

The complaint

Mr F complains that The Prudential Assurance Company Limited ('Prudential') hasn't properly compensated him for mistakes it made – in particular, he feels that £600 redress paid to him by Prudential in 2021 doesn't cover additional trouble since then.

What happened

In December 2020, Mr F contacted Prudential and requested information about an assurance policy ('the plan') he had originally taken out with a third-party provider more than 40 years ago. He was aware that Prudential had taken over the plan at some point and he paid £10 per month to Prudential. He understood that the policy had some tax-deductible features but wanted to find out more details – especially about capital gains tax (CGT).

Prudential wrote to Mr F on 23 December 2020 informing him that there would '*be no tax liability on the plan at the time of cash-in*' - unless a change was made to the plan before then.

A week or so later, Prudential sent a further letter saying that '*the amount liable for net capital gain tax is £92,477.92*'.

In January 2021, Mr F told Prudential he wanted to cash-in the plan. He contacted Prudential again in February 2021 and was given information that seemed to Mr F to conflict with what Prudential had told him previously. He requested more information regarding tax due on the plan.

Mr F didn't want to incur a tax bill on encashment and so, when Prudential didn't come back to him with any information, he instructed his broker to sell some of his shares at a loss.

After he experienced a number of poor service issues, including a letter being sent to the wrong address, excessive call waiting times and not receiving an expected letter following a phone call, Mr F formally complained to Prudential about its poor service.

Prudential sent a final response letter to Mr F on 15 April 2021 in which it acknowledged its mistakes. It couldn't explain why it had wrongly addressed a letter to Mr F - human error was considered the most likely explanation. Prudential gave Mr F an assurance that the letter he was waiting for would be sent to the correct address within the next week. Prudential apologised for the stress caused and paid £400 compensation to Mr F in respect of this.

Unfortunately, Mr F then had further problems. He felt that Prudential's letter of 30 April 2021 failed to provide a satisfactory response after he had asked for further clarification in relation to CGT, and Prudential didn't respond to further emails he sent about this. This led to another formal complaint to Prudential.

In a second final response letter dated 3 August 2021, Prudential said it was sorry that Mr F had received a poor level of service that hadn't met the standard he should expect from Prudential. It said feedback had been provided to all the relevant business managers making them aware of Mr F's experience. It agreed that letters it had sent Mr F on 29 January and

30 April 2021 didn't provide satisfactory responses and sincerely apologised. Prudential acknowledged that it was unacceptable that it hadn't responded to emails Mr F had sent on 7 May and 5 July 2021 and said he should expect to shortly receive a letter with the further information and clarification he had requested.

In recognition of the further poor service he had experienced, Prudential offered an additional £200 redress and arranged to pay this into Mr F's account.

Mr F didn't feel this offer went far enough to put things right and so he brought his complaint to us. He complained that Prudential didn't seem to know what type of policy he had and he got different answers from different people. He was unhappy that Prudential provided conflicting tax information, including during a phone call on 8 February 2021 which it had failed to make or keep any record of, and that it hadn't provided the clarification he'd asked for about his tax liability. He told us he had relied on the incorrect advice given to him by Prudential, which resulted in him incurring broker fees and investment losses when he instructed his stockbroker to sell shares at a loss to mitigate his CGT liability. Overall, Mr F was frustrated and upset with the poor service Prudential had provided.

After carefully looking into what happened, our investigator thought that Prudential had done enough to put things right. He felt that he couldn't fairly hold Prudential responsible for losses when it had been Mr F's decision to sell shares at a loss. He said that whilst Prudential had given Mr F misleading information during a call on 19 January 2021, Mr F had straightaway corrected the agent, which showed he was by then aware that he wouldn't be paying CGT on the plan as he knew it would be deducted on encashment.

Our investigator also explained that Prudential confirmed it hadn't offered financial advice to Mr F as he hadn't paid for an advice service. It said that the relationship Prudential had with Mr F didn't cover tax advice so it couldn't have provided him with any tax advice when he was deciding how to proceed for tax purposes. Prudential was only able to provide him with information on his plan - which it did.

Our investigator also mentioned that whilst Mr F had sold shares to avoid a tax bill, he could have chosen to potentially overpay any CGT instead and then make an application later to HMRC to recover this if he wasn't liable to pay. And he noted that Mr F had confirmed to the investigator that he didn't pay any CGT for the financial year after selling his shares in the plan.

Whilst there was no dispute that Prudential had provided poor customer service, overall, our investigator felt the £600 already offered and paid by Prudential was in line with what the Financial Ombudsman Service would consider fair redress and so he didn't recommend that Prudential do anything more.

An exchange of correspondence between the investigator and Mr F followed. There had been a misunderstanding about whether the £600 our investigator mentioned in his view letter was an additional payment of redress on top of the £600 Prudential had already paid direct to Mr F. When the investigator confirmed his view that the redress paid already was sufficient overall, Mr F asked for an ombudsman to review his complaint. He said he wished to pursue his case for compensation as he had understood he would receive a further £600 payment for all the additional trouble.

So the complaint comes to me to decide.

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.

I've outlined above a brief summary of the events that resulted in Prudential paying £600 redress in total to Mr F. It's agreed by both parties that there were a number of shortcomings in the service Prudential provided. So I don't feel I need to go into more detail about what happened as that part of the complaint isn't in dispute. I have concentrated on what seems to me to be Mr F's main concern – which is that he expects Prudential to pay more redress for what happened, and in particular, to reflect the fact that his complaint has been ongoing since Prudential paid him £600.

There's information on our website which explains the Financial Ombudsman Service approach.

Briefly, I need to decide what I think is likely to have happened if Prudential hadn't made errors or provided the poor service.

I've taken into account that Mr F held plan information which set out the CGT position. It said:

“You pay no capital gains tax on the proceeds of your policy. Under current legislation, a deduction will have to be made to provide for any liability of the life assurance fund to gains tax but, since payment of the tax may be deferred, the deduction need not be made at the full rate applicable to an individual....”

In other words, Mr F had access to information confirming that CGT liability on the plan would be deducted from the plan itself and so wouldn't have to be paid by Mr F.

Mr F had no good reason to think that the terms of the plan had changed and he wasn't aware of any change in relevant legislation (there had been none).

In addition to this, Prudential sent Mr F annual statements which showed the current value of his plan and stated: *'This includes a deduction for Capital Gains Tax'*.

I appreciate that one of the things Mr F had asked Prudential was whether, if it deducted any CGT due, this could be offset against any CGT losses he already had. But Prudential wasn't able to give Mr F tax advice.

So I think it's fair to say that the impact of Prudential's mishandling of Mr F's enquiries about his CGT liability was off-set to some degree by the fact that he already had information he was asking regarding CGT. And if he required an answer to his query about offsetting CGT losses, then Mr F needed to look elsewhere for this information.

I can completely understand why Mr F was frustrated by the contradictory information provided by Prudential in response to his emails and during phone calls – and its delays and failure to reply in some cases was unacceptable – as Prudential has admitted.

But I agree with our investigator that, ultimately, despite the shortcomings and service failings on the part of Prudential, Mr F nevertheless did have access to the information he required and his decision to sell in order to mitigate any CGT liability was his own choice. In these circumstances, I can't fairly say that it was Prudential's poor service that led to him selling at a loss. And I think Mr F probably understood this – certainly, he seems to have had more knowledge about this than the Prudential agent he spoke to on the phone in

January 2021 – which was prior to most of the poor service issues arising and well before Mr F decided to sell.

So I've carefully considered what redress is fair and reasonable in this situation to reflect the frustrations Mr F experienced as a result of the poor service Prudential provided.

On balance, I think the redress Prudential has paid is reasonable. If it hadn't already volunteered this payment, I can't fairly say that I have seen enough to make me think it would be fair and reasonable to award any more than £600 in total.

I appreciate that this complaint has proved vexing for Mr F – and there's no doubt at all that he received some unacceptably poor service from Prudential. But, I don't consider that there are grounds for me to award any further compensation to reflect the fact that the complaint has been ongoing since summer 2021.

If Mr F feels he has further cause for complaint (that goes beyond the scope of the complaint he brought to us), then he should first tell Prudential what his concerns are, so it has an opportunity to respond. If he still feels unhappy after that, he may be able to bring a new complaint to this service. I can't award redress for any complaint where the financial business hasn't first been given a chance to put things right.

I agree with our investigator that Prudential has provided fair redress for the service failings that resulted in this complaint. So no further redress is appropriate.

Mr F has raised several different complaint points over the course of this matter and I acknowledge that he feels strongly about his complaint. If I have not referred to each point he's raised it's only because I have nothing further I can usefully add to what our investigator has said already. I have concentrated on what I consider to be the main points that affect the outcome of his complaint.

I appreciate that my decision will be disappointing for Mr F but I hope that setting things out as I've done helps to explain how I've reached my conclusions.

My final decision

As The Prudential Assurance Company Limited has already done everything I would expect it to do to put things right for Mr F, I don't uphold Mr F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 3 October 2022.

Susan Webb
Ombudsman