the wider surrounding circumstances.

Mr and Mrs F had a meeting with Prudential in June 2019. They wanted to raise some capital for home improvements, and Prudential reviewed Mr F's existing pension policies to achieve this. In addition, Prudential's suitability report said:

'You wish to leave any remaining pension funds to [Mrs F] as your chosen beneficiaries [sic] on your death.'

Prudential recommended a fund that allowed a legacy to be left to a chosen beneficiary on death, if not all of the funds were used.

But as far as I'm aware, Mr F didn't proceed with the recommended fund. So his benefits were paid in line with the terms of his existing policies.

Mrs F's main complaint is that she was told she would receive all of the death benefits payable from the pension policies. But this wasn't the case. The benefits from one of the policies were paid to Mr F's estate, which meant they were shared between Mrs F and other beneficiaries under Mr F's will.

Prudential seems to accept that Mrs F may have been told, in error, that she would receive all of the death benefits. I think it's possible that Mrs F was told that she would be a nominated beneficiary under the new policy she and Mr F discussed with Prudential. But as I've already said, it seems Mr F didn't proceed with that policy, so his benefits were paid in line with the terms of his existing policies.

I've looked at the terms of the two policies from which the death benefits were paid. The terms of the Prudential Personal Pension Scheme say:

'Should you die before your pension commences, the value of your fund in respect of on-top contributions…will be payable. You may nominate any person (or persons) to receive this lump sum. Whether or not you make such a nomination, the Prudential will have discretion as to whom the lump sum will be paid…'

I understand that Mr F nominated Mrs F to be the recipient of the fund, and that Prudential made the payment to her in line with his wishes. So as far as I can tell the benefits from that policy were correctly paid by Prudential.

The terms for the Prudential Personal Retirement Plan say:

'Should you die before your pension commences the value of the premiums you have paid…will be paid as a cash sum. Payment will be made to your estate unless the benefit has been written in trust for one or more named beneficiaries.'

Mr and Mrs F consulted a solicitor about Mr F's will in July 2019. It seems they wanted to try and make sure Mr F's pension benefits passed to Mrs F, and this is in line with the objectives he'd discussed with Prudential. From what I've seen, following discussions with their solicitor I think Mr and Mrs F may have contacted Prudential with an expression of wish that Mrs F should be the beneficiary of Mr F's pension benefits.

Prudential wrote to Mr F on 19 July 2019. Its letter said:

'Thank you for recently contacting us…The above plan is a retirement annuity contract that does not allow the customer to make an expression of wish. There's no provision under the terms and conditions of this plan for you to name a beneficiary simply by writing to us. You may therefore find that your requirements can be met by making suitable provision in a Will.'

The letter went on to say:

'If you'd like to put the plan's death benefit(s) in trust, you should complete the enclosed trust request form(s).

The trust form was enclosed with the letter, but Prudential have told me they didn't receive anything back from Mr F.

The terms of the policy (as set out above) meant that the death benefits could only be paid to a named beneficiary if they were written in trust. Otherwise they would be paid to the policyholder's estate. Mr F hadn't completed the trust form, so the benefits were, as far as I can tell, correctly paid to his estate in line with the policy terms.

But I've thought carefully about Prudential's letter to Mr F, sent after it had received his expression of wish. I think Mr F had made it clear from his initial meeting with Prudential, and his subsequent expression of wish that he wanted Mrs F to be the beneficiary of the policy's death benefits.

But I'm not persuaded that Prudential's letter of 19 July 2019 made it clear to Mr F that the only way this could be achieved was for the benefits to be written in trust. The first part of the letter suggested Mr F's requirements may be achieved through a will. And even though a trust form was included with the letter, Prudential didn't clearly explain that this had to be completed to ensure Mrs F received the benefits.

The form was relatively complex, and without better instructions from Prudential I don't think it would've been immediately obvious to Mr and Mrs F what they needed to do with it to achieve their objectives. In addition, the references to the trust in the covering letter came with a number of warnings and cautions that may have discouraged them from completing the document.

If Prudential had given Mr and Mrs F better guidance, on balance I think it's likely they would've completed the trust form to ensure Mrs F was the beneficiary of Mr F's pension benefits. Which means the death benefits would've been paid to her, rather than Mr F's estate.

In other circumstances, I might therefore be satisfied that Prudential should make a payment to Mrs F so that the total death benefit she receives from the policy in question (including any amount paid through Mr F's estate) is equal to the full amount she would've received if the benefits had been written in trust and she was named as sole beneficiary.

But there are additional considerations here. Notwithstanding what I consider to have been the lack of clarity in the letter about a trust being a means towards ensuring that Mrs F received the policy benefits, Prudential did nevertheless invite Mr F to contact it if he had any questions about the letter's content.
And importantly, as I've referenced above, it also said that suitable provisions for Mrs F might be able to be made within the will. And we know that Mr and Mrs F were addressing matters related to the will – hence the enquiry to Prudential in the first place.

So I think that, even though the letter may have been lacking in absolute clarity as to the potentially beneficial effect of establishing a trust, Mr and Mrs F were nevertheless pointed towards provisions being made in the will. I do understand that, due to the particular legal requirements of wills in Scotland, there may have been no way of only paying the pension benefits to Mrs F.

But this being the case, it seems even more likely to me that Mr and Mrs F would have been incentivised to explore another option – and given the combined weight of the information about setting up a trust in Prudential's letter, their solicitor's likely awareness of the potential value of this facility if this had been shown to them, and the option to revert to Prudential if they had questions relating to it, I think Mr and Mrs F ought reasonably to have been aware that this was an option for them.

I don't therefore think it would be fair or reasonable in this case to require Prudential to make payment to Mrs F of the whole proceeds of the policy in question.

I appreciate that Mrs F is also unhappy with the way in which the serious ill-health claim was handled by Prudential. But like the investigator, I'm not persuaded that Prudential created an unnecessary delay in dealing with those benefits. So I won't be asking it to do anything more in that respect.

I've also thought about the payment of £1,000 Prudential paid to Mrs F in respect of other failings in the quality of service it provided. This would of course have been a very distressing time for Mrs F, and this would have been compounded by a lack of clarity and, in certain respects, the misinformation provided by Prudential. In the circumstances, I think the payment of £1,000 is about right.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F and the estate of Mr F to accept or reject my decision before 24 May 2021.

Caroline Stirling
Ombudsman