

complaint

Mr K complains The Prudential Assurance Company Limited misled him into taking out a new plan. He only wanted information about what it would charge to top-up his existing investment. It also took over the management rights of his existing plan without his permission.

background

Prudential partially upheld Mr K's complaint, and said:

- It was satisfied its adviser had behaved appropriately in recommending the new plan. It didn't agree to cancel the initial advice costs so he could start the plan again through his usual adviser.
- But it accepted Mr K hadn't wanted to transfer the servicing of his existing plan. The advisor had mistakenly arranged to transfer the servicing rights to Prudential. It offered to pay £100 for this mistake
- It also offered to refund the ongoing advice charge. This would allow Mr K to transfer the plan back to his usual adviser without loss.

Mr K remained dissatisfied and referred his complaint to us. He said he'd informed the Prudential adviser he already had a financial adviser. He was under the impression the Prudential adviser would give the same advice. But he's found the charges would have been lower had he taken out the investment through his usual adviser. He wants to be able to cancel the investment and receive a refund of any costs involved.

Our adjudicator thought Mr K's complaint should succeed in part. He wasn't convinced Prudential had misled Mr K into taking out a new plan. But he thought it had mistakenly taken over the servicing rights to the existing plan. He recommended Prudential should pay Mr K £200 in recognition of any trouble and upset caused, in addition to the £100 it had paid already.

Prudential didn't agree. It said the adviser had already apologised for the error. It also said the adviser couldn't offer advice about Mr K's existing plan. And it had already refunded the ongoing advice fee.

Mr K also didn't agree. He didn't believe the adjudicator had addressed many of his points or considered his overall argument that he'd never wanted a new bond. He'd merely wanted to top-up the existing one for the lowest cost.

The matter has now been referred to me for consideration.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr K had a Prudential investment bond he'd taken out through his usual financial adviser. In 2015, he was looking to make a substantial further contribution. But he was unsure if this

should be a top-up to his bond, or a new investment. He discussed this with his usual adviser, who said if Mr K wanted advice it would be on a fee-paid basis.

Mr K then phoned Prudential. He said he'd taken out his plan through his financial adviser. But he made no other reference to this. He didn't suggest he was obtaining information for his adviser. Nor did he say he didn't want to engage in a financial review, as he's suggested. He made it clear he was looking to see if he should top-up his bond or make a new investment.

So while I've noted the points Mr K has made, I don't think he was only seeking to top-up his existing investment. Rather, he wanted to know if this, or investing in a new bond, was the better option. When he first spoke to Prudential, he was given the option of simply completing the forms to top-up his bond. But he remained unsure this was the right thing to do. In light of this, he was offered the option to speak to a Prudential representative. I don't find that unreasonable.

Mr J was then contacted by the Prudential adviser. He doesn't seem to have objected to this. Following a discussion, the adviser issued a letter to Mr K setting out her recommendation. This was for Mr K to make the investment by way of a new investment bond.

I note Mr K says he thought the Prudential adviser would be giving the same advice as his usual adviser. He told her was happy with his adviser and didn't want to change. He would be having a meeting with his usual adviser to discuss the way forward.

But I've not seen evidence the Prudential adviser was told about any involvement of Mr K's usual adviser in this investment. There's no reference to this in the recommendation letter. I also note there was a period of about a week after he received the recommendation before Mr K went ahead with the investment. So there was the opportunity to arrange a meeting with his usual adviser to discuss this, if that was this original intention.

Mr K doesn't seem to say the new investment bond was unsuitable. His main concern is the costs involved compared with if he'd taken it out through his usual adviser. But I've not seen evidence he was led to believe the costs would be lower through Prudential. There's nothing in the documentation which makes such a comparison. And as I've noted above, I've not seen evidence the Prudential adviser was aware of any involvement by Mr K's usual adviser.

I also think the costs involved in going ahead with the recommendation were clearly set out in the documentation Mr K received. It seems he was satisfied with this at the time. Mr K had been through the process of receiving advice previously. So I think it would have been reasonable for him to have appreciated what was happening. A financial business is entitled to be paid for the service it provides. So I can find no reason for Prudential to refund the charges it made for providing advice.

Prudential has also confirmed that for the sum Mr K was investing, its advisers are instructed to recommend investing in a new plan. This is because it is more cost-effective than topping-up an existing bond. So Mr K has achieved his aim of making the new investment in the best way available.

But it seems Mr K didn't want to receive ongoing advice from Prudential. He was happy with his usual adviser. Prudential has agreed to refund the ongoing advice fee Mr K has paid. It has told us it will add interest at the rate of 8% a year to this. On balance, I think this is fair and reasonable.

It's not in doubt that the Prudential adviser shouldn't have arranged for the servicing of Mr K's existing bond to be transferred away from his usual adviser. Prudential has accepted this was an error. But I've not seen evidence this has caused Mr K any financial loss. I understand he was unhappy when he received a statement of his investments from his usual adviser which didn't show the original Prudential bond. I think it's likely this would have caused him some concern.

I understand Prudential has paid Mr K £100 in recognition of this. The adjudicator thought a sum of £300 was more appropriate. But while I think a higher award is merited, I think this should be £200 in total. As such, Prudential should pay him a further £100.

my final decision

I uphold the complaint in part. The Prudential Assurance Company Limited should refund all the ongoing adviser charge payments on the new investment bond to Mr K, and add interest at the rate of 8% a year to each payment. The Prudential Assurance Company Limited should also pay Mr K £200 for the trouble and upset he's been caused. If it has already paid £100, only a further payment of £100 is required. I make no other award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 26 September 2016.

Doug Mansell
ombudsman