

complaint

Mr N is complaining about Legal & General Assurance Society Limited because it declined a claim on one of his wife's life insurance policies following her death.

background

In 2000, Mr and Mrs N took out a life insurance policy covering each of their lives. They took another policy covering Mrs N's life in 2007.

In 2013, Mr and Mrs N were experiencing financial difficulties. During the first part of the year, Legal & General had a number of problems collecting the monthly premiums and it seems this was because Mr and Mrs N were cancelling the direct debit with their bank. Each time, new direct debit arrangements were set up.

The last payment on Mrs N's main policy (the one with a larger death benefit that started in 2000) was made on 1 October 2013. Legal & General says this covered the payments due in July and August of that year. Legal & General says it tried to collect further premiums on 3 October 2013, but this was unsuccessful because the direct debit had been cancelled again.

After this, Legal & General says it sent a reminder letter on 5 October 2013. When it didn't hear anything, it says it sent a further letter on 28 November saying the policy had been cancelled and what Mrs N needed to do to restart it. It says it didn't receive a response to either letter so the policy was never restarted.

Sadly, Mrs N fell ill early in 2014 and died later that year. Mr N claimed on both policies. Legal & General didn't pay out on the 2000 policy because it hadn't been in force for a number of months. I understand it did pay out on the second policy taken in 2007, presumably because premiums had been paid to date.

Our adjudicator didn't recommend the complaint be upheld. She didn't think Legal & General had done anything wrong and felt it was entitled to cancel the policy when it did. She didn't think there was enough evidence to show Mr and Mrs N tried to keep payments on the policy up to date and that it was also entitled to decline the claim.

Mr N disagrees. He says they sent a new direct debit form to Legal & General after the missed payment in October 2013 and assumed this would resolve the situation. Because of his financial problems, he says they changed the paying account from a joint account to one in Mrs N's name. He says they didn't get the letters Legal & General said were sent in October and November 2013, so they didn't know there were problems after this. And that due to the early onset of Mrs N's illness, the effects of which weren't appreciated at the time, she wasn't well enough to notice payments weren't being taken from her account. He's referred to a letter from her doctor's surgery describing the effect her illness was having on her at the time.

my findings

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, I agree with the adjudicator's conclusions for much the same reasons. I'm not upholding this complaint.

The policy conditions say it will be cancelled if premiums are outstanding for more than 30 days. I've seen nothing to indicate Legal & General received any payment for Mrs N's policy after 1 October 2013, so I'm satisfied it was entitled to cancel it when it did.

When premiums are outstanding, I would generally expect an insurer to contact the policyholder. Legal & General says it did this. While it can't provide copies of the actual letters from October and November 2013, it's provided sample copies. It's also provided a screen-print from its system indicating they were sent. I understand it sent similar letters earlier in the year when previous payments were missed. The fact Mr and Mrs N returned the enclosed direct debit forms indicates those were received.

I can't confirm whether Mr and Mrs N received either letters in October and November 2013, although the fact Mr N says they returned a direct debit form suggests they might have received something. But either way, I think it's more likely than not that Legal & General sent them. And in the absence of any evidence to show Mr and Mrs N returned a new direct debit form around this time, it's very difficult to say Legal & General did anything wrong.

It was ultimately Mr and Mrs N's responsibility to make sure the premiums were paid. Mr N says his wife wasn't in a position to notice that they weren't because of her deteriorating health and I've reviewed the letter from her doctor's surgery with this in mind.

I accept the letter shows Mrs N's capacity may have been affected before her condition was diagnosed in early 2014. But I don't think the letter is particularly conclusive evidence she wasn't in a fit state to understand whether or not the payments due to Legal & General were being made. I'm conscious she doesn't seem to have visited a doctor at the time and that the examples given of how her behaviour changed are based on what Mr N described after her death. It also doesn't appear the doctor writing the letter ever met Mrs N.

In the absence of medical records from the time policy payments were being missed, I don't think there's enough evidence to show Mrs N wasn't capable of monitoring the situation. Even though they were planning for payments to be taken from her own account, I'm also conscious Mr N was aware of the problems they'd had with their payments and he could presumably have checked with Mrs N to see what was happening even if he couldn't check her private statements.

The circumstances of this case are extremely unfortunate and I've no reason to think Mrs N wanted to cancel her policy. But after considering everything provided, I simply can't reasonably say Mr and Mrs N did enough to keep up premium payments. In that situation, Legal & General was entitled to cancel the policy when it did and on balance, I'm satisfied it took the appropriate steps to tell them what it was doing. Because the policy wasn't in force when Mrs N died, and hadn't been for a number of months, I think Legal & General was entitled to decline the claim.

my final decision

I appreciate this won't be the outcome Mr N was hoping for, but 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 N to accept or reject my decision before 15 February 2016.

Jim Biles
ombudsman