

The complaint

Mr Z and the estate of Mrs Z complain that The Prudential Assurance Company Limited hasn't fairly settled a critical illness claim Mrs Z made on a Home Purchaser policy.

What happened

Mr and Mrs Z took out a Home Purchaser policy in 1999 to protect their mortgage. The policy was provided by a company I'll call S. The policy included life and critical illness cover, as well as including an investment element, which would potentially pay-out a cash-in value. Prudential is now responsible for the policy.

Unfortunately, in January 2024, Mrs Z was diagnosed with a critical illness and so Mr and Mrs Z made a critical illness claim on the policy. Prudential accepted the claim and paid a settlement of £83,600 in line with the critical illness cover Mr and Mrs Z had taken out.

However, Mr Z was unhappy with the settlement that'd been paid. He said annual policy statements since 2020 had indicated that the critical illness cover was £167,200. So he felt Prudential had misrepresented its position under contract law and that it had breached consumer protection rules and legislation. He considered Prudential should settle the remaining £83,600 he believed he and Mrs Z should have been paid.

Prudential acknowledged there'd been an error in some of the annual statements, which had wrongly indicated that critical illness cover was £167,200. It said this was down to a system migration error. But it said it had settled the critical illness claim correctly in line with the actual benefit which had been due. However, it paid Mr and Mrs Z £550 compensation to reflect the trouble and upset they had been caused as a result of the errors in the documents.

Sadly, Mrs Z passed away. Mr Z remained unhappy with Prudential's position and he asked us to look into this complaint.

Our investigator thought Prudential had settled Mrs Z's critical illness claim in line with the cover she and Mr Z had taken out. She acknowledged the annual statements Prudential had sent Mr and Mrs Z from 2020 wrongly stated the critical illness cover was £167,200. But she didn't think Mr and Mrs Z were entitled to be paid that amount. And she thought the compensation Prudential had already paid Mr and Mrs Z was fair to recognise the trouble and upset they'd been caused.

Mr Z disagreed and I've summarised his response to our investigator:

- He considered the assessment contained significant omissions and misinterpretations of contract and consumer protection law;
- He felt Prudential's incorrect annual statements had created a legitimate expectation and binding representation under relevant law and regulatory principles;
- He believed Prudential's issuing of incorrect documentation constituted a material misrepresentation which had resulted in financial detriment and loss of expectation, as his financial planning had been affected;

- He thought Prudential had effectively amended the original contract terms by issuing incorrect documentation and that under case law, this created an obligation to pay the higher amount.

The complaint's been passed to me to decide.

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, whilst I'm very sorry to disappoint Mr Z, I think Prudential has already settled this complaint fairly and I'll explain why.

First, I'd like to offer Mr Z my sincere condolences for the loss of Mrs Z. I was very sorry to hear about Mrs Z's illness. I'd also like to reassure Mr Z that while I've summarised the background to this complaint and his detailed submissions to us, I've carefully considered all that's been said and sent. In this decision though, I haven't commented on each point that's been raised and nor do our rules require me to. Instead, I've focused on what I think are the key issues.

The relevant regulator's rules say that insurers must settle claims promptly and fairly. I've taken those rules into account, amongst other relevant considerations, as such industry principles and guidance, relevant law, the contract terms and the available evidence to decide whether I think Prudential treated Mr and Mrs Z fairly.

I've first considered the policy documentation. Mr and Mrs Z took out the Home Purchaser Plan in 1999 with S. Mr and Mrs Z were sent acceptance terms, which set out the key facts about the plan. This included information about 'Basic Critical Illness Cover' and stated:

'The Basic Critical Illness Cover is your Basic Life Cover of £83,600.'

It appears that the critical illness cover and life cover was intended to broadly match Mr and Mrs Z's mortgage borrowing at the time. I'm satisfied that under the terms of the Plan, Mr and Mrs Z were insured for £83,600 of critical illness cover. And I can see that up to and including 2019, they were sent annual policy statements which showed that their critical illness cover remained £83,600. There's no evidence to show either that Prudential decided to change the critical illness cover or that Mr and Mrs Z asked it to do so during the life of the contract.

Prudential accepts that from 2020 onwards, following a systems migration, annual policy statements were issued to Mr and Mrs Z which wrongly stated that their critical illness cover was £167,200 (although their life cover was still correctly stated). It acknowledges that it made clear mistakes when it issued this paperwork each year and so I've thought about what I think would be a fair way for it to put things right.

Mr Z believes that Prudential is bound to honour the higher figure because of the misrepresentation on its paperwork. He believes Prudential has effectively altered the terms of the original contract. However, I don't agree that the evidence indicates Prudential altered the contract terms or that there was any intention for it to do so. Nor do I think the fair remedy here is simply to make the misrepresentation true. Instead, I've thought about whether Mr Z has shown that he and Mrs Z were prejudiced by any misrepresentation on Prudential's part or its provision of misleading information.

In its final response to Mr and Mrs Z's complaint, Prudential said that it appreciated its errors

may have had a wider-reaching impact on them. It said that it would be happy to take any financial loss into account if Mr and Mrs Z could evidence such a loss. I think this was a fair offer from Prudential in the circumstances. While Mr Z says the paperwork errors affected his financial planning, I haven't seen anything to suggest that he's provided Prudential with evidence to demonstrate such a loss. And I haven't seen any persuasive evidence of any financial loss Mr and Mrs Z may have suffered, or that this was caused by any errors on Prudential's part. In the circumstances then, I don't think I could fairly find that Prudential has caused Mr and Mrs Z to suffer financial loss or that it materially prejudiced their position. If Mr Z has evidence of any consequential losses he suffered, it's open to him to send this information to Prudential for it to consider.

With that said, I appreciate that the annual statements did wrongly indicate that Mr and Mrs Z's critical illness cover was £167,200 and so I think Prudential did issue paperwork that was unclear and misleading. And I understand that this information may have led to Mr and Mrs Z suffering real disappointment and frustration when they learned that in fact, the cover was limited to the contractual amount they'd originally taken out. I acknowledge they suffered a loss of expectation. So I think it's reasonable and appropriate that Prudential paid compensation to reflect the distress and inconvenience its errors caused Mr and Mrs Z. And in my view, the £550 Prudential paid is a fair, reasonable and proportionate award to take into account Mr and Mrs Z's loss of expectation and their trouble and upset.

Overall, while I sympathise with Mr Z's position, my role is to reach a decision which, in my opinion, is fair and reasonable in all the circumstances. I'm not persuaded there are any reasonable grounds upon which I could direct Prudential to pay Mr Z a further £83,600. And as I'm satisfied it's already paid fair compensation for Mr and Mrs Z's distress and inconvenience; it follows I'm not telling Prudential to do anything more.

My final decision

For the reasons I've given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z and the estate of Mrs Z to accept or reject my decision before 27 February 2025.

Lisa Barham
Ombudsman