

complaint

Mr and Mrs M complained that The Prudential Assurance Company Limited (Prudential) led them to believe everyone had to pay the initial charge for investing in the recommended offshore bond, and that they'd also have to pay to transfer ISAs. They feel they could have invested the lump sum and transferred the ISAs himself without incurring any up-front fees.

background

Mr and Mrs M complained to Prudential in 2014.

It rejected their complaint. It said its advisor had explained that the offshore bond had an associated initial advice charge (IAC) of 2.5%. Mr and Mrs M accepted this, but did not wish to pay for on-going advice. It said they also agreed to its one-off (ad hoc) charge for transferring his ISAs. It confirmed the offshore bond set-up fee in a letter dated 14 March 2014.

Mr and Mrs M didn't accept this, and brought their complaint to this service. In his evidence, he offered a timeline of the key events

Mr M's timeline

1. January 2014 - one of the bonds matured, and they sent a cheque to Prudential to reinvest most of this money in one of its onshore bonds
 2. They then received an unsolicited call from a representative from Prudential who said he needed to come to their house to verify the source of their funds
 3. During the subsequent home visit, this 'advisor' said he worked directly for the Prudential and was not a financial advisor, his services were free of charge and he simply wanted to assist the business's good clients. Mr M says that he and his wife insisted they didn't need a financial advisor, and were adamant about not paying unnecessary charges.
- The advisor recommended they put their available money into a particular offshore bond, and said this had a mandatory upfront charge of 2.5% (£5,500). Mr M says he agreed to this.
4. The advisor's confirmation letter recorded that the fee was 2.5% + 1.5% i.e. 4%. Mr and Mrs M queried this, but the advisor said this was a 'set-up advisor charge' which everyone had to pay. So Mr and Mrs M agreed on this basis.
 5. The bond paperwork sent on 14 February contained various errors including incorrect set-up charges plus an ongoing fee. These were eventually corrected after Mr M's involvement.
 6. Mr M and his wife also transferred a substantial ISA holding into the Prudential, on the assumption that there would be no advice attached to this transfer. Subsequent paperwork showed a 2.5% transfer fee against this investment. According to Mr M, the advisor explained that everyone had to pay this fee to gain access to the fund in question.
 7. They then discovered the ISAs could've been transferred into the same Prudential fund without any transfer charges.

An adjudicator at this service didn't feel the complaint should be upheld.

He said he'd not seen sufficient evidence to safely conclude that Prudential had misled Mr and Mrs M. He recognised there was limited concrete evidence about what was said at the meetings, but felt some apparent conflicts of evidence might be down to misunderstandings at the time.

He wasn't aware of any independent supporting evidence that Mr and Mrs M had been told the advice was free. He felt the offshore bond was a suitable recommendation, and couldn't have been taken out on a non-advised basis, so the advisor's fee was unavoidable.

He said the advisor's recommendations' report clearly spelt out the charges applicable to the advice. He said Prudential provided advice about a potential ISA switch into one of its funds, and it wasn't unreasonable for it to be paid for this advice.

He didn't believe it was required to explain to Mr and Mrs M, after providing this advice, how he could transfer his ISAs (via another platform) without paying it any fees.

Mr M did not agree.

He said:

- he was led to believe that he wouldn't incur any fees for using a Prudential advisor;
- he was then told everyone had to pay a 2.5% up-front fee for the offshore bond being recommended, and also for transferring his ISAs into Prudential funds;
- when he found out he could transfer his ISAs without incurring a fee, he did so;
- Prudential tried to charge an even higher fee and levy ongoing charges despite guaranteeing it wouldn't, only stopped after his intervention;
- he brought the subject up at every meeting with the advisor so he rejects the adjudicator's theory that there might have been a 'misunderstanding';
- his wife was at these meetings, and she confirms that he reassured them there'd be no charges arising from any of his recommendations as he was 'a good customer';
- He offered to make a sworn legal statement, and asked the adjudicator to approach the advisor to agree to do the same – but had received no response to this;
- They did not receive detailed financial advice from Prudential, and chose the fund themselves.

As no agreement has been reached, the complaint has been passed to me for review.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I find that I agree with the conclusions reached by the adjudicator, and for essentially the same reasons.

Firstly, I understand Mr and Mrs M's general disappointment with the service they received from Prudential. There were some unfortunate mistakes in the initial paperwork, particularly around the question of start-up and ongoing fees, and it took a number of email exchanges to resolve. Prudential eventually paid Mr and Mrs M £200 for the delays in responding to his various concerns.

However, from the evidence available to me, I do not feel I can safely reach a conclusion about the crucial issue of what was said by the advisor. There are contrasting views about what took place at these meetings with, perhaps inevitably, no independent corroborating evidence.

This does not mean that I question Mr M's recollections, or those of his wife, merely that I don't believe it would be fair to judge the complaint solely on this basis.

Prudential sent Mr and Mrs M several documents setting out its proposals. From my reading of these, I feel it did explain that it will impose a charge both for the investment into its offshore bond and for the ISA transfers.

It says there is a mandatory fee/set-up charge for transferring into the offshore bond is 2.5%, and its cooling-off notice also sets out that the offshore bond carries a 2.5% advisor's fee, along with Mr and Mrs M's right to cancel the purchase if not happy with the terms.

Prudential has since said that this bond was only available on an advised basis, and therefore everyone did have to pay to invest in this product. I've seen no evidence to the contrary.

So while Mr M is adamant that he didn't want to pay any set-up or advisors' charges, I feel he had sufficient information to choose whether to go ahead with this recommendation.

I note he says that he paid 4% to invest in this bond, but from the evidence I've seen the fee was 2.5%. I assume his reference includes the 1.5% loyalty bonus he lost by choosing to withdraw from his previous bond.

Mr M said he and his wife had dealt with the platform provider for many years, holding accounts on its platform, so were more than capable of transferring their ISAs into Prudential's growth fund without any assistance. I do not doubt this.

However, I am satisfied Prudential explained it levied a 2.5% fee for recommending and processing the proposed transfer into one of its ISA funds. In my view, this is clearly explained in the advisor's Financial Planning report dated 18 March 2014, under the heading "Summary of Advice Charges Applicable".

I also agree with the adjudicator that the Prudential wasn't obliged to explain to Mr and Mrs M that they could choose to make this transfer via another platform, and thereby avoid paying it a fee.

my final decision

For these reasons, I do not uphold this complaint or make any award.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs M to accept or reject my decision before 7 December 2015.

Tony Moss
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