

complaint

Mrs B's complaint is that The Prudential Assurance Company Limited should have paid the late Mrs F the sum of £900. This was the amount payable from an annuity that was formerly held by the late Mr D.

background

This complaint was investigated by one of our adjudicators. He considered that the complaint should be upheld. He considered that there was insufficient evidence to show that the business had paid the monies that were due to the estate of the late Mr D. He felt the estate of the late Mrs F had lost the use of those monies.

The business rejected the adjudicator's conclusions. It said that the evidence indicated that the monies were paid and therefore no further monies were payable.

Mrs B accepted the conclusions of the adjudicator.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint, including any further representations received since the adjudicator issued his view.

Mrs B brings this complaint on behalf of the estate of her late father and on behalf of the estate of her late mother. The complaint relates to a policy owned by Mrs B's late father who sadly passed away a number of years ago. It appears that there were some complications in relation to her late father's estate caused at least in part by the dissolution of his business. As a result probate was not granted on the late Mr D's estate until 2001.

Mrs B says efforts were made to try to claim the policy after probate had been obtained but that they were unable to locate the relevant business as the policy had been previously administered by another business. She says she eventually came across some information which indicated that Prudential were now responsible for the policy. She indicates that she contacted Prudential who told her that the policy was not one of theirs. However following further contact from Mrs B the business accepted that the policy did fall under its remit.

The business says that its records indicate that the policy has been paid out. It also makes the point that it cannot be expected to keep documentation for such an extended period and so it has limited information available. I entirely appreciate the point the business makes and I do take into consideration that this case relates to a policy where the policy owner passed away a significant number of years ago. Because of this I have say that this is a difficult case to resolve. Given the time that has passed I do not expect the business to have detailed records. However, I make my decision balancing up the evidence that is available and on the basis of what I consider is more likely than not in the circumstances of this particular case.

The business initially said that its liability was discharged in 1988. However there are a number of factors that indicate that payment was not made in 1988.

Firstly, as Mrs B has indicated probate was not granted on the late Mr D's estate until 2001 which I consider to be a plausible explanation as to why payment may have been delayed.

Secondly and of significance, is a letter in 1992 from the business which was administering the policy at the time indicating that it had been unable to pay the policy despite contacting the solicitors it believed to be the executors of the Mr D's will.

Thirdly, Mrs B has retained the claim form for payment out of the policy which she indicates was not sent to the business because probate had not been obtained.

The business then subsequently said it believed that the final payment on this policy may have been issued in late 1992 as its records indicated the last letter was issued in October 1992. However, I consider it more likely on balance this was a letter regarding an ex-gratia payment rather than the payment out on the policy. I note this letter refers to an earlier distribution in 1988 which appears to have been for a modest sum and indicates that this payment is expected to be less than the previous distribution which would appear to suggest it did not refer to the payment out on the policy.

The business has also stated in correspondence that its records show that payment was made prior to 2001 and that its records confirm the payee and cheque details. However, when this information was requested from the business it was unable to provide those details or any documentation showing the details.

Whilst I appreciate and have some sympathy for the business' position I am not persuaded on balance, having taken account the particular circumstances of this case, that payment was made to the late Mr D's estate in relation to this policy. I consider therefore that Prudential should make the payment of £900 to the late Mr D's estate.

It seems to me that this matter was complicated by the fact that it took a long time for probate to be obtained. I do not say that as any kind of criticism of either party. I also consider that the business was trying to make payment for this policy back in 1992 and I take that into account when determining compensation. Additionally I take into account that Mrs B has stated she was unable to locate who was responsible for the policy once probate had been obtained. Mrs B has said she contacted Prudential in around 2009 (no specific date is given) and was informed by the business that it was not responsible for the policy.

I consider therefore that a fair and reasonable resolution is for the business to pay interest on the £900 as if it had been held in a holding account from the date of the late Mr D's death, and then from 30.06.09 (as no specific date is given I consider half way through the year to be fair and reasonable) at the rate of 8 percent simple per annum.

The Prudential Assurance Company Limited should pay compensation of C + D where:

A = The amount of £900 payable on the policy;

B = Interest on the amount of 'A' from the date of the late Mr D's death to 30.06.09. The business has said that it holds monies on deposit at a rate equivalent to the Bank of England base rate and so I consider this is the rate that should be applied to the figure in 'A';

C = A + B representing the loss to 30 June 2009;

D = Interest on the figure mentioned in 'C' above for being deprived of these monies from 1 July 2009 to the date of settlement. Interest is to be at the rate of 8% simple per annum.

my final decision

For the reasons outlined above I uphold the complaint and order that The Prudential Assurance Company Limited pay compensation to the estate of the late Mr D as calculated above.

Julia Chittenden
ombudsman