

The complaint

Mr and Mrs H say they have lost out because Prudential Assurance Company Limited (“Prudential”) gave them incomplete or misleading information about how their investment in its with-profits fund worked.

They say Prudential failed to bring to their attention the date on which with-profits policies like theirs were routinely revalued. They say they lost out as a result by making their partial encashment after rather than before the revaluation.

What happened

Mr and Mrs H’s independent financial adviser (“IFA”) sent Prudential a form requesting a partial encashment of their with-profits bond. A timeline from the IFA says it sent this on 26 February and all parties agree Prudential received it on 1 March.

The form was sent after the IFA had already had a number of interactions with Prudential to clarify the encashment process and arrange the assignment of the bond into joint names ahead of that, including phone calls on 11 and 17 February. Based on those interactions and past experience, the IFA decided not to send the encashment form until after the assignment was complete.

On 23 February Prudential made its annual bonus declaration for with-profits policies like Mr and Mrs H’s. From what Prudential has told us, it included that *“annual bonus rates would be reduced”*. From what Mr and Mrs H have told us, it also said:

“The final bonus will be lower for the majority of customers but will continue to be paid. This means that overall plan values will, for the vast majority of customers, be maintained or show small increases compared to last year.”

Mr and Mrs H’s policy was revalued at the start of 1 March. In Mr and Mrs H’s case, the revaluation reduced their policy value. So when their encashment took place on 1 March, they received less than earlier valuations had led them to expect.

Prudential has said new *“overall yield rates”* are declared on 1 March each year and Mr and Mrs H’s policy value dropped as a result. It has sent Mr and Mrs H a table showing the yield rates before and after 1 March. According to this table, their investments into the bond were made on two different dates many years apart and the yield rate is different for each investment date – but in both cases the rate after 1 March was lower than before it.

Prudential has said that overall yield decreased due to the reduction in annual bonus rates. It has also said overall yield *“represents a combination of Regular Bonus which once earned cannot be taken away when determining guaranteed benefits, and Final Bonus which is not guaranteed and only earned when units are cashed in”*. It has also said:

“Each year, new rates are declared which supersede any previous rate declared. This means that any previous valuation is re-calculated. When a new declaration of Overall Yields is made, all previous rates are replaced with the rates in the new declaration unlike Regular

Bonus rates which are cumulative and once applied remain. These take effect on 1 March..."

Prudential has said Mr and Mrs H's annual statements point out the fund involves risk, the value can go down at any time and the fund guide says the rate of future regular bonus can change at any time without prior notice and isn't guaranteed to be added each year.

Prudential has also said the 1 March date for revaluations was flagged in small print on one of the later pages of Mr and Mrs H's annual statements. The wording says: "*Regular bonus, currently 1.5% a year effective from 1 March, is added on a daily basis through increases to the unit price*". Prudential says there are also the with-profits fund terms and conditions, but it has given us no detail of what is said there in connection with the 1 March date.

Prudential has also said policies are revalued on the same date each year, so the 1 March date of the revaluation was a known date. Mr and Mrs H have said they did not know of this. Prudential - during and in response to Mr and Mrs H's complaint - said Mr and Mrs H's IFA should have known it.

Prudential also suggested, in reply to the complaint, that the 23 February bonus declaration announcement allowed customers like Mr and Mrs H time - a week - to make decisions based on the announcement before the changes announced came into effect on 1 March. Its suggestion seemed to be that Mr and Mrs H, with the help of their IFA, could've worked out their partial encashment would pay more if it were carried out before the policy revaluation, and could've acted on this to secure the higher value by giving instructions earlier.

Prudential has also said it works on a five working day timescale for each transaction. Here it carried out the assignment in two days and the partial encashment on the day after receiving the paperwork. It has said that if the encashment form had been sent at the same time as the assignment form, on 19 February, both the assignment and encashment could have taken place before 1 March and Mr and Mrs H would've got a higher value paid to them.

From what Mr and Mrs H have told us, their IFA offered them half the sum they lost as a result of the encashment not taking place before 1 March. The IFA has said it could have sent the encashment form earlier, with the assignment papers, but didn't in order to avoid the possibility of the encashment being put through in error before the policy assignment. Also it was unaware of any reason to try to beat a 1 March 'deadline', because Prudential didn't make it aware (during its phone calls with Prudential, for example) that Mr and Mrs H's policy value was due to be reduced.

Mr and Mrs H have pointed out that Prudential, when referring to the 1 March date being mentioned on their annual statement, said "*it could be highlighted a bit more*", so wasn't highlighted enough. But Mr and Mrs H also say what's said in the statement there is vague and, even alongside the bonus declaration, doesn't make clear the significant overnight revaluation of the bond that takes place between the last day of February and 1 March.

Mr and Mrs H have also questioned how their IFA could have anticipated a 5% policy value cut based on the announcement of a cut in the regular bonus rate from 1.5% to 1.25% and what was said about how the vast majority of customers would increase or maintain values.

Mr and Mrs H have said there was no way of knowing the cut in their policy value was on its way and that time was of the essence. They have said that had customers like them known about this, many would have tried to take out funds before the deadline.

Mr and Mrs H say they think the reduction is the result of an annual adjustment of the final bonus but they ask how anyone could know, because the section in their annual statement that deals with final bonus makes no reference to any changes in final bonus being effective

from 1 March. They say Prudential should've been clear that final bonus is routinely adjusted on 1 March. They say that if they'd known about the significance of the 1 March 'deadline', they would've either brought forward their transaction or left it until afterwards.

Mr and Mrs H didn't think their treatment by Prudential was fair, particularly in view of how much it charges them each year to look after the plan (more than the sums in dispute here).

I issued my provisional decision in May 2022, explaining I wasn't planning to uphold the complaint. What I said included, in brief summary:

- Prudential's complaint response presented its position as being that Mr and Mrs H were given, at or prior to the bonus announcement, clear information about how their policy was likely to be affected and time to make their encashment ahead of the change. But:
 - It wasn't clear from the annual statement, the bonus declaration or anything else, as far as was drawn to my attention, that revaluations take place on 1 March or that new overall yield rates will be decided at that time and that the effect of all this was likely to be negative for Mr and Mrs H.
 - The bonus announcement said overall plan values would be maintained or increase slightly for most but didn't specify to whom this did or didn't apply. So no one could base a decision on this with confidence that they would benefit by either delaying or speeding up an encashment instruction.
 - The five working day processing timescale meant requests made immediately after the bonus announcement weren't bound to be completed before it took effect.
 - Prudential's conduct wasn't consistent with a policy intended to give policyholders a period in which to act after a bonus announcement before it took effect.
- Despite what Prudential had said during the complaint, I didn't think its policy or practice at the time was to give advance notice of the effect of the revaluation or to give time to act after a bonus announcement before it took effect. Also, I didn't think advance notice was something Prudential was wrong not to give – as giving it could be detrimental for investors who weren't planning to take money out of the with-profits fund. So I didn't think it was unfair that Prudential hadn't given Mr and Mrs H clear information to enable them, after the bonus announcement, to carry out their partial encashment before the policy revaluation took effect.
- The February annual bonus announcement anticipated an improvement in values for most policies. So if Prudential had told Mr and Mrs H or their IFA more about when this would take place, it would've been more likely to encourage them to delay rather than speed up their encashment instruction.
- Prudential couldn't have told Mr and Mrs H's IFA anything useful about policy valuations during the two phone calls the IFA has mentioned having with Prudential, as both these took place before the bonus declaration announcement had even been made.

Prudential replied to my provisional decision saying it was happy with my decision and had nothing more to add.

Mr and Mrs H disagreed with my decision and replied with detailed points. These included, in brief summary:

- It's odd to say Prudential's practice wasn't what it says it was. Its practice was to give

information about bonuses that could be acted upon. Giving the bonus declaration in advance of the revaluation would serve no purpose otherwise. Prudential always does give advance notice - that's the nature of the bonus declaration. But what it says can be misleading, unclear or not given soon enough to be acted on. Arguably, Prudential should've given earlier notice.

- Policyholders should fully understand how investments work and so should be made fully aware that policy values will always fall or rise on the date the annual bonus declaration is implemented each year. It doesn't matter who would or would not benefit. This year their bond value rose rather than fell at that time.
- It is strange to say it won't always be right to give advance notice of changes that might reduce policy values and it begs the question when will it be right?
- Knowing that an encashment was about to be made, Prudential could've and should've told their IFA that their policy value might go up or down on the date the annual bonus declaration is implemented.
- I was wrong in thinking that 'overall plan values' being mostly maintained or increased meant cash-in values being mostly maintained or increased. 'Overall plan values' meant values without final bonus. In light of the accompanying statement that final bonus would mostly be lower, and with knowledge of when such bonuses would be routinely adjusted, the right conclusion was that cash-in values would be lower not higher. Understanding all this, it would've been crystal clear the impact of the bonus announcement on them would be negative.
- In contrast, this year's announcement was that "*Final bonus will be increased for most of our customers and therefore the value of their plans (will increase)*". And their policy did in fact increase. This contradicts my conclusion that Prudential's practice isn't to give notice of changes in advance and in time to act. So the complaint should be upheld.
- As the negative impact on their policy value was foreseeable, I was wrong to conclude that more knowledge about the announcement would've most likely encouraged their IFA to delay rather than speed up the encashment.
- They aren't suggesting Prudential should've given them a personal assessment of how exactly the announcement would affect their bond. In fact, this wasn't needed to understand what the impact of the announcement would be on them. The crucial point was knowing that an increase in final bonus means a higher payout and a decrease a lower one - and final bonus is adjusted on the date the announcement is implemented.
- Their complaint isn't about trying to 'beat' the policy value reductions but rather about Prudential failing to provide clear information to them. In this respect, Prudential has failed not only them but all policyholders. I should be encouraging greater transparency rather than making excuses for Prudential. My misunderstanding of Prudential's announcement is a damning indictment of Prudential's, until now, unfathomable bonus practices.
- Prudential should be directed to reimburse their losses and asked to consider publishing its annual declaration earlier and with clearer information, including particular information about the date of the revaluation and about where on the annual statements details can be found of the bonuses and annual yields.
- On a supposedly 'smoothed' product, with no Market Value Reduction ("MVR") applying, they lost 5% overnight, which is hardly smoothing, because of a 'deadline' that had never

been made clear to them or their adviser. The only communication they get is the August annual statement, and it doesn't clearly explain that on the 'deadline' date each year regular bonus, final bonus and overall yields are all routinely adjusted, up or down. This isn't spelt out anywhere, even in the small print.

- With knowledge of the deadline date's significance, they could've insisted their transactions be completed before it or waited and made different decisions. Prudential's lack of clarity over the significance of the deadline date has, together with other factors, directly caused their unnecessary loss and they firmly believe Prudential treated them unfairly and so should bear responsibility for the loss they incurred. They weren't aware of the February annual bonus declaration until Prudential raised it in reply to their complaint, so this was somewhat beside the point.

After receiving Mr and Mrs H's comments, I pointed out to Prudential that Mr and Mrs H had said 'overall plan values' meant values without final bonus and that, as it was also said that final bonus would mostly be lower, they thought the right conclusion was that cash-in values would be lower not higher after 1 March – giving them incentive to act earlier and making me wrong to think the opposite. I invited Prudential to clarify the position and asked whether it maintained that it gave and intended to give clear information by 23 February about the effects of the 1 March policy changes, sufficient for consumers to know they'd be better off taking funds out of the bond before 1 March rather than after.

In reply, Prudential said:

- The 2021 Bonus Declaration announcement referred to the 'vast majority' rather than all, or any specific, customers - so no individual customer could be certain of the impact on their policy of the new bonus rates. The announcement was not intended to provide a basis for action.
- The reference to values compared to 'last year' is intended to refer to values compared a year apart rather than on consecutive days. So March 2020 to March 2021 rather than the day before and after the revaluation. Mr and Mrs H's 2021 annual benefit statement showed a small increase in cash-in value between August 2020 and August 2021.

I asked Mr and Mrs H if they had more to add. What they said included, in summary:

- Prudential's statement, that the bonus declaration announcement wasn't intended to provide a basis for action, isn't consistent with its second final response letter that said the declaration was "*made public a week prior to 1 March stating the reduction in rates, allowing customers time to make any financial decisions based on the information in the announcement...*" If that statement is incorrect, are they not at least owed an apology or recompense for Prudential having misled them?
- A customer reading the 2021 bonus declaration announcement with a full understanding of how bonuses worked, would strongly believe their overall or cash-in value for encashments would be lower after 1 March. The announcement clearly stated there was to be "*a reduction in rates*".
- Similarly, a customer reading the 2022 bonus declaration with a full understanding of how bonuses worked, would strongly believe their overall/ cash-in value for encashments would be higher after 1 March 2022. That declaration clearly states "*...for most of our customers...the value of their plans.... will be increased...*"
- So, irrespective of vague "*intention*", the declarations make it very clear valuations would after 1 March fall in 2021 and rise in 2022 - and gave time to "act", certainly in 2022.

- If "*comparison of values*" is year on year rather than consecutive days or other time periods, why isn't this made crystal clear with simple, unequivocal words? Also, the small increase in their cash-in value between August 2020 and August 2021 doesn't appear relevant as the encashment wasn't made near those dates. What is relevant is their day to day cash in value shockingly fell by almost 5% between close of business on Friday (or later still as it was the same on Saturday) and the following Monday 1 March.
- It isn't stated or explained that final bonus and overall yield are adjusted annually - with potentially precipitous effects - on 1 March on a supposedly 'smoothed' product with no MVR applying. This is the crux of the complaint.
- Given the infrequency with which stock markets fall by up to 5% in one session, it isn't fair or reasonable for a with-profits investor to crystallise an almost 5% overnight loss because of a systematic adjustment on a fixed date known only to Prudential that, with knowledge and clarity on bonus workings, could easily have been avoided. This is the root of what they argue is unreasonable and unfair. They were encouraged to invest in the bond in order to avoid the ups and downs of the stock market. They could never have imagined so much value being wiped off their 'smoothed' investment overnight.
- Their IFA and Prudential made thousands from their investment over the years. Nothing was clearly explained at the start except the supposed tax advantages and a hard sell on "smoothing". They held it in good faith. After more than 25 years at their first encashment ever they were given valuations which they checked almost daily and were steady right up to the night before. There was no MVR applying and no precipitous stock market movement. Imagine the shock when the payment was some 5% less than quoted simply because the encashment coincided with the annual 1 March date on which, unbeknown to them, significant changes to valuations (always) occur. A lay person on the Clapham omnibus would really not think this fair and reasonable.
- It's not that these re-valuations occur, but the lack of transparency over their timing, the stealthy way they are applied, the significant effect they can have in general terms on the so called 'smoothing' and the fact the final bonus/ overall yield mechanism is nowhere clearly stated and has never been clearly communicated to them. They would be none the wiser but for their unfortunate experience and this complaint. The true ramifications of the adjustments made on 1 March, clearly a very significant date for the investment, should, in general terms, be made clear to investors.
- The ombudsman should shine a light on Prudential's hitherto unfathomable bonus/ yield practices for the benefit of all with-profits investors and find Prudential jointly culpable for their avoidable loss in this case.

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.

Having done so, I've decided not to uphold Mr and Mrs H's complaint. I'll explain why.

The crux of Mr and Mrs H's complaint is that Prudential didn't make clear to them the date on which annual policy revaluations are routinely made – and that this failing caused them to suffer a loss they could've otherwise avoided. In what has been presented in this complaint, I've not seen evidence that the significance of this date was made clear. But to know that they should act to avoid a loss on the revaluation date, Mr and Mrs H would've needed to know the revaluation date and know also that their bond value would reduce on that date.

In my view Prudential didn't have to tell Mr and Mrs H in advance that their bond value would reduce on the revaluation date. Also I don't think a lack of clarity around the date or the general workings of the fund is the cause of the loss Mr and Mrs H are seeking to recover from Prudential – because clarity around those things would in my view not have been enough to enable them to avoid that loss.

Giving advance notice that a revaluation would reduce values, and allowing policyholders to act before it, could be detrimental for policies still in the fund. I say this by way of example as to why Prudential might legitimately decide not to give that sort of notice. I conclude from what I have that it wasn't Prudential's policy or practice at the time to give such notice. I say this for the reasons I gave in my provisional decision but also because Prudential has now said the February bonus announcement wasn't intended to provide a basis for action.

Mr and Mrs H have said Prudential should have told their IFA that a policy revaluation was on the way in their phone conversations. I've explained I don't think Prudential needed to tell them the value would go down and that I don't think knowledge of the revaluation date alone would've changed the outcome here.

Mr and Mrs H also say their issue isn't with the revaluation itself, but the stealthy way it was done, and that the final bonus/ overall yield mechanism isn't clearly stated anywhere and has never been clearly communicated. I agree Prudential's information should have been clear and accurate. But, as I've already explained, I don't think fairness required that the clear information Prudential gave included actionable advance notice of the bonus changes of the kind Mr and Mrs H would've needed to avoid their loss.

Mr and Mrs H point out they invested in a fund with 'smoothing' so as to avoid the ups and downs of the stock market. So they object to the revaluation's size, its suddenness and the significant effect they say it had on 'smoothing'. They say they could never have imagined so much value being wiped off their 'smoothed' investment and the fall compares unfavourably with the movements typically seen on the stock market on any given day. They say no MVR was being applied and no matching fall occurred overnight on investment markets.

But I'm not persuaded by this that Prudential is at fault for making the revaluation or ought to cover Mr and Mrs H's loss. The revaluation took place on one particular day, but it was an annual adjustment - so it related to a longer period than a day, which gives context to its size. Also Mr and Mrs H acknowledge that adjustments can be made at any time. In referring to an MVR, they refer to a way values in the fund can change significantly. With this and all I've said above in mind, Mr and Mrs H's points don't persuade me that the adjustment was incompatible with what they were entitled to expect from this sort of investment. They refer to conversations at the sale 25 years or so earlier, and I note this, but the complaint isn't about the sale – and I don't see that consideration of the sale would change my conclusions here.

Mr and Mrs H weren't aware of the February bonus declaration until Prudential raised it in reply to their complaint. So the wording of the announcement didn't inform their actions or cause their loss. But Mr and Mrs H say that with the benefit of what they now know about how bonuses work, they would have understood from the announcement that their policy value would fall at the revaluation – so I was wrong to say that knowing more about that announcement would've encouraged them to delay rather than speed up their instruction. Also, from what Prudential have said, Mr and Mrs H weren't an exception to the majority whose values were to increase slightly – but the increase referred to didn't relate to values measured before and after the change but between points a year apart, which Mr and Mrs H say isn't very clear – a view I share based on what has been provided in this complaint.

But regardless of how the February announcement ought to have been interpreted, or might have been interpreted by Mr and Mrs H had they seen it, my view remains that it wasn't

unfair for Prudential to not give Mr and Mrs H, in that announcement or elsewhere, advance notice that their bond would be worth less after the revaluation than before it. In my view the announcement wasn't intended to provide that sort of information. I note again it referred to changes that would happen for most, without specifying to whom it would or wouldn't apply, and that Prudential says it wasn't supposed to provide a basis for action.

Mr and Mrs H have suggested Prudential pay redress or apologise if its complaint response was wrong or misleading in what it said about the announcement allowing them time to make decisions. Prudential does appear to have withdrawn this suggestion now. But its comment didn't have a bearing on the loss Mr and Mrs H have complained of or cause them to make or pursue their complaint. So I don't think financial redress is due there and I'm not on balance persuaded to make the sort of direction Mr and Mrs H have suggested.

Mr and Mrs H's first ever encashment, after more than 25 years, was carried out just after a policy revaluation reduced the value of their bond. That was very unfortunate timing. If they had known revaluations around that time were normal, this might have made the outcome less of a shock. But I think it very likely they would've still been very disappointed because the timing and the result was very unlucky. The fact Mr and Mrs H checked the value daily and could hardly have done more to check on what they might receive, would've only made the outcome more disappointing. They found, instead of a slightly increased or steady value, a suddenly reduced one as soon as the transaction went ahead. But ultimately the root of this disappointment in my view was a reduction in value that Prudential was not at fault for making and was entitled to make.

In conclusion, based on what has been offered during this complaint, my view is Prudential didn't give Mr and Mrs H clear information about how the bonuses worked – and some of what Prudential has said, including during this complaint, seems to me to have been either incorrect or at least misleading. But, for the reasons I have given above, I don't believe that the shortcomings caused Mr and Mrs H's loss or give me reason to uphold their complaint.

I'm grateful to Mr and Mrs H for all their comments and for their courtesy throughout.

My final decision

For the reasons I have given and in light of all I've said above, I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 26 October 2022.

Richard Sheridan
Ombudsman