

## **complaint**

Mr B complains that the value of his plan fell in 2011. On investigation he realised the number of units held in his plan had reduced for no apparent reason. He complains about the way The Prudential Assurance Company Limited have administered his policy and the fact it has tried to correct an "error" it made a number of years ago. He says his unit holdings should be restored to previous levels.

## **background**

This complaint was investigated by one of our adjudicators. He did not recommend upholding Mr B's complaint. He was satisfied that Prudential had made an error when a switch of holdings was made in 1992. Mr B disagreed. He said in effect that Prudential had not explained why the error was made or what that error was. He says there was no spike in the performance of the selected funds which would account for a reduction in the holdings.

I issued a provisional decision where I concluded on balance that the business has made an error in 1992 and I was satisfied that the reason the number of units had reduced was due to the business rectifying the error in 2011. I recommended that the business should pay £500 for the distress and inconvenience caused to Mr B. The business agreed with my findings and offered £500.

Mr B disagreed and made a number of points in response. He said in summary:

- He questioned why was there no time limit as to how far the business could go back when identifying an error.
- He thanked the ombudsman for the explanation of the difference in the unit holding of the fixed interest fund but he considered the explanation given by the business was at odds with the explanation it had previously given.
- He asked that the business provide a breakdown of the unit price of the fixed interest fund for 1983 and 1984. Without this information, he failed to see how a decision could be reached.
- He stated that the April 2004 letter had no audit trail and it was not provided earlier in the investigation, suggesting that this is not a valid statement of the situation at that time.
- Mr B has no confidence that the business' explanation was valid, particularly in light of the fact that it did not raise the error until 2011.
- The business has made other errors following its takeover of another business.

Following Mr B's response further information and explanation was sought from the business. The business responded giving further information and identifying errors in 1985 and 2002. Mr B was provided with this and given an opportunity to respond.

Mr B responded indicating in summary he did not accept the statements provided by the business. He stated that any correction made prior to 1992 would have been corrected by another business who was administering his plan at the time. He also stated that the statements provided by the business always referred to an April date whereas he believed he had on some occasions made late payments after April during the years his policy had been in place. He considered that Prudential had broken FCA rules.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint, including any further representations and information provided since the adjudicator issued his view and since I issued my provisional view.

Whilst I have carefully considered all the points raised by both parties my decision focuses on the issues I consider go to the crux of the matter. My findings are made on the balance of probabilities in other words whether something is more likely than not to have occurred.

I should also make it clear at the outset that this service does not have a general supervisory, regulatory or disciplinary function with regard to businesses. So, we do not have power to make rules for financial businesses or to punish them or their employees. We do not award punitive damages.

Our role is to resolve individual disputes between consumers and financial businesses. We make awards of monetary compensation to make good financial loss, damage or material inconvenience or distress. If we do find a business has made an error then we expect it to put matters right. We expect the business to put the consumer back in the position they would have been in, if the error had not occurred.

Mr B took out an investment plan in 1982. He paid a yearly premium which was used to buy more units in the fund he was invested in. The units were bought at the bid price for the relevant time. In 1992 his funds were switched from the fixed interest fund to four different funds. After 1992 he continued to pay annual premiums and he received annual statements detailing the number of units held in each fund, the value of those units, and the total value of his investment plan. Mr B has helpfully provided statements he has received since 2006.

In 2011 Mr B received a statement which caused him a great deal of concern and prompted him to contact, and subsequently complain to the business. That statement showed that the value of his plan had reduced considerably since 2010 and on closer inspection this appeared to be because the number of units held for each fund had been significantly reduced. In addition because his annual premium had been paid he would have been expecting the number of units held to have increased rather than decreased. Mr B promptly raised this issue with the business. The business responded indicating that incorrect values were given in the 2010 statement and the 2011 statement was correct. Mr B understandably was not satisfied with this explanation and pursued the matter further.

In November 2011 the business explained it had checked its records and that it had sent incorrect records to Mr B since it switched his investment from the fixed interest fund to four different funds in 1992. It apologised for not contacting Mr B regarding the error and it provided a statement showing what it said was the correct number of units for each year since the plan began and including the switch in 1992. Mr B does not accept the figures quoted by the business in its statement and says his records do not show a spike which would suggest an error was made. He considers the business has not adequately explained its error, and questions why it is allowed to rectify an error that occurred many years ago.

The switching statement from 1992 shows the number of fixed interest units that were cancelled, the bid price and the cash realised. It also shows the amount of cash used to buy units in four different funds, the bid price for each of the four funds and the number of units allocated for each of the four funds. Those figures appear on balance to be correct as the bid

price multiplied by the number of units allocated equals the cash used to buy units in the fund.

The business has said that an incorrect amount of units were allocated to Mr B's plan, in effect that too many units were allocated to him for each fund. The evidential difficulty with this case is that the error is said to have occurred a significant number of years ago in 1992 and it was not recognised as an error for a number of years, so there is limited documentation available from the time of the error.

However, the business has provided a unit transactions statement from 2004 which gives support for what it says about the error. The statement shows that the amount of units switched in 1992 for each fund is significantly greater than the amount shown on the 1992 switching statement. For example, the number of units for the equity fund is around 840 whereas the switching statement indicates it is around 687. The 2004 statement of unit transactions also shows that the amount of fixed interest units switched out is significantly greater than shown on the 1992 switching statement, namely around 6670 in contrast with around 5450.

I appreciate the point Mr B makes about the 2004 statement and I consider that the repetition of certain numbers throughout the statement does make it more confusing. However, the business has indicated this is because each of the backdated annual investments which show up on the statement was added and then cancelled.

Since I issued my provisional decision the business has checked its records again looking at the historical transactions and available data. It has provided a spread sheet which shows the incorrect units switched in 1992. This spread sheet also shows that in 1985 an error was made which meant that the premium was incorrectly counted. This meant the unit holding was shown as being substantially more than it actually was. The spread sheet additionally shows that a further similar error was made in 2002 which meant that the unit holding was shown as being more than it actually was.

Mr B has questioned the accuracy and integrity of the information provided by Prudential and is particularly concerned that further errors have been identified now at this late stage. I can understand why Mr B has lost confidence with the business' records particularly given the way in which the matter has progressed since Mr B first raised an issue in 2011.

However it seems to me on balance that the error identified in 1985 helps to explain the reason the switch was incorrect in 1992. Because, the amount of unit holdings Mr B should have had for the premiums he had paid was less than the amount shown on the business' systems. It also appears on balance that the amount of units incorrectly "added" in 1985 broadly correlates with the additional amount of holdings incorrectly allocated in 1992.

I am also not persuaded on balance that because a different business was previously administering the plan that the error had already been rectified. I am not convinced that there is any clear evidence to show that it was. In contrast the business has asked its technical department to examine this matter in detail and it has indicated that the error in 1985 had not been rectified by 1992.

The business has also provided a spread sheet indicating the correct number of units in the holding. I am satisfied on balance that the information on the spreadsheet broadly appears to reflect the regular premiums being paid by Mr B and that it broadly correlates with the 2011 statement figure provided to Mr B. I should say at this point that I do not think it

appropriate for me to take on the role of an auditor in this case. I have to determine the case on the balance of probabilities and this is an informal dispute resolution which is an alternative to the courts. I do not think it appropriate or proportionate therefore that I seek independent verification of the figures as suggested by Mr B.

I am satisfied on balance that an error did occur in 1992 and that more units were allocated to Mr B's plan than should have been switched. I note that the statement provided by the business shows what the number of units held would have been for each year if the correct number of units had been switched in 1992, and this appears to correlate with the number of units allocated each year as a result of the annual payments. I am not persuaded therefore on balance and on the available evidence that the business has calculated this incorrectly.

Overall, I am satisfied on balance that an error was made by the business in 1992. I am not persuaded therefore it would be fair and reasonable for the units held in each fund to be increased or that it would be just and appropriate for me to direct the business to do so.

I am also satisfied on balance that errors were made in 1985 and 2002. I consider that the effect of those errors on Mr B's plan has been explained by the business. I am not persuaded on balance that the spread sheet the business has provided with the correct unit holdings does not reflect the premiums paid by Mr B into the investments. I take into account that the business has asked its technical department to examine the available data to ensure the figures given are correct.

Mr B has said that if the valuation statement provided by the business in 2011 was correct then he has been induced by the business to extend his plan and continue to invest by the "*incorrect valuation statements*" it has provided him with over the years. I accept that the valuation of his policy would have had an impact on Mr B's decision to stay invested. However, I am not persuaded on balance that if the errors had been rectified at an earlier stage that this would have resulted in Mr B cashing in his investment. I am not persuaded that the difference was so large that it would have resulted in Mr B cashing in his investment. Although, I consider it was large enough to cause Mr B significant distress and inconvenience when he was informed of the error in 2011.

The business has accepted my provisional assessment of compensation for distress and inconvenience of £500.

The error was made in 1992. The business did not spot that there was a system error until 2003. It was not rectified on Mr B's statements until 2011. When it was rectified the business gave no explanation as to why his statement was showing significantly different figures than would be expected. It was only when Mr B contacted the business that some explanation was given and I consider that the initial explanation given was fairly brief and not particularly helpful.

I consider that Mr B would have been caused significant distress and inconvenience when he received a statement showing a significant and unexplained drop in the value of his plan. I am satisfied that he would have been caused a great deal of concern and distress to learn a mistake had been made a significant number of years ago which meant that the amount of units held by him and therefore the value of plan was significantly lower than he believed it to be. I also consider that his expectation regarding the unit holdings and the value of his plan would have been formed over a number of years when he was receiving annual statements which were incorrect.

I am satisfied that this error was not rectified for a number of years and Mr B had to contact the business to find out that an error had occurred. I also consider that the initial communication regarding what had occurred was not particularly helpful.

I also note that during this process and after the issuing of my provisional decision it has transpired that errors were made in 1985 and 2002. I consider the fact that Mr B has been informed of this at this late stage is likely to have compounded his distress and further reduced his confidence in the information the business has provided to him. So I consider that there should be a small increase in the distress and inconvenience payment I suggested in my provisional decision.

Taking all of these factors into account I consider that a sum of £600 for distress and inconvenience would be fair and reasonable in the circumstances of this complaint.

**my final decision**

My decision is that I uphold this complaint in part and order The Prudential Assurance Company Limited to pay Mr B £600 for distress and inconvenience.

Julia Chittenden  
**ombudsman**