

The complaint

The estate of Mrs D complained about The Prudential Assurance Company Limited (The Prudential). The estate complained that it continued to charge fees on an investment plan, and it shouldn't have done. The estate would like The Prudential to pay what the policy was worth on the date of Mrs D's death, according to the valuation it provided.

Mrs D1 is Mrs D's daughter in law and executor of her estate. She has acted as the representative of the estate of Mrs D's complaint throughout.

What happened

Mrs D opened an investment plan on 30 June 2020 with The Prudential and invested a single premium amount. The premise behind the plan was that she was able to invest in a managed investment fund according to her attitude to risk. She decided to invest in a 'prufund cautious fund' and named herself and her son Mr D as the lives assured.

Mrs D died in April 2022, and the executors arranged for The Prudential to be notified of this. On 30 May 2022, The Prudential sent the executors a letter stating what the value of the investment plan was at the date of death, this being £84,265.57. Also stated in the letter was the statement that advisor charges and regular income would be suspended.

Mrs D1 said that when she received confirmation that the investment plan had been surrendered, the amount paid to the estate was less than the value given at date of death. The surrender value was £82,072.99. So, there was a difference of £2192.58.

Mrs D1 said she expected the estate to be paid the value as given by The Prudential, on 30 May 2022, from the date of death. She said the estate should be paid the difference between this value and the amount it did receive, being £2192.58. She complained to The Prudential about this.

The Prudential said in response it was unable to support the estate's complaint. It said it followed its processes correctly and its actions were in line with the terms and conditions of the policy.

Mrs D1 was not happy with The Prudential's response and referred the estate of Mrs D's complaint to our service.

An investigator looked into the estate of Mrs D's complaint. He gathered further information from the parties. During this exercise, The Prudential informed him that as part of the policy terms and conditions of Mrs D's account, it would aim to cancel any units using the bid price to the working day of receipt of the written notice of death. It said it received this written request on 26 May 2023 and the plan was surrendered the same day. It referred to term 4.2.7 cancellations in respect of the payment of the sum assured on death.

The Investigator sent his view to the parties in August 2024. He said he could see The Prudential followed its terms and conditions and that as it received written confirmation on 26 May 2023, he said this was when it used the bid price and cancelled the units. He then

explained what he considered the charges were for. He said he thought the charges had been made correctly. He concluded that he saw no grounds to request The Prudential pay out a higher amount that was quoted to the executors from the date of death, and it was following the account terms correctly.

Mrs D1 was not in agreement with the investigator's view. She said the financial adviser that had initially arranged for the investment plan to be set up, provided The Prudential with the death certificate, and copy of will in May 2022. She asked whether The Prudential could have cancelled the units and held the funds until it had received the confirmation certificate.

Mrs D1 said on 30 May 2022, The Prudential stated in a letter that no further transactions on the policy could be made until it received the confirmation certificate. She asked if it was unreasonable to expect the amount paid out to be the amount stated in the letter. She also asked if The Prudential was right to want the letter of confirmation from the court first. She then made the point, that If it had cancelled the units earlier the charges would not have been necessary.

The investigator asked The Prudential for more information and put Mrs D1's questions to it. In response The Prudential said:

- It received confirmation in May 2022 that Mrs D had passed away.
- The policy was set up with Mrs D as sole owner and herself and Mr D (her son and other executor) as the lives assured.
- It referenced the wrong term in its previous communication with our service and that it ought to have reference term 4.2.2
- The plan was not paid out due to there being a second life assured.
- Clause 9.2 was also relevant where it states, if there is more than one life assured, references to death are of both lives assured. It clarified that the policy was payable on second death and not first.
- This is why it didn't cancel the fund units in May 2022, as it was waiting for an instruction on how to proceed with the policy. It said it then received an instruction on 26 May 2023, where the estate chose to surrender the policy.

The investigator responded to Mrs D1 and updated her on The Prudential's response. Mrs D1 said The Prudential was not consistent in applying its own rules. She said the letter from The Prudential dated 30 May 2022 said both advisor charges and regular income had been suspended. She said the fund was clearly not active, so it was not being 'managed'. She asked why the fund was being charged management fees between May 2022 and May 2023.

Mrs D1 said the executors acted as quickly as they could to obtain the required legal documentation from the courts and provided this to the Prudential in a timely manner. She said she expected The Prudential to honour the value as of date of death and not try to justify management charges for a non-managed fund.

Because the parties are not in agreement, the estate of Mrs D's complaint has been passed to me, an ombudsman, to look into.

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.

I have read all of the correspondence that has been submitted by the parties including the emails that have been sent between the investigator, The Prudential and Mrs D1. After doing so, I don't think The Prudential has been unfair to the estate of Mrs D and I am not upholding its complaint. I will explain why.

There has been some confusion to date, about what the process was here for the executors to follow, I think in part, caused by The Prudential referencing the wrong term in one of its replies to our service. It referenced 4.2.7 which relates to when the sole or last life assured within a plan dies. In this instance, The Prudential within its terms would be able to cancel the units in an investment plan on written notice of death. The investment plan would come to an end and so presumably, it would act on written notice of death such as, in this instance, when it was first notified of Mrs D's death in May 2022.

But these were not the circumstances of Mrs D's investment fund, and she wasn't the sole or last life assured. Her son, Mr D was also a life assured, so the investment plan didn't end. The benefits held within the fund and the investment itself continued with Mr D continuing to be the life assured on it. This matters, on all fronts that Mrs D1 has raised questions about.

Firstly, it meant the fund was still in existence throughout May 2022 to May 2023. The annual management charge that was being applied to the fund, was to pay the fund managers who were managing the investments. This relates specifically to the 'prufund cautious fund' that Mrs D's investment fund was invested in. It was the same fee that Mrs D had been paying since the start of the investment in June 2020. The charge continued because the investment fund was 'live' and the money was still invested in this fund. So, if the fund had performed better over this period of time, this would have been reflected in the unit price, and subsequently the fund valuation. But during this period, with the addition of the deduction of the annual management fee, the investment plan lost money, to the amount that Mrs D1 has described.

The other fees that The Prudential said had been suspended in its letter sent to the executors in May 2022, were advisor charges and regular income. Advisor charges were in relation to Mrs D's advisor, who arranged for the plan to be put in place. This was suspended presumably as part of the agreement made at the time between the advisor and The Prudential.

The Prudential said 'regular income' had been suspended but actually in reality nothing had stopped or changed. Regular income is a phrase used to describe when a policy holder sets up an arrangement to be paid a regular income from a policy and is sometimes used by policy holders in retirement to top up their income. But in this case The Prudential confirmed to our service, that there was nothing set up here.

Secondly, because the investment fund was still live, due to Mr D being named as one of the lives assured, it meant that, according to its terms and conditions, The Prudential needed an instruction from a legal personal representative to cancel the units, and for that to happen it needed a certificate of confirmation. It wasn't the case that it could act on notice that the sole owner had died. Because according to its terms, the fund was live, and the ownership had moved to the estate. So, rather than cancel the units, The Prudential needed to establish and get evidence as to who the legal representatives were, and then act on their instructions.

I can see that it said this in its letter of 30 May 2022 "As a result of the death of the sole owner, the ownership of the policy will now pass to the legal personal representatives of their estate, with Mr D as life assured" along with "We need to determine who the legal

personal representatives are". So, I think it provided this information at the time and informed the executors what it was looking to do.

Mrs D1 has asked if The Prudential could have cancelled the units of the policy when it received notification of her death in May 2022. I can see why she has asked this question because if the policy had been cancelled then, the estate would have received around £2000 more. But I don't think The Prudential could have done this as it would have been breaching the terms of the policy that Mrs D signed up to when she invested in the fund, for the reasons I have already mentioned.

In conclusion, the policy was still live due to there being a second life assured, Mr D. This is why The Prudential continued to charge a management fee, and I don't think it was being unfair by doing this. The drop in value was in relation to market performance over this time, and the fund was being operated by The Prudential in the same way that it was before the date of Mrs D's death. The Prudential asked the estate who the legal personal representatives were in its letter in May 2022 according to its rules, and when it received confirmation of this and an instruction to surrender the units, it did so in May 2023. I don't think that it was unfair when it did this and I don't think it did anything wrong.

I appreciate that my explanation and decision will be disappointing for Mrs D1, but I hope that by setting out what I think has happened here, it may at least have provided some answers to the questions she put forward regarding her late mother in law's policy. It follows that I don't uphold the estate of Mrs D's complaint.

My final decision

My final decision is that I do not uphold the estate of Mrs D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs D to accept or reject my decision before 5 February 2025.

Mark Richardson
Ombudsman