DRN-2983980

The complaint

Mr X complains about the service provided to his parents – Mr and Mrs H – by The Prudential Assurance Company Limited in relation to a joint life assurance policy.

Mr X is executor of both his parents' estates. He's also one of four beneficiaries of a trust his parents set up in 1994, benefiting from the proceeds of the policy in this case. From 2008, Mr X was a joint trustee for the trust. The trust funds were distributed in 2017.

What happened

Mr X first raised this complaint with Prudential between August and October 2020. It covered the following points:

- Prudential hadn't sent Mr X information about their dealings with Mr H and Mrs H, which he'd asked for under a data subject access request ("*DSAR*").

- He felt the advice given to Mr and Mrs H in 1994 was misleading, and the policy they took out had been mis-sold.

- He felt younger family members should have been set as the lives assured, so that the policy wouldn't have needed to be surrendered on the death of Mr and Mrs H. This, he felt, would have helped the beneficiaries of the trust to better manage the tax payable on what they received.

- He felt Prudential hadn't given Mr and Mrs H an option to include their family in their planning decisions when taking out the policy.

Prudential's response changed over time, in part due to mistakes in their understanding of the facts of the case. However, by December 2020, their position on the points above appeared to be as follows:

- The rules around DSARs only relate to living people. And some of what had been asked for was about their business, not Mr and Mrs H specifically. So Prudential felt it was reasonable not to provide the information Mr X had asked for. However, they also offered him £100 for the inconvenience caused.

- The policy had performed well, and the documents from the time showed Prudential had taken steps to base their advice on Mr and Mrs H's circumstances and objectives at the time.

- It was common for owners of a life policy to be the same as the lives assured, and the policy could only cover up to two people.

- There was no evidence Mr and Mrs H had been vulnerable at the time of the advice – or in later reviews of the policy – or that someone else needed to be present at the meetings. And they said if Mr and Mrs H had wanted to, they could have asked for other family members to be present.

Mr X brought the complaint to us, saying he wanted Prudential to compensate the beneficiaries of the trust for the tax they'd had to pay when the policy paid out in 2017. Our investigator looked at the complaints, but decided Prudential didn't need to do anything more to put things right.

Mr X wasn't happy with that view, so the complaint has come to me for a formal decision.

What I've decided – and why

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

On the first point about Mr X's DSARs, I can appreciate Prudential's position. The regulations about handling DSARs refer to requests from "*natural persons*". Here, Mr X was requesting information on behalf of his parents' estates. An estate tends to be a collection of assets – and sometimes debts – that belonged to someone while they were alive. So I can see why Prudential concluded the request wasn't made on behalf of a natural person.

In any case, I can see Prudential did later provide Mr X with the information they had that was of interest to him – the advice given to Mr and Mrs H while they were alive. As the information has now been provided, I don't think there's anything more needed from Prudential on this part of the complaint.

Turning to the advice given to Mr and Mrs H when they took out the policy in this case, I've seen notes from Prudential's meetings with them in 1994, and in later years. Mr and Mrs H were noted to have an inheritance tax liability, and to be getting a low rate of return on the money held in a building society account. The advice to invest in the policy seems to follow from those facts – to reduce the inheritance tax liability and give a better level of return.

The advice to have the policy in trust appears suitable to reduce the inheritance tax liability. And that seems to have worked – the money from the policy passed to the trust beneficiaries without Mr and Mrs H's estates needing to pay inheritance tax on it.

The key features of the policy also tells me there was an investment element to the policy that would give the sum invested a chance to grow. That too seems to have worked. The summary of the policy that Prudential sent to Mr X says that the £720,000 invested by Mr and Mrs H gave a death benefit of over £1.5 million, with a further £321,500 being withdrawn in 2005 during the life of the policy.

The withdrawal is notable, as it appears to be the maximum Mr and Mrs H could take at that time without needing to pay tax. I conclude they probably chose that value for just that reason. That tells me they were aware of the potential for the investment to incur a tax charge other than inheritance tax. I can't see that was a surprise to them, or that they were unhappy about it. I conclude from that they had no complaint about taxes other than inheritance tax being payable on their investment.

So it would appear the policy was suitable to meet the objectives Mr and Mrs H discussed with Prudential when they set it up. It met the specific objectives of reducing what their estates would have to pay towards inheritance tax, and it provided a return for the beneficiaries of the trust they'd set up.

Mr X has talked about having the policy set up so that a younger family member was the life assured. Looking at the key facts for the policy, that may have been possible if setting up a single life policy. But to be a joint policy, the lives assured had to be husband and wife. And I

agree with Prudential's response that setting the lives assured as Mr and Mrs H was a more natural way to ensure the proceeds were distributed to their children as an inheritance.

Mr X also talked about other family members not being included in Mr and Mrs H's discussions with Prudential. But I don't agree that this should have been insisted on by Prudential, just because of Mr and Mrs H's age. Their age didn't automatically mean they didn't understand the policy that was sold to them.

The review documents I've seen show Mr and Mrs H discussed the policy a number of times with Prudential over the years. Had they wanted to, I can't see anything stopped them from telling their family about their various investments in that time. The fact they didn't suggests more of a personal choice by Mr and Mrs H, rather than a failing by Prudential.

I don't see anything that leads me to uphold this complaint. Mr and Mrs H's objectives of reducing inheritance tax and achieving a return on their money were met. And they seem to have understood and been happy with the policy while they were alive. So, I don't think the policy was mis-sold.

My final decision

I've decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estates of Mr H and Mrs H to accept or reject my decision before 8 March 2022.

Paul Mellor
Ombudsman