

The complaint

Mrs B complains that the charges The Prudential Assurance Company Limited applied to her investment bond were inaccurate.

What happened

Mrs B set up a Prudential investment bond in April 2002 and then made two additional top up payments in December 2022 and August 2024. Mrs B said the original investment had a 5% bid/offer spread, which allowed for the payment of commission.

Mrs B said she also received an enhanced allocation because of the amount invested, 102.5% on the original investment and 103.75% on the two top-ups, which reduced the effect of the bid/offer spread but did not remove it completely. When Mrs B started her investment in 2002, her adviser had given up some of his commission, which was then added to her contribution.

Mrs B made her second top-up contribution, and afterwards realised Prudential had treated her investment as if commission had been paid, when it hadn't been. When Mrs B found out about the charges, she attempted to cancel her latest top up but had been told that it was outside the 30-day cooling-off period and so couldn't cancel.

Shortly afterwards, Mrs B decided to formally complain to Prudential. In summary, she said:

- Her adviser had voluntarily given up some of his commission so she could get a better deal on her investment; this was added to her initial contribution.
- When the additional contributions were made, both she and her adviser assumed that they would still pay him commission but they didn't.
- When the second top up was made, her adviser queried the commission issue and discovered Prudential had charged her as though they had. She didn't think that this was fair.
- She now has to pay a fee for his advice as well as paying the Prudential initial fee which is grossly unfair.
- Given the delays in Prudential's replies to her queries, she was placed outside of the cancellation window. In light of this, Prudential should cancel the most recent top-up and refund any associated charges and apply interest to the refunded amount.

After reviewing Mrs B's complaint, Prudential concluded they were satisfied they'd done nothing wrong. They also said, in summary:

- The payment of commission was banned under the regulator's Retail Distribution Review (RDR). That meant Prudential no longer paid commission to advisers and as such, advisers were required to charge clients directly through agreed fees instead.
- This meant that advisers could no longer waive commission payments and have it attributed to customers' plans.
- The cancellation period is not dependent on waiting for the outcome of a complaint. It is the responsibility of the adviser to be aware of such matters and to act in the best interests of their customer. Given the decision to cancel was only made after the complaint outcome was received, they didn't think they'd done anything wrong.
- In light of the fact that a top up was made in 2022, had there been any questions regarding charges, it should have been raised then.
- However, Prudential said that that they could have made things clearer to Mrs B's IFA, and for this they have awarded her £75.

Mrs B was unhappy with Prudential's response, so she referred her complaint to this service. To put things right, she wanted Prudential to increase the allocation rate on the first top-up by £1,437.50 and to refund her second top-up without charges and pay her some allowance for growth over the time this has been going on.

The complaint was then considered by one of our Investigators. She concluded that Prudential hadn't treated Mrs B unfairly and she also said, in summary:

- At the time the initial investment was set up in 2002, firms paid advisers commission. This is why Mrs B's IFA was able to give up the commission and Prudential then allocated it to her investment.
- In 2012 new rules were introduced by the financial regulator. These said firms were no longer permitted to pay commission on any new investments. Therefore, when Mrs B made her top-ups in 2022 and 2024, Prudential could no longer allocate any commission to her investment. Any advice fees would need to be paid to Mrs B's IFA.
- The commission that Mrs B's IFA gave up in 2002 didn't come from her investment, it came from Prudential.
- Prudential sent Mrs B's IFA a breakdown of the original investment that was paid in on 19 April 2002. They explained that a payment of £25,000 was received from Mrs B, but the £113.00 commission given by the IFA was paid into her plan, and her statements show the initial investment was £25,113.00.
- The bid and offer price are a feature of how many investments work. This is also explained in the literature Prudential provides, including their statements.
- Considering that she'd not found any wrongdoing when it came to the commission and charges Prudential applied, our Investigator thought the £75 awarded is fair and reasonable.

Mrs B, however, disagreed with our Investigator's findings. In summary, she said that Prudential's approach to charges had been all 'smoke and mirrors'. She also said, in summary:

- Whilst she accepted that firms were no longer allowed to pay commission on new

investments, this was a top-up to an existing investment which is not the same as a new investment into a new investment vehicle.

- She didn't agree that the commission her adviser had chosen to give up hadn't come from her investment; Prudential wouldn't have had any other place from which to pay her IFA the money.
- The bid offer spread looks and feels like a direct charge to her.
- Had Prudential properly explained the charges when she first raised the issue, she could have sent in the cancellation notice and not suffered their excessive charges. A £75 compensation payment wasn't in her opinion fair when Prudential would charge £1,437 if she cancelled the policy.

Our Investigator was not persuaded to change her view as he didn't believe Mrs B had presented any new arguments she'd not already considered or responded to. Unhappy with that outcome, Mrs B then asked the Investigator to pass the case to an Ombudsman for a 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.

I have summarised this complaint in less detail than Mrs B has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

My role is to consider the evidence presented by Mrs B and Prudential in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Mrs B's complaint - I'll explain why below.

Mrs B's investment bond was taken out in 2002. At that time, the way product providers remunerated advisers for selling their products is very different to how things are now done. Two decades ago, product providers used to pay advisers commission to sell their products and if they wished, advisers could then rebate some of that commission back into the customers plan (which is what happened in Mrs B's case). However, after conducting a comprehensive review of how product providers and advisers worked together, the regulator, the Financial Conduct Authority, subsequently banned commission payments, that meant from late 2012, advisers had to charge their customers a fee for the advice provided. Those advice costs (both for the initial and ongoing advice (if provided), together with the costs of the recommended product and the underlying funds within the investment, had to split out and provided to the customer to allow greater transparency and help shape consumer decision making and allow for greater comparison across advisers and product providers.

But, just because Mrs B took her investment out in 2002, it doesn't mean that future top-ups would be undertaken on a commission basis. After the introduction of the Retail Distribution Review, advisers and product providers were required to follow the new approach for all subsequent business. This meant that Mrs B's adviser wouldn't receive any commission from Prudential for the latter top-ups for which he could rebate to her plan. However, in 2022 and in 2024, Mrs B should have been provided with two sets of costs, the advice fee from her adviser and the product fees from Prudential. So, whilst Mrs B states that she's been unfairly charged two sets of costs, the difference now is that the total costs she is paying is far more explicit and must be disclosed to her prior to committing to proceeding with the investment.

I acknowledge that both Mrs B and her adviser assumed that commission would continue to be paid on subsequent top-ups. But an adviser's or customer's expectation cannot override regulatory requirements. Following the introduction of RDR, Prudential were prohibited from paying commission on any new business, including post-2012 top-ups to existing bonds. Prudential therefore could not lawfully pay or rebate commission on the 2022 or 2024 investments, regardless of any assumptions made by Mrs B or her adviser. And, under the RDR, any additional investment made after 31 December 2012 is treated as *new* business, even where the underlying bond predates RDR.

But, in light of the fact that this complaint is about Prudential, I think it's important to recognise that they haven't provided Mrs B with any advice to invest here, that was her adviser's role. Prudential never recommended Mrs B top-up her plan and they don't set the adviser fee that Mrs B pays, that's entirely a matter for her and her IFA. Prudential only set the product (or wrapper fees) and the fees of any underlying Prudential funds that Mrs B's adviser may recommend she invest in. The latter of which are explicitly set out in Prudential's literature.

A common feature of many investments is the bid/offer spread. That's basically the difference between what a consumer sells and buys their investments at. Prudential have said:

"This policy is an initial charge bond and an investment into this policy has an initial charge of 5%, which is also known as the bid offer spread. It isn't a direct charge, instead it reflects in the 5% difference between the offer and bid price of units. The offer price at which the units are bought is 5% higher than the bid price. The policy value is based on bid price and therefore the value of the investment on day one maybe lower than anticipated."

Importantly, this isn't a charge that Mrs B's adviser can waive, nor is it something that Prudential would alter. That's because it's a standard charge applied to all customers whom Prudential have to treat the same. However, the impact of the bid/offer spread is softened as Prudential applied an allocation rate of 103.75% to both of Mrs B's subsequent top-ups. What that meant in practice, is that despite Mrs B investing a further £100,000 into the bond in August 2024, Prudential treated that as being a £103,750 investment and levied the 5% bid/offer spread on the higher amount. So, instead of paying an initial bid/offer spread cost of £5,000 on the top-up, she paid £1,437.50 (which is an effective charge of 1.43%). To put that into context, when the bond was originally set up in 2002, even though the adviser rebated some of his commission, Mrs B only benefited from an allocation rate of 2.96% (including rebated commission), whereas in 2022 and 2024 she received an allocation rate of 3.75%.

I appreciate why Mrs B feels the initial reduction to her investment appears unfair. However, the initial charge, expressed through the bid/offer spread is an inherent feature of this type of investment bond and applies uniformly to all customers. It is not a penalty or a discretionary fee that Prudential can vary based on circumstances. Importantly, the enhanced allocation

applied to both of Mrs B's later top-ups, significantly reducing the effective impact of the spread, resulting in a materially lower initial cost than would otherwise have been the case. In these circumstances, I cannot reasonably conclude that the application of this standard product feature amounts to unfair treatment.

Mrs B's IFA sent multiple emails to Prudential following her top up to the investment in August 2024 querying the initial level of commission. It seems that Prudential clarified that no further commission would be payable on any top-ups on 20 September 2024. To apologise for the delay in responding to the IFA's questions about the charges, Prudential offered £75. Mrs B's IFA states that had Prudential not delayed responding to his queries about the charges, she would have been better informed and as such, she would have cancelled the plan within the cancellation period.

I accept that Prudential's reply to the adviser's charging queries in 2024 was slower than it should have been. Even if Prudential had responded more swiftly to the adviser's queries in 2024, the cancellation period is set by the product terms and does not pause or extend while a customer or adviser seeks clarification. Mrs B should have received all the required cost information from her adviser before investing (Prudential's charges were freely available in their illustrations and online), and she had already experienced the same charging structure during her 2022 top-up. So, I am not persuaded that Prudential's delay deprived her of an opportunity she would otherwise have used within the cooling-off period. I accept that Prudential's reply was slower than it should have been and in that sense the service fell short. But as the delay did not change the outcome or affect any rights available to Mrs B, I consider the £75 offered to recognise the inconvenience to be a fair and proportionate service award. It does not indicate any error in the application of charges or commission, and it does not alter my conclusion on the substance of the complaint.

My final decision

I'm not upholding Mrs B's complaint and as such, I won't be instructing The Prudential Assurance Company Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 9 March 2026.

Simon Fox
Ombudsman