

The complaint

The estate of Ms S complains that The Prudential Assurance Company Limited is unable to trace a policy held by Ms S and isn't prepared to pay the policy's claim value since she sadly died in 2020.

The estate is represented by Mr S and is also represented by his solicitor who I'll refer to as 'X'.

Mr S has requested Prudential to pay the policy benefits and to compensate him for the distress and inconvenience caused.

What happened

Ms S sadly died in May 2020. Mr S says Ms S told him she held a whole of life policy with Prudential which would pay out on her death. Mr S says he tried to claim on the policy, but Prudential informed him they couldn't find the policy.

X complained about this and Prudential looked into the complaint. In short it said, there was no record of the policy still being in force after 1970 and it wasn't legally required to hold records of any policy which lapsed or was claimed prior to 1970. It said, if Mr S could provide proof of payments having been made after 1970 it would carry out a further investigation.

X brought the complaint to us. Our investigator looked into things and didn't uphold the complaint. In summary, he said Prudential hasn't acted unfairly because he also hadn't seen anything to suggest the policy was in force after 1970. He said it was more likely than not that the policy lapsed or was paid out.

X didn't agree, it said Mr S was repeatedly told by Ms S that the policy had value. It also said Prudential were provided with the original policy document and this would have been surrendered had the policy been encashed.

As no agreement has been reached in this complaint it has been referred to me for 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.

It's important to emphasise, I have to assess this complaint on the evidence that's been made available to me by each side and, where the evidence is conflicting or lacking, I decide what's more likely to have happened on the balance of probabilities. Also, it's not my role to act as advocate for Mr S to trace a policy once held by Ms S from which he believes a benefit is still due.

Not surprisingly Prudential has been unable to provide much information about the policy. X has said Ms S held the original paperwork, but I don't think that's sufficient in itself. Just because it remained in Ms S's possession until she died doesn't mean a claim under the policy hadn't previously been made. If Mr S can't provide anything to suggest Ms S

continued to pay into the policy the most likely explanation for this is that a claim has already been met under the policy.

Given the lack of evidence provided by either side, I must decide that Mr S's version of events is the more likely on balance of probability for the complaint to be upheld.

I do empathise with Mr S's position; he needs to show on balance that a payment hasn't been made under this policy. But, all things considered, given the policy was taken out more than 50 years ago and no documentation now exists which indicates Ms S's policy was still in force I think its more likely than not it had lapsed or was paid out before 1970.

I accept, I have seen one document which does confirm a policy was taken out for Ms S but this in itself isn't evidence that the policy is still 'active' or that it hasn't previously paid out. Prudential has said it searched internal records on more than one occasion, it also asked for evidence that payments continued to be made into the policy, but it wasn't provided with anything to consider further.

The onus does lie with Mr S to prove his case on the balance of probabilities and I don't think he has provided sufficient evidence to show a policy held by Ms S remained in force and a claim payment is still outstanding on it.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Ms S to accept or reject my decision before 11 October 2022.

Rajvinder Pnaiser
Ombudsman