

complaint

Mr W complains about the level of service he has received from The Prudential Assurance Company Limited (Prudential). He also complains about the performance of his with profits policy and Prudential's charges.

background

In October 2013, Mr W asked Prudential for specific information about his policy; its performance and the charges applied.

Prudential's response did not answer all his questions and was incomplete. Mr W re-requested the information and pointed out Prudential's errors and omissions in its response.

Prudential apologised and provided a more detailed response. Mr W asked for more information, including retirement quotations. In Prudential's response it said it had included Mr W's benefit quotation, but this was not enclosed. Mr W had to call Prudential again to get this.

Prudential offered Mr W £100 for the distress and inconvenience caused by its errors.

Mr W responded saying he was also unhappy with the performance of his policy, the way in which Prudential had administered it, and the distress that Prudential had caused him. Mr W also mentioned that he had a health condition and Prudential was aware of this. Mr W wanted Prudential to refund all the charges and costs he had paid.

Prudential said it felt its initial offer of £100 was fair in the circumstances. Mr W thought £950 was fairer.

Mr W told this service he had a number of health conditions. And one of these was made worse by stress. This meant situations that may not be stressful for some, could be really stressful for him.

The adjudicator looked into Mr W's complaint and thought Prudential's award for the distress and inconvenience caused should be increased to £250. Prudential agreed to pay this, but Mr W didn't think this was enough.

The adjudicator found that Prudential made administration errors on more than one occasion and its initial handling of the complaint lacked attention to detail. It also failed to enclose a statement it said it had, causing Mr W to ring up to get this. However, the adjudicator was of the view that £250 was a fair and reasonable amount of compensation in all the circumstances, because he couldn't see that Prudential was previously aware of Mr W's health conditions. And therefore he believed it would not be reasonable to place an extra level of responsibility on to Prudential.

The adjudicator didn't uphold Mr W's complaints about the cost and charges taken, and performance of his policy. He explained the historical context of investment performance and why it was not reasonable now to expect the estimates given 25 years ago to match returns.

The adjudicator also said Prudential was entitled to take the charges agreed at the outset, regardless of how the policy had performed.

Mr W responded in some detail. I have summarised the main points below:

- He had suffered a computer crash and lost a lot of documentation that would've shown that he made Prudential aware of his health issues.
- Prudential took too long to provide him with a response that should've been simple for it to provide.
- The offer of distress and inconvenience is far too low.
- The charges should be refunded due to Prudential's errors. It has failed to provide a satisfactory service and therefore he shouldn't have to pay for it.
- The point of sale documentation was not in plain English.
- Prudential as subject matter experts should have been able to predict the recession.
- He would like a refund of all charges, plus £950 for the entire maladministration of his pension.

As Mr W disagreed with the adjudicator's view his complaint has been passed to me to consider.

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 opinion as the adjudicator and broadly for the same reasons.

Mr W has made a number of wide ranging points. I have read and considered all of these, and will address here the points that I consider pertinent. I have also limited this decision to the issues that are still in dispute.

Administration errors from October 2013 onwards

It is not in dispute that Prudential made administration errors dealing with Mr W's information requests. The question left for me to decide is the level of the award to compensate Mr W for the distress and inconvenience he has been caused by this.

The errors made may have caused Mr W to question other aspects of Prudential's work. Since making his original complaint he has also raised other matters, in particular about the performance of his with profits policy and the charges and costs taken. So, I will leave giving my view on the level of award until I have dealt with these areas of concern.

Refund of charges and costs

I do not consider that Prudential has made an error, or been unfair in taking the charges Mr W agreed to pay it at the outset. Whilst Mr W has undoubtedly found Prudential's administration errors stressful, I don't think this justifies these charges and costs being written off in whole, or part. And, for the reasons given below, nor do I consider that it would be fair to refund these because of the way the policy has performed.

Performance of the policy

Mr W says that Prudential as "subject matter experts" should've been able to predict more accurately the performance of the policy, and it should've seen the market crash coming.

When Mr W took out his policy he received an illustration telling him what he might expect to receive upon retirement. The illustration set out the guarantees that applied, but also told him what he might get based on the rates given for investment return.

The rates used were set and approved by the regulator and they have reduced over time. Unfortunately, due to the economic downturn, these rates and figures can look widely optimistic now. But it wasn't just Prudential that didn't foresee how the rates may be affected by the economy, and many investments were affected in the same way. So, I don't share Mr W's view that Prudential should have been able to predict this.

Prudential is responsible to the regulator, the Financial Conduct Authority ("FCA") for ensuring that the fund is operated in line with its Principles and Practices of Financial Management document (PPFM). And the regulator monitors the management of it. Firms are required to appoint a with-profits actuary and the regulator provides rules and guidance on their duties. Prudential also has an independent With-Profits Committee, to protect the interests of the with-profits policyholders and ensure that they are treated fairly.

The Conduct of Business Sourcebook sets out how such funds should be run:

COBS 20.2.1 states:

(1) With profits business, by virtue of its nature and the extent of discretion applied by firms in its operation, involves numerous potential conflicts of interest that might give rise to the unfair treatment of policyholders.

COBS 20.2.3 states:

A firm must have good reason to believe that its pay-outs on individual with-profits policies are fair.

The regulator has not identified any concerns with the way Prudential has managed its with-profit fund. I haven't seen any evidence of mismanagement of Mr W's fund by Prudential.

Scheme documentation

Mr W says the documents he received throughout the life of the policy, and the responses to his complaint, were not written in plain English. Because of this he says he was not able to understand the policy

I appreciate that the policy documentation received at the point of sale may be difficult to fully take in. Financial documentation, particularly if it was produced decades ago, can be difficult to understand. But, this is in part down to the complexity of the products themselves.

Looking at Prudential's response to Mr W's queries, some of this is not easy to take in. But I haven't seen anything that persuades me that the information Prudential has given Mr W is not clear, or fair or that it is misleading (discounting the recent administration errors). So, I don't think it would be reasonable to require Prudential to pay Mr W a higher amount of compensation, or refund his charges or costs because of this.

Level of award

Mr W says the award for distress and inconvenience should be in the region of £950. To make an award at this level, to compensate Mr W for the administration errors, would be inconsistent with our general approach and guidelines.

However, we do consider the circumstances of each award based on the individual case and therefore in some situations we will make awards which on the face of it do not fit in with our general guidelines. That said, I do not consider it appropriate here.

I say this because I have thought carefully about what Mr W has said about how when things go wrong, it can be much more stressful for him because of his health condition. However, I can't see that Prudential knew that, and so I don't feel it is fair to hold it to a higher level of responsibility. But, even if Prudential had been aware of Mr W's health condition, I still think £950 would've been more than this service would've considered a fair and reasonable award for these administration errors.

I think therefore the award recommended by the adjudicator of £250 is fair and reasonable in all the circumstances of this case. Prudential has already paid Mr W £100.

my final decision

My final decision is that I uphold Mr W's complaint against The Prudential Assurance Company Limited in part. I direct The Prudential Assurance Company Limited pay Mr W and additional £150, on top of the £100 it has already paid him, for the trouble and upset caused.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr W to accept or reject my decision before 5 October 2015.

Kim Parsons
ombudsman