

complaint

Miss D complains about The Prudential Assurance Company Limited cancelling her endowment policy. She is being represented by a relative, Mr D.

Mr D has said that Prudential made it difficult for him to deal with it and resolve the problems after the plan fell into arrears. It was these arrears that eventually led to the policy being cancelled.

Mr D has also complained about Prudential not accepting what he has stated was a certified copy of the Power of Attorney form because the original was destroyed by another business some years earlier. Mr D has said that Prudential had been given the Power of Attorney document before and it was inconsistent in its approach with him as on some occasions it would deal with him and on others it would not.

Mr D has said that the main point of complaint is that that he repeatedly told the business his sister was a vulnerable customer but they still treated her unfairly.

background

In August 2010 Prudential received a letter from the person who was paying these policy premiums on Miss D's behalf requesting that the debit be cancelled. It is not apparent that Prudential cancelled the debit but it wrote to Miss D saying that it needed authorisation or a Power of Attorney in order for someone else to deal with her affairs.

Mr D has confirmed that Miss D did then cancel the direct debit for her policy although there may be a dispute about precisely when this happened.

The policy began to go into arrears and Prudential wrote to Miss D about this. Some payment was made but this was not enough to clear the arrears.

In January 2011 Prudential wrote to confirm receipt of a new payment instruction. It said that arrears could not automatically be taken via this new mandate and that over £100 was still outstanding. It also requested a Power of Attorney document so it could deal with Mr D going forward.

In August 2011 Prudential wrote to confirm that a cheque had been received but that the arrears were more than this and the cheque was being held pending the remaining amount being paid. It also said that the payment details on the mandate provided were incorrect and it needed a new mandate.

In early September 2011 Prudential wrote to Miss D stating that the cheque had not been paid by the issuing bank. It also confirmed the amount outstanding at this time and that the policy would be forfeited if payment was not received by 12 September 2011.

It seems that a payment by cheque was then made but Prudential said again that the direct debit mandate details were not correct. It confirmed that no further payment requests would be made on the policy until the direct debit details had been corrected.

Payments were not made and so the policy went into arrears again and in September 2012 Prudential issued a final arrears notice saying what payments it needed to prevent the policy being forfeited.

About a week before the forfeiture date Mr D contacted Prudential to try and make a payment and it was agreed that he would send a cheque and a new debit mandate. But a week later when he called again Prudential could not confirm receipt of the cheque and so he agreed to make a duplicate payment over the internet. On the following day Prudential confirmed to Mr D that the cheque and the on-line transfer had been received. So it wrote to Miss D to confirm the premiums had been paid up to date by way of two payments received. An excess amount was refunded back to Mr D. Prudential asked for a Power of Attorney to be provided in order for Mr D to be made the point of contact for Miss D's policy.

At this point the bank which had issued the cheque Mr D had sent to Prudential wrote to confirm that the cheque had been returned as unpaid. This was because Mr D had cancelled the cheque.

So Prudential wrote to Miss D to confirm this and tell her the amount still outstanding. It said that if the outstanding payment was not received by 11 December 2012 the plan would be forfeited. No payment was received and in January 2013 the policy was cancelled.

Miss D confirmed her permission for Mr D to deal with the policy on her behalf in a letter in May 2013.

Mr D complained to Prudential but it did not uphold the complaint and so it was referred to this service where it was considered by one of our adjudicators. But he did not think that it should be upheld. He said that Miss D had cancelled the direct debit of her own accord and Prudential had done nothing wrong. He also observed that given the length of time Miss D had left the premiums on the policy unpaid, and the amount of correspondence between the two parties, Prudential had not treated Miss D unfairly.

Mr D did not agree and said;

- Prudential had been given a valid Power of Attorney.
- The suitability of the contract was questionable.
- By the time Miss D cancelled the direct debit, Prudential was aware she was not capable of dealing with her own financial affairs.
- The adjudicator seemed confused about which bank account authority was cancelled.
- The adjudicator was muddled by the date of when Miss D cancelled the direct debit. Mr D states this was around June 2011.
- The direct debit mandate provided was always correct and Prudential was wrong in this regard.
- Prudential continually refused to discuss the bank details with Mr D's name on them over the telephone due to the lack of a Power of Attorney. This precluded him from determining whether or not the direct debit details were correct.
- Prudential refused to confirm to Mr D that the cheque had cleared and encouraged him to make an electronic transfer.
- The adjudicator had made a leap of faith and assumptions regarding Prudential's handling of the payments and that either payment made covered the outstanding debt.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have reached the same conclusion as the adjudicator and for essentially the same reasons. I do not uphold this complaint.

Firstly, I would like to explain a little about the role of this service and my function within it. The Financial Ombudsman Service seeks to resolve disputes in an informal manner, as an alternative to the cost and complexity of dealing with a matter in the courts. As such, in making my findings I focus on what I consider to be at the heart of the issue and make a decision on what I feel is fair and reasonable in the circumstances.

Although I consider all the information provided to me, in reaching a decision I may think it is unnecessary to comment on all the points raised. This is not intended to oversimplify the issues but only to reflect the nature of this service and my role within it.

I have set out above some of the history in this matter. Having considered the evidence I am satisfied that Prudential was not responsible for the cancellation of the debit mandate and the non-payment of premiums that this caused. And it seems that by September 2011 the arrears had been cleared but there was no payment method in place to pay the premiums going forwards.

I note that Mr D disputes that the details on the mandates provided were invalid but it seems to me that there was ample time to resolve this particularly between September 2011 and September 2012 when the policy was again on the verge of forfeiture. The evidence from Prudential does suggest the account details were inconsistent and ultimately it is the policyholder's responsibility to make the premium payments.

It is unfortunate that the arrears were not resolved in November 2012 when Mr D made efforts to clear them. On the evidence I have seen this was not due to any failure by Prudential, whilst it is unfortunate that it could not confirm receipt of the cheque sooner than it did, it seems that the arrangements for the additional payment by on-line transfer would have been successful if Mr D had not cancelled the cheque he had sent.

I note that Mr D says that Prudential had been provided with a valid Power of Attorney but on the evidence I have seen I am not satisfied that it had. It seems to me that it did not have a valid authority from Miss D to correspond with Mr D until May 2013, after the policy had been forfeited.

I note Mr D's comments regarding the suitability of the policy itself but I cannot consider a complaint about that here as, so far as I can see, it is not a complaint that has been made to Prudential and so it is not within my jurisdiction.

So, having considered all of the evidence, I do not uphold this complaint and make no award against Prudential. I do not conclude that it treated Miss D unfairly, the arrears arose because of the cancellation of the debit and that was outside its control. And I think that it was reasonably clear from an early stage about precisely what it needed in terms of an authority for it to deal with Mr D directly.

my final decision

I do not uphold this complaint and make no award.

Keith Taylor
ombudsman