

## The complaint

Mr M complains that The Prudential Assurance Company Limited unfairly declined his claim to have the benefits of his late partner's personal pension policy paid to him.

## What happened

Mr M's late partner had a Personal Pension Policy with Prudential. Mr M said that they'd lived together as a couple, until his partner's death in October 2018. He said they'd signed a joint tenancy agreement on the property they shared in January 2007.

Their landlord provided a sworn affidavit to that effect in October 2019, after Prudential had distributed the death benefits to the estate. Mr M provided a copy of the joint tenancy agreement after the benefits had been distributed. This had been signed by Mr M and witnessed by the deceased on 19 January 2007. Mr M said that he didn't initially provide the tenancy agreement because it wasn't to hand at the time of the deceased's death.

Mr M's partner died at home on 5 October 2018. Mr M registered the death on 11 October 2018. He also arranged and paid for the funeral.

A third party informed Prudential of the deceased's death. They said they were his only living relative. The third party told Prudential that the deceased had a partner of three months when he died. They said he'd stayed with them until he died. And that the deceased's partner had gone travelling for a year. The third party said they'd lived at an address which matched an address Prudential had on their records. But didn't match the address listed as his usual residence on the death certificate.

As the deceased hadn't left a will or nominated a beneficiary it wasn't clear who should benefit from the policy. So the trustees had to exercise their discretion under the scheme rules about who to make a payment to.

In order to do this, in April 2019 Prudential sent a letter addressed to "The current resident" of the address listed on the death certificate. This said they'd lost contact with the deceased but were trying to contact his next of kin. Mr M completed the enclosed claim form and returned it to Prudential.

Prudential replied in May 2019. They asked Mr M to provide additional information so they could decide who should receive the lump sum death benefit that was due from the policy. They asked for paperwork to confirm whether he'd been financially dependent or interdependent with the deceased.

Mr M tried to provide documentation to support his claim of financial interdependency.

Appendix 1 of Prudential's May 2019 letter defined a person as "Financially Interdependent" where: *"a close personal relationship exists between two people who live together and provide financial and domestic support to each other"*. It also provided examples of documentary evidence of this, all of which were required to be in joint names. The letter stated that if there was no documentary evidence available in joint names, separate bank

statements in Mr M's and the deceased's name which showed the everyday pooling of resources for household expenditure could be provided instead.

The letter also defined two other categories of financial relationship.

Mr M replied to that letter in late May 2019. He enclosed documents including household bills to show that he shared household expenses with the deceased. He was unable to provide joint paperwork at this point. But his letter explained that he'd shared living expenses for over 26 years. He provided the following bills that were all held in either his name or the deceased's name at the address he'd shared with the deceased:

Deceased's name:

- Bills from January to October 2018 including phone line, broadband, television and two mobile phones.
- DVLA Vehicle tax reminder for June 2018 for a car registered to the deceased.
- Car service invoice for a regular car service plan bill dated September 2017 for the same car.
- Car finance agreement for the same car, dated October 2018.
- TV licence
- Credit card bill dated August 2018.

Mr M's name:

- Pet insurance bill dated June 2018.
- Electricity bill for June to September 2018.
- Sky TV annual warranty for 2018.
- Heating Oil bill dated 30 September 2018.

Prudential wrote to Mr M in June 2019 to request the previous addresses he'd shared with the deceased. And confirmation of when they lived there. Prudential also wanted confirmation of whether they owned or rented their current property and evidence of how they made payments for it. They also requested a copy of the rental agreement.

Mr M phoned Prudential the next day to tell them he paid the rent for the property. He also sent a letter which confirmed the previous addresses he'd shared with the deceased between 1994 to 2018. Mr M said that while he paid the rent, the deceased had contributed cash towards it, as well as his share of the monthly outgoings. This had been shown in his previous evidence.

Prudential didn't consider that the information provided was enough. On 18 July 2019 they wrote to Mr M stating that the information he'd provided was "*not enough for us to exercise discretion in your favour and we will not be issuing payment to you*". Payment was instead made to the estate.

Mr M sought legal advice. In October 2019 he made a complaint to Prudential about the claim being declined through his solicitor. He said he and the deceased were a couple who

were interdependent. And included an affidavit from their landlord in support of that.

Prudential issued their final response on 18 December 2019. They didn't uphold the complaint. They said they'd found no evidence of interdependence. They said they'd requested evidence to show the interdependence, but that the required information hadn't been provided. They considered they'd obtained enough information to make their decision.

Unhappy, Mr M brought his complaint to this service.

Our investigator felt that Mr M's complaint should be upheld. She felt that the evidence showed there was a level of financial connection between Mr M and the deceased. She asked Prudential to provide the evidence they'd relied on from the third party, but little could be provided. She felt that Prudential should've supported Mr M's claim. She recommended that Prudential put Mr M as close as possible to the position he would now be in had his claim been accepted. She said Prudential should do this by accepting and paying Mr M's claim. And that they should add 8% simple interest each year until the date of settlement. She also considered that Prudential should pay Mr M £1,000 for the distress and inconvenience they'd caused him.

Prudential didn't agree with our investigator. They said they'd received a valid and legitimate claim from the estate. And that they hadn't received a valid and legitimate claim from Mr M as he'd failed to demonstrate financial interdependency. So they considered they'd discharged the liabilities in a fair and reasonable manner.

As agreement couldn't be reached, the complaint has come to me for a 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.

Having done so, I'm going to uphold it. I'll explain why.

I acknowledge that Prudential have discretion to decide to whom the death benefits are paid and in what proportion. But I need to decide if Prudential have exercised their discretion properly, applied due diligence and acted reasonably in reaching their decision.

Based on what I've seen, I consider that Prudential's decision was flawed. I'll explain why I've reached this conclusion.

#### *Was Mr M financially interdependent?*

When Prudential wrote to Mr M to ask him to evidence his financial interdependence with the deceased, they included the following examples of documentary evidence that would be required:

- *Bank statements or passbooks of joint bank accounts.*
- *Credit card statements in joint names.*
- *Loan agreement statements in joint names.*
- *Mortgage statements in joint names.*
- *Tenancy agreement in joint names.*

- *Council tax bills in joint names.*
- *Utility bills in joint names.*
- *Vehicle ownership documents in joint names.*

*Or, if there is no documentary evidence in joint names, separate bank statements in the claimant and deceased's names showing the everyday pooling of finances for household expenditure.*

From what I've seen, Mr M didn't hold a joint bank account with the deceased. And there were no joint bills. Instead, he provided evidence which showed Prudential that he and the deceased each took individual responsibility for certain separate bills. Mr M responded to Prudential's request for proof of his financial interdependency. He said: *"As requested, I have enclosed various household bills/accounts showing that [the deceased] and I shared the household expenses, as advised to do in lieu of joint named paperwork. [The deceased] and I shared the living expenses over a period of 26 years, which worked well. For example, [the deceased] paid for the car and I paid the heating oil bill, [the deceased] paid the telephone/broadband and I paid the electricity bill etc"*.

In his 19 June 2019 letter to Prudential, Mr M said that he and the deceased: *"only ever lived in rented accommodation under my tenancy agreement"*. He said that it was almost impossible to evidence who paid the rent. But noted that he paid it through his bank account, while the deceased *"contributed cash towards the rent monthly"*. And that these contributions were on top of the deceased's share of the monthly outgoings that Mr M had already provided evidence of. Mr M also noted that he'd lived with the deceased since 1994. He also told Prudential that he had nursed the deceased, had been the one who found him dead. And the one who'd arranged his funeral.

On 18 July 2019, Prudential wrote to inform Mr M that he'd not proved he was financially interdependent with the deceased. So they wouldn't be issuing payment to him.

Our investigator asked Prudential how they'd made this assessment. And what consideration they'd given to the evidence Mr M had supplied. And the fact that he'd explained how he and the deceased had pooled their finances in effect by taking individual responsibility for specific shared household bills. Prudential told our investigator that separate bills would've been sufficient evidence if there'd been a bank account that showed the pooling or resources.

As noted earlier, the definition of "financially interdependent" used by Prudential is where: *"a close personal relationship exists between two people who live together and provide financial and domestic support to each other"*. Prudential accepted that Mr M lived with the deceased. Mr M provided them with bills showing that both he and the deceased contributed to daily living costs. But he didn't initially provide them with a joint tenancy agreement or any other proof that he shared the rental costs with the deceased. As none of the evidence Mr M provided was in joint names, Prudential didn't consider that he'd proved he was financially interdependent with the deceased. Prudential also said that they declined Mr M's claim in part due to the conflicting information they'd received about where the deceased was living at the time of his death. And how long he'd lived with his partner.

I don't consider that Prudential's position here is fair or reasonable. I'm satisfied that the evidence Mr M provided showed that both he and the deceased pooled their finances for household expenditure. I'm not persuaded that such pooling should have to be evidenced through a shared bank account. Had a shared bank account been used for the household expenditures, it would've effectively shown the same information Mr M had provided to

Prudential through the billing information he'd shared. And it's clear to me that in providing the information to Prudential, Mr M showed that he was financially reliant on the deceased for some of the household expenditure. So I'm satisfied that Mr M's evidence showed that there was a level of financial connection between him and the deceased that showed they were financially interdependent of each other. I say this even before I consider the tenancy agreement, which I will now look at.

Prudential said that they'd exercised their discretion on who to pay the death benefits to with care, having considered the circumstances of the case fully. They said that the Scheme rules did allow them to pay the death benefits to someone who: "*had a financial relation with the [deceased] that was one of mutual dependence*". But that Mr M hadn't been able to evidence financial interdependence to their satisfaction. They said they don't accept evidence of pooling resources. And that Mr M had told them that the tenancy agreement on the house he'd shared with the deceased was in his sole name. They said they didn't question this. But that when they received the landlord's affidavit they had conflicting information as the landlord had confirmed that the tenancy agreement was in both Mr M's and the deceased's name. Prudential also noted that they'd been given conflicting information about the length of time the deceased had been in a relationship and where he'd been living since 2010.

I acknowledge that in his 19 June 2019 letter to Prudential, Mr M did state: "*I can confirm that [deceased's name] and I only ever lived in rented accommodation under my tenancy agreement*". But I can't see that Prudential ever explicitly asked Mr M to provide any further details. I agree that "*Tenancy agreement in joint names*" was listed as an item of valid evidence to prove financial interdependency. But I also note that Mr M had just nursed, and then had to bury, his partner of 26 years. It would've been a hugely difficult time for him. So I don't consider that one word – "*my*" – in Mr M's letter to Prudential, was sufficient for Prudential to decide to not carry out further investigations on this point. I'm satisfied that if they'd explicitly asked for the tenancy agreement – and said that they couldn't release the death benefits to Mr M without it - it would've been provided. I'm also satisfied that if instead Mr M had used the correct word to describe the tenancy agreement – "*our*" – Prudential would've asked to see it. So I'm satisfied that although the tenancy agreement was provided later than ideal, Prudential should take some responsibility for not accessing it sooner.

Our investigator asked Prudential to provide the contradictory evidence they'd received from the third party, as she felt they'd relied on this when considering the length of the deceased's relationship and where he'd lived since 2010.

Prudential provided what information they could. But considered that this service didn't have authority to be given details about the size of the claim or the full details the third party had shared with them. But they were able to tell us the process they'd followed.

Prudential said the third party told them they were the deceased's only living relative. And that he'd had a partner for the last three months. They then asked for contact details for the partner. And were told that the third party had no such details as the partner had gone travelling for a year. They said the third party had stated that the deceased had been living with them when he died. Prudential said that on the same day that they wrote to Mr M's address about the deceased's death, they also wrote to the third party asking them to confirm whether they had been financially interdependent with the deceased. This letter asked the third party to confirm the deceased's previous addresses since 1996 as they noted that the address on the death certificate didn't match the address they held on file.

Prudential said that the third party had then told them that they lived at the address Prudential held for the deceased. Prudential said that the third party also confirmed they were not financially interdependent with the deceased. Prudential wrote to the third party

again on 18 June 2019 asking them to confirm when the deceased had moved in with them. They said they were told he'd moved in with the third party in 2010.

Our investigator asked Prudential what steps they'd taken to verify the testimony they'd received from the third party. And to verify the deceased's address at the time of his death. She noted that the death certificate showed that he lived with Mr M, not the third party. So asked Prudential for their rationale for deciding to pay the death benefits to the estate on the basis of the testimony from the third party.

Prudential said that they didn't need the third party to provide evidence to back up their statements as they used their discretion to pay the death benefits to the estate, not an individual. They said that they couldn't pay the death benefits to Mr M as he hadn't been able prove financial interdependency.

Prudential said that after Mr M had provided them with various bills in order to try to evidence financial interdependence, he'd told them he and the deceased shared a house under his tenancy agreement. They said that Mr M had been unable to prove that the deceased contributed towards the rent. They'd had no reason to question what Mr M himself had told them about the tenancy agreement. Prudential said that based on the information they'd been given they considered they'd made the correct decision to pay the death benefits to the estate.

After the decision had been made, Mr M's landlord provided a signed affidavit supporting Mr M's claim. He said: *"In January 2007 my wife and I entered into a Tenancy Agreement with Mr M and [the deceased] who were then resided in [place]. The tenancy related to [death certificate address]. I append a copy of the Tenancy Agreement which I have signed and docquetted as relative hereto. Without a shadow of a doubt, they were a couple and I would be happy to depone to that in Court"*.

Prudential said that at the time of their decision, they'd not been offered the tenancy agreement or the landlords' affidavit. They said they didn't receive this information until long after they'd made their distribution decision. And asked why Mr M hadn't provided the information earlier. Prudential also said that if they'd received those documents before they'd made the decision, they would've accepted the tenancy agreement, with the affidavit to support it, as evidence of financial interdependency (note – Prudential used the term "financial dependency" but I believe they meant "financial interdependency"). But they said they'd asked Mr M to evidence financial interdependency and he'd failed to provide it. Prudential also noted that a tenancy agreement in joint names is listed as one of the documents they will accept as evidence of financial interdependency. Therefore they felt it should've been clear to Mr M from their first letter that a joint tenancy agreement was acceptable. They also noted that where there is conflicting information, they tend to pay the estate. Prudential told this service that they don't rely on affidavits. Despite this, they said that they would've used the one provided to support Mr M being financially interdependent with the deceased. Based on this – in my view, sensible exception to their normal approach – I consider that Prudential could've taken a similar sensible approach when they reviewed the proof of financial interdependency Mr M submitted.

Prudential told this service that if the third party had agreed with what Mr M had told them then *"we would probably have paid out to Mr M"*. But due to the conflicting information they'd asked Mr M for evidence to prove his financial interdependency with the deceased. So I can see that Prudential wouldn't have then required the further proof the belated tenancy agreement and affidavit provided.

I'm satisfied that Prudential had enough reason to doubt the third party's testimony from the evidence they'd received from Mr M. For example, the death certificate showed that the

deceased's usual address was the house he shared with Mr M. Mr M provided evidence that showed the deceased paid for a phone line at that address. And also provided evidence that the deceased held car finance and credit cards at that address up until his death in 2018. So I'm persuaded that Prudential had enough evidence to discount the majority of the information the third party had provided them with. Or at least to test the information further. Prudential have said that if they hadn't received the conflicting information, they probably would've paid Mr M. And as I consider that Prudential had sufficient reason to doubt the testimony of the third party, I'm satisfied that they shouldn't have decided to make the death benefit payment to the estate without further investigations being carried out.

Prudential said in their final response to Mr M that they believed they'd gathered sufficient evidence upon which to make their decision to pay the estate. But, as explained above, I've not persuaded that they did. And I note that by the time they sent their final response Prudential had also received evidence of the joint tenancy. So they now had sufficient evidence by their own normal standards that Mr M was financially interdependent with the deceased. I acknowledge that Prudential had already distributed the death benefits to the estate at this point. But I consider that they should have at least re-visited the information they relied on from the third party at this time.

While it's not my role to tell Prudential to whom the death benefits should be paid, I'm satisfied that in this case I've seen clear evidence that Prudential could've identified Mr M as financially interdependent BEFORE they made their distribution decision. Had they done so, I'm satisfied that they would've made the decision to distribute the death benefits to Mr M. I say this because Prudential themselves said this is what they would probably have done.

#### *Distress and inconvenience*

From everything I've seen, Mr M was financially interdependent with the deceased. I consider that he provided sufficient information to Prudential for this to have been established to their satisfaction. Mr M has provided evidence to this service that another pension provider exercised their discretion to pay the deceased's death benefits to Mr M. And I consider that Prudential had enough information to do the same.

Instead, Prudential allowed evidence from a third party that they should've investigated further, to influence their distribution decision. I can only imagine how painful it must've been for Mr M to have shared his life with the deceased for so long, only to find out that a provable lie about a three month long relationship had helped to lead to his partner's death benefits being distributed elsewhere.

In light of the considerable distress this must have caused Mr M, and due to the length of time this complaint has taken to resolve, I agree with our investigator that fair compensation is £1,000.

#### **Putting things right**

In assessing what would be fair compensation, my aim is to put Mr M as close as possible to the position he would probably now be in had his claim been accepted.

I require The Prudential Assurance Company Limited to accept Mr M's claim and pay him the death benefits from the deceased's policy. They should also add 8% simple interest each year from the date the death benefits were initially distributed to the date of settlement, to reflect the fact that Mr M has been deprived of the use of that money.

I also require The Prudential Assurance Company Limited to pay Mr M £1,000 for the distress and inconvenience caused by their handling of the claim.

### **My final decision**

I uphold the complaint. I require The Prudential Assurance Company Limited to take the actions detailed in the “Putting things right” section above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr M to accept or reject my decision before 10 February 2022.

Jo Occleshaw  
**Ombudsman**