

## **complaint**

Mrs W, representing the trustees, complains that The Prudential Assurance Company Limited provided misleading information about how the payment of a significant annual premium to one of Mr W's protection plans would be handled.

## **background**

I issued a provisional decision on the trustees' complaint, a copy of which is attached and forms part of this final decision. In that decision I explained why I felt the complaint should be upheld and compensation paid to the trustees. In summary, I said:

"I think that if Prudential had handled Mrs W's calls in a more professional manner she would more likely than not have recognised how the premium would be handled. It follows that she would've changed to a monthly payment and so only one-twelfth of the £22,000 would have been paid. I'm therefore of the view that Prudential should repay to the trustees the difference between the full annual premium paid and one monthly instalment. To this amount should be added interest at 8% simple from the date the premium was paid to the date of settlement."

Both parties accepted my decision. Mrs W also queried whether an additional award should be made to compensate for the trouble and upset that had been caused by the matter.

I considered this and agreed that such an award would be fair. I felt this was particularly so given the problem was experienced at a time of bereavement and also involved a significant amount of money that Mrs W clearly felt a great deal of responsibility for in her capacity as PoA, executor and ultimately trustee.

I suggested an amount of £300, which both parties agreed to.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Given the responses to my provisional decision and subsequent correspondence, I've no reason to depart from my provisional view that the complaint should be upheld.

**my final decision**

For the reasons given, my final decision is that the complaint should be upheld. I direct The Prudential Assurance Company Limited to pay compensation to the trustees equivalent to the difference between the full annual premium paid and one monthly instalment. To this amount should be added interest at 8% simple from the date the premium was paid to the date of settlement. Prudential should also pay £300 in respect of the trouble and upset caused by the matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask the trustees to accept or reject my decision before 10 August 2019.

James Harris  
**ombudsman**

## **COPY PROVISIONAL DECISION**

### **complaint**

Mrs W, representing the trustees, complains that The Prudential Assurance Company Limited provided misleading information about how the payment of a significant annual premium to one of Mr W's protection plans would be handled.

### **background**

The plan in question was held under trust in the joint names of Mr W with his wife. It was set up to pay out at the point of the second death. Sadly, Mr W's wife had passed away in 2017 and the policy duly continued with Mr W as the surviving life assured.

The policy premiums were paid annually and were at a very high level – just over £22,000. In May 2018 Mrs W, acting with power of attorney (PoA) for Mr W and as a trustee, contacted Prudential to discuss payment of that year's premium. She wanted to confirm the amount due, when the payment would be taken and also to get some information on options for payment – whether annual payment could be changed to monthly, or quarterly, etc. She was concerned about the administration of the policy in her role as PoA/trustee, particularly because Mr W was in very poor health.

It was explained that a change could be made to the payment frequency. Some information about this, along with general information about the policy's current value and guaranteed minimum sum assured, was sent to Mrs W. She called Prudential again shortly after to discuss some of the issues. But ultimately no change was made to the payment frequency.

The annual premium was due on 16 June 2018. This was a Saturday, so the direct debit wasn't taken until the following Monday, 18 June 2018. Unfortunately this was also the day on which Mr W passed away.

A claim was made on the policy and the sum assured paid out – just over £275,000. Mrs W contacted Prudential to find out how the premium just paid would be handled; whether it would be refunded in part as she felt she'd been led to believe.

Prudential explained that no refund would be made. It explained that the £22,000 had been invested into the policy and, in turn, had increased the policy's surrender value. But as this surrender value was around £168,000 (before the additional of the new premium), this was well below the guaranteed minimum death benefit of £275,000, which is what it had correctly paid out.

Prudential did offer Mrs W £500 compensation for failures relating to its handling of the PoA documentation, which Mrs W accepted. But in respect of the key issue – the annual premium – it didn't feel that it had done anything wrong, so it didn't uphold the complaint.

Mrs W then referred the complaint to this service. But our adjudicator reached the same conclusion as Prudential. He listened to the recordings of the telephone calls Mrs W had with Prudential. And he didn't think it had done anything wrong in how it had handled Mrs W's queries.

Mrs W disagreed. She also listened to the calls and felt that they showed that Prudential had confirmed to her that in the event that Mr W passed away shortly after payment of the premium the money would be returned.

As no agreement could be reached, the matter's been referred to me to review.

### **my provisional findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

When Mrs W called Prudential in May 2018 she was clearly, in her role of Mr W's PoA, seeking to ensure that she was administering the policy as efficiently as possible. Understandably she had concerns about the size of the premium and making such a large commitment, particularly in light of Mr W's poor health.

She asked if it was possible to pay the premium in monthly instalments rather than annually in one go and was told that the payment frequency could be changed to monthly, quarterly or half-yearly. It later transpired that this was incorrect as the only actual alternative option was monthly.

She then also asked what would happen if Mr W was to die in a month's time. What would happen to the premium if she was to pay the full annual amount?

The call handler explained that it "*would just go into the policy anyway. If we got a death notification we would start the death claim and that would be included within that value*".

To my mind this is an ambiguous statement to such a degree that, particularly in the specific context of Mrs W's enquiries, I think it was misleading. The key point is that the policy *value* would be impacted – it would increase by an amount equivalent to the amount paid in. But crucially the 'death claim' value, the £275,000 sum assured, would *not* be impacted by the way in which the premium was paid. It made no difference whether Prudential received the full annual premium or one-twelfth of it – a significant difference.

The Prudential call-handler was not giving formal advice to Mrs W. But I think she nevertheless had a responsibility to ensure any information she provided was clear and not misleading. I'm not satisfied that was the case. Mrs W was pro-actively giving consideration to changing to monthly payments. I think that if she'd had her question answered in a more proficient manner she would more likely than not have recognised the potential benefit of changing to monthly payments. As it was, she was left thinking that in the event of Mr W's early death the premium would somehow be 'included within' the claim value. So she decided that there was no need to go to the bother of making the change from annual to monthly payments.

Mrs W did have a subsequent call with Prudential, prior to Mr W's death. She phoned Prudential when she received paperwork generated as a result of the initial May 2018 call. She wanted some clarification on some aspects of the policy's operation that weren't clear – for instance, she queried what was meant by 'deallocation' of units from the fund value; which meant, in effect, that the cost of life cover would be paid for by the sale of units.

This call provided an opportunity to clarify things with Mrs W, but that opportunity was missed. There was discussion of the sum assured and surrender value on this call, and I accept they had been communicated to Mr W in writing. But given that she was by this point under the impression that the annual premium would, in part at least, be returned in the event of Mr W's death occurring shortly after payment, there was nothing in the call that would've put her on notice that she might have misunderstood things.

In Prudential's response to the complaint it acknowledged that further clarification could have been given to Mrs W. And it's worth noting that many of Mrs W's calls with Prudential were marred by problems – the repeated PoA issue (which I accept has been acknowledged); the miscommunication about the potential payment frequencies; being incorrectly told that the premium would be taken on 19 June. She was also sent withdrawal forms as a result of the May 2018 call, which she didn't ask for and had to query on the subsequent call.

So, in all, I think it's reasonable to conclude that Mrs W's communication with Prudential could have been handled far better and the explanation of how the annual premium would be handled was just one more aspect of that – but financially speaking, clearly the most important.

In summary, I think that if Prudential had handled Mrs W's calls in a more professional manner she would more likely than not have recognised how the premium would be handled. It follows that she would've changed to a monthly payment and so only one-twelfth of the £22,000 would have been paid. I'm therefore of the view that Prudential should repay to the trustees the difference between the full annual premium paid and one monthly instalment. To this amount should be added interest at 8% simple from the date the premium was paid to the date of settlement.

**my provisional decision**

For the reasons given, but subject to any further submissions I may receive, I'm currently minded to uphold the complaint and direct The Prudential Assurance Company Limited to pay compensation to the trustees as set out above.