

complaint

The representatives of the estate of Mr F complain about the level of service they received from The Prudential Assurance Company Limited (Prudential) whilst dealing with Mr F's estate. They complain that Prudential misled them by concealing the existence of a valid policy and its failure to identify that Mr F held a policy caused unnecessary delays in the policy being paid to the estate.

To resolve the complaint, the representatives want compensation for the lengthy process and distress caused.

background

One of the executors (Mr B) of the late Mr F's estate contacted Prudential on 26 September 2017. He made an enquiry about whether Mr F held any policies with Prudential, as he'd found a letter from Prudential addressed to Mr F.

Mr B provided Prudential with the reference number stated on the letter, Mr F's full name and date of birth. The person he spoke to was unable to locate a policy, based on the information he had provided.

She explained it could be an old policy, that Mr F may have forgotten about and that Prudential was carrying out a tracing exercise to make sure it had up to date customer contact details. She told Mr B to write to the address on the letter, providing as much information about Mr F as possible, and if anything further was needed, the tracing team would be in touch.

Prudential had conflicting information on record for Mr F; it had been trying to trace him since February 2017.

Prudential followed its tracing procedure;

- It wrote to Mr F several times between February 2017 and September 2018, asking him to contact it, to confirm his valid postal address.
- As it had not heard back from Mr F, It requested information from the Department of Work and Pensions (DWP).
- It was notified by DWP that according to their records a Mr F had passed away in May 2017.
- It paid a small fee and contacted General Office Registry (GRO) to obtain a copy of the death certificate.
- It wrote to the named informant (Mr B) on Mr F's death certificate.

Prudential wrote to Mr B on 24 September 2018, requesting information about Mr F. Mr B completed the paperwork and returned it, but the section relating to Mr F's previous addresses had not been completed. So, Prudential was unable to verify if the policy it held was for its customer.

As there was still insufficient information to correctly identify Mr F, Prudential wrote to Mr B again on 22 October 2018 specifically requesting information about Mr F's previous addresses or details of any next of kin who may be able to confirm this, to complete the verification process.

Mr B was unhappy and frustrated with the matter and complained to Prudential on 2 November 2018.

Prudential issued its final response on 8 November 2018. It said it was sorry for any concern or confusion the matter had caused, but the details provided by Mr B did not match its records. Prudential had an obligation to protect its policyholders and would only be able to provide full details of any policy and any potential claim once it had verified whether or not Mr F is its customer. The executors' didn't agree so they brought the complaint to us.

Since we accepted the complaint, Mr B had provided Prudential with Mr F's previous addresses and Prudential had wrote to him on 30 November 2018 confirming it had successfully verified Mr F and a lump sum was payable. By 6 December 2018 Prudential had been given Mr F's executors details, along with a redacted copy of his will. Following this Prudential made a BACS payment of £8,042.15 on 17 December 2018 to Mr F's executors.

Our investigator didn't uphold the complaint. She thought Prudential's actions were fair and reasonable. She said that Prudential has apologised for any confusion that may have been caused but a business making sure that they have got the right customer and are speaking to the correct person, is very important for Data Protection purposes and not necessarily something that our service would consider unreasonable. She said that we can only tell a financial business to pay compensation for trouble and upset experienced by their customer - not by a third party. So, we can't award or recommend compensation to executors who have brought a complaint on behalf of an estate.

The executors didn't agree so the complaint was passed to me for a decision.

my findings

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

I've taken into account relevant law and regulations, regulator's rules, guidance and standards, codes of practice and where appropriate, what I consider to have been good industry practice at the time.

And having done so, I can confirm that I've come to the same overall conclusions as the investigator and for broadly the same reasons.

It's clear the representatives of Mr F's estate have very strong feelings about this matter. They have provided detailed submissions in support of Mr F's complaint which I can confirm I've read and considered in their entirety. However, I trust that they will not take the fact that my findings focus on what I consider to be the central issues, and that they are expressed in considerably less detail, as a discourtesy. The purpose of my decision isn't to address every point raised, but to set out my conclusions and reasons for reaching them.

I would also point out that where the evidence is incomplete, inconclusive or contradictory, I make my decision on the balance of probabilities – that is, what I consider is most likely to have happened given the evidence that is available and the wider surrounding circumstances.

eligibility

The rules surrounding our jurisdiction can be complex, but a key consideration is that in order for a complainant to be able to bring a complaint to our service, they need to have a certain relationship with the business they want to complain about.

We can only consider a complaint if it falls within certain criteria laid down in our case-handling rules, which are found in the Dispute Resolution ("DISP") section of the Financial Conduct Authority ("FCA") Handbook. The rules that apply here are:

- DISP 2.7.1 says that we can only consider complaints brought by or on behalf of an 'eligible complainant'
- DISP 2.7.2 says *A complaint may be brought on behalf of an eligible complainant (or a deceased person who would have been an eligible complainant) by a person authorised by the eligible complainant or authorised by law. It is immaterial whether the person authorised to act on behalf of an eligible complainant is himself an eligible complainant.*

I've taken note of Mr F's representative's submissions on this point but I still don't think I can fairly or reasonably ask Prudential to pay any compensation for distress and inconvenience;

- to the estate as it's not possible for an estate to suffer distress, trouble or upset.
- or to its representatives in their own right, as they do not meet any of the criteria for an eligible complainant as set out in DISP 2.7.

DISP 2.7.2 allows the estate to bring a complaint to this service on behalf of an eligible complainant; Mr F, he was Prudential's customer. And as such I could've awarded him compensation for any trouble and upset Prudential caused him during his lifetime and that compensation would be paid to his estate after his subsequent death. But in this case this isn't appropriate as the award sought is for the trouble and upset experienced by the representatives after Mr F had unfortunately passed away.

I recognise the representatives have been involved in a considerable amount of work on behalf of Mr F's estate to resolve things including dealing with the grant of probate and Prudential. But that is part and parcel of an executor and/or personal representative's duties. This was no doubt frustrating and stressful at times. I'm sympathetic to the distress, trouble and upset experienced personally by the representatives of Mr F's estate, as they were not only the estate's representatives and executors of Mr F's will, but were also close friends of his. But the simple fact is I'm unable to award any compensation for this.

delays

Whilst I cannot instruct Prudential to pay the representatives for any trouble and upset experienced by them personally, it is my role to consider whether the estate has lost out financially as a result of any delays which were due to Prudential's actions or inactions. So I've considered how much of the delay, if any, was due to Prudential.

I understand the representatives' frustrations. However, I have reviewed everything and haven't found any evidence to support their concern that Prudential withheld information and caused any unnecessary delays.

Prudential had an obligation to ensure it was paying the policy benefit to its customer and followed its tracing procedure, in an attempt to correctly identify Mr F. This service's role and remit is set out in the Financial Conduct Authority's handbook, and it is clear that we are not empowered to instruct businesses how to do this. This is part of their overall right to run their businesses as they see fit within the regulatory framework.

I do not believe it was unfair or unreasonable for Prudential to have carried out checks where it didn't hold accurate records, in the interest of protecting its customer. And I do not consider a request for basic information such as full name, date of birth and current address and/or previous addresses, to be excessive or unwarranted.

I have found no grounds to doubt Prudential's explanation of what happened, and it has now evidenced where it obtained the contact details for Mr F and his representatives. I think Prudential made reasonable efforts to ensure the policy was paid to the correct beneficiaries.

my final decision

I do not uphold this complaint or make an award.

Under the rules of the Financial Ombudsman Service, I'm required to ask the representatives of Mr F's estate to accept or reject my decision before 14 July 2019.

Sonal Matharu
ombudsman