

complaint

Mr J is unhappy that The Prudential Assurance Company Limited paid the proceeds of a policy he held jointly with another, to the other policyholder in full. He says the surrender was done without his knowledge or permission – he believes that the joint policyholder forged his signature in 2011.

background

The policy in question was arranged in 1990. It was a joint life policy and was intended to be used as the repayment vehicle for a joint mortgage.

In January 2011 the joint policyholder contacted Prudential by telephone and asked that surrender documentation be sent out. This was done; it was sent to Mr J's address. The completed document was returned in early February 2011 along with proof of identification in the form of copies of both policyholders' passports.

The signature on the surrender form was:

The signature contained in Mr J's identification document was:

The surrender value was paid to a bank account in Mr J and the joint policyholder's name. However, it has subsequently become apparent that this account was opened without Mr J's agreement or knowledge. Prudential couldn't have been aware of this at the time of the surrender.

Upon surrender, premiums ceased to be taken from Mr J and the joint policyholder's actual bank account and no further documentation regarding the policy was sent to his address.

Prudential didn't uphold Mr J's complaint. It didn't accept that it should have recognised the surrender of the endowment policy as fraudulent activity. It said that the claim form was sent in by the joint policyholder and identification documents had been included for both policyholders. The settlement amount was sent to a joint bank account. Prudential believes that as joint owner of the bank account, Mr J would have had access to the money. In addition, it would have expected Mr J to have noticed the premiums not being claimed each month and, if this was wrong, queried it.

One of our investigators considered the complaint. She didn't recommend that the complaint was upheld. Mr J didn't accept that view and asked for the complaint to be passed to an ombudsman.

I issued my provisional decision on 16 August 2018. Below is an excerpt from my decision detailing my conclusions and reasoning.

'Given the wider circumstances surrounding the surrender of Mr J's endowment policy, I don't think there is much doubt that the joint policyholder surrendered it fraudulently. The question I must ask, and answer, is whether Prudential should have realised there was a problem with the surrender and stopped it happening.'

I would initially say that it is entirely normal for only one policyholder to ask for information or documentation to be sent out. As long as its sent to both of the policyholders, which it was in this case, there is nothing wrong with a business taking that type of instruction from only one of them.

When the documentation was returned it was incumbent on Prudential to ensure, as far as reasonably possible, that the claim form had been signed by the policyholders. It had at that point two signatures for Mr J – that from the form and that from the accompanying identification. These should have been compared. Having done this myself, I am satisfied that there are significant differences between them that should have given Prudential cause to complete further checks about the validity of the signature on the claim form. The two capital letters in the signatures have been formed very differently. In addition, it appears that the genuine signature slants to the left and the forged signature in the opposite direction.

I, therefore, need to consider what would have happened if Prudential had done further checks. I note that Mr J has said that the telephone number recorded on the form for him was wrong, so he couldn't have been contacted. This would have resulted in Prudential writing to Mr J at his home address. This letter would have been addressed to Mr J alone and would most likely have asked him to call Prudential, where he would have had to pass security checks. I don't think it likely that if Mr J had spoken to Prudential he would have agreed to the policy being surrendered in 2011. As such, it is likely that the policy would have remained in force until the maturity date in 2015.

Had the letter to Mr J been intercepted by the joint policyholder, this would have resulted in him not contacting Prudential. In that situation, I think it most likely that Prudential would have declined to act upon the surrender documentation. Again this would have likely resulted in the policy remaining in force until maturity.

As such, I consider that Prudential should calculate what the maturity value of the endowment would have been had it remained in force and the premiums had been paid. Given that the premium was not insignificant, it would be appropriate for the unpaid premiums to be deducted from the maturity value. I will refer to the resultant sum as the 'hypothetical value'.

Reasonably, when the maturity date was reached, as the policy wasn't assigned to Mr J and the other policyholder's mortgage, the money would have been paid into their joint bank account. I can't be certain at that point what would have happened to that money. It is possible that the other policyholder would have had the money directed toward the fraudulent bank account and spent it. However, it is also possible that it would have been paid into the bank account that Mr J was aware of.

If we assume the former situation would have arisen, I have to take into account the fact that it was a joint policy. Mr J would only reasonably have been entitled to half of the maturity proceeds. In light of this, and the surrounding circumstances, I think that it would be appropriate for Prudential to pay Mr J half of the hypothetical value calculated above.

Mr J has clearly been caused a lot of distress and inconvenience due to the circumstances he found himself in following the other policyholder's death. At the core of all of that is the fraudulent activity of the other policyholder. However, I consider that Prudential added to that situation due to its mistake. Having considered the matter carefully, I consider that Prudential should pay Mr J £500 for its contribution to the distress and inconvenience he suffered because of its mistake.'

Mr J accepted the provisional decision. Prudential didn't. It sent in a document into which it had put five versions of Mr J's signature. That from the complaint form he had completed for this service; a claim form from 2005; the 2007 passport used for the surrender; a 2011 bank form it has on its records and the signature from the surrender form. It has highlighted that signatures change over time and that this service has acknowledged that is the case. It has also pointed out that this service has acknowledged that we are not experts on handwriting. It has said that there are differences in all of the signatures and it is reasonable satisfied that they are similar overall. As such, it doesn't consider that there was anything to trigger it to have cause for concern about the surrender.

Prudential maintains its position that it processed the surrender in good faith, based on the documentation presented. The money was paid out in joint names and it didn't receive any questions from Mr J about the premiums not being collected or the lack of correspondence about the policy. Whilst it sympathises with Mr J's situation, it doesn't consider that it did anything wrong.

my findings

I have considered all the available evidence and arguments, including Prudential's most recent submissions, to decide what's fair and reasonable in the circumstances of this complaint.

Prudential has questioned my statement that there was no question that a fraudulent act had been committed. It has said that although the matter had been reported to the police, the police had found that there was no case to answer. It would appear that Prudential has information available from the police that we do not. So I can't comment about the opinion of the police. However I could understand why it would not investigate the allegations given that the purported fraudster had recently died.

That said, Mr J has stated that he had no knowledge of the surrender. There is also evidence that the joint policyholder arranged credit, banking and mortgage facilities in her and Mr J's names around the same time. The cheque from Prudential also appears to have been deposited into the fraudulently arranged joint bank account. Given the other financial services companies involved have accepted the joint policyholder acted alone in those activities, I don't believe it would be appropriate for me to question that.

I have considered what Prudential has said about signatures and how they can change over time. I accept that this is the case. Indeed, I have issued decisions myself where fraud has been alleged and I have said that there were not sufficient differences in the signatures to cause the financial business to have been concerned.

However, the person at Prudential who processed the surrender would have been comparing the two signatures on the surrender form and the passport, rather than the array of signatures now provided. Having examined the two signatures again, I still consider that there are significant differences that should have caused enough concern for further checks to be made.

When a person writes it is common for their writing, including signatures, to slant in a direction – left or right. This is a characteristic that seldom changes, even when the shape or size of letters does. In my experience of the financial services industry, this is something that is looked for when comparing signatures. In the case of Mr J's signature on his passport, it

slopes to the left – that on the surrender form slants to the right. The additional signatures provided by Prudential from before the surrender also show Mr J's signature sloping to the left. As such, I remain satisfied that there were noticeable differences in the signatures such that Prudential had cause to ask further questions before the surrender was processed.

Had Prudential completed further checks – for example contacting Mr J about the surrender – I remain satisfied that he would not have agreed the surrender. As such, it is likely that the policy would have remained in force until maturity.

my final decision

My decision is that I uphold this complaint. I require The Prudential Assurance Company Limited to pay Mr J half of the sum calculated at B, as follows:

- A. Calculate a hypothetical maturity value for the policy, assuming that it had not been surrendered in 2011 and had remained in force with all premiums paid until maturity.
- B. Deduct from the hypothetical maturity value the premiums that were not paid between surrender and the maturity date.

In addition, Mr J should be paid £500 for the additional distress and inconvenience this issue has caused him in the circumstances.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr J to accept or reject my decision before 18 October 2018.

Derry Baxter
ombudsman