

## **complaint**

Mrs T's representative has complained on her behalf that she was not aware that The Prudential Assurance Company Ltd was paying on-going 'trail' commission payments to "A", the business that originally advised her about her with-profit policy.

## **background**

Mrs T believes the commission payments were unfair as A didn't provide her with any on-going service. She therefore feels that the payments weren't warranted. She has asked that they cease and that any payments made previously be refunded to her policy.

The adjudicator considered that Prudential was entitled to make on-going commission payments and that the decision to do so was an exercise of its own commercial judgement. He also found that the commission payments made were in line with the terms and conditions of the policy to which Mrs T had agreed.

Prudential confirmed that these payments had stopped being paid to A in 2008 at the request of A. It confirmed that it would not consider refunding previously made commission payments to Mrs T's policy and the adjudicator was satisfied it was not required to do.

Mrs T's representative responded saying that Prudential had made the commission payments without Mrs T's permission and had not informed her when these ceased in 2008.

The adjudicator reiterated his view that the commission payments were a matter of commercial agreement between A and Prudential and that the payments did not adversely affect Mrs T. He also found that the payments were not linked to any on-going service provided by A to Mrs T.

The adjudicator confirmed that Prudential advised it had not made any deduction from Mrs T's policy to make the commission payments. Because of this, the adjudicator said that Prudential didn't require Mrs T's permission to make the payments. He was also satisfied that Prudential was not required to advise Mrs T when the commission payments ceased in 2008.

Mrs T's representative responded stating that they were not satisfied the commission payments had not been deducted from the policy and requested that the complaint be reviewed. It has therefore been referred to me for a final decision.

## **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 have come to the same conclusions as the adjudicator and for broadly the same reasons.

I note a related complaint about A has also been raised and confirm that this has been dealt with separately.

Commission is often paid by one business to another where advice is given; this is a typical way for a business to receive payment for providing that advice. Prudential had an agreement with A whereby it paid it some commission immediately when a new policy was started and then 0.5% of the fund value annually.

I agree with the adjudicator that the commission arrangement in question here is a matter relating to Prudential's commercial judgement. The role of this service is to resolve individual disputes between consumers and financial businesses. I don't have a regulatory or disciplinary function. So, I'm not in a position to comment upon a general commercial arrangement agreed between two parties, such as the payment of commission.

I can, however, consider how information was provided to Mrs T in the specific circumstances of her complaint. Prudential was not responsible for the advice or for verbal disclosure of the commission arrangement. Prudential's own written illustration, while it does not use the term 'trail' commission, clearly refers to the same on-going commission that is at the heart of this complaint when it refers to 0.5% of the fund value being paid each year thereafter. This is under the sub heading '*How much will the advice cost?*' and goes on to say '*for arranging this policy...*'.

Therefore, in my view both the initial commission and on-going 'trail' commission were set out in the documentation provided by Prudential. I am also satisfied both commission payments were in relation to the initial advice for arranging the policy in 1998 and not any on-going services or advice.

Mrs T's representative has suggested that the commission payments were deducted from the policy's value. But I have seen no evidence of this and am satisfied that the 'trail' commission was not paid from the policy but rather from Prudential's own funds.

### **my final decision**

For the reasons given, my final decision is I do not uphold the complaint.

James Harris  
**ombudsman**