



## complaint

Mr B's complaint is about the charges deducted from his Free Standing Additional Voluntary Contribution (FSAVC) pension plan with The Prudential Assurance Company Limited (Prudential). He is unhappy that charges continued to be deducted from the FSAVC although he was told in 2001 that no further charges would be deducted.

## background

The complaint was investigated by one of our adjudicators. She issued her assessment of the complaint in July 2014. She did not uphold the complaint and said, in summary:

- The advice given to Mr B was reviewed. The outcome was that he would have been better off joining his employer's in house AVC instead of starting the FSAVC – because the in house AVC had lower charges;
- In 2001 Prudential offered to pay Mr B redress because of the review findings. Compensation was paid into his FSAVC.
- The offer letter sent to Mr B in 2001 was mis-leading as it said “*all charges*” had been removed from the policy when, in fact, the fund charges would continue to be applied;
- But Mr B had not been financially disadvantaged as a result of this – because the fund charge would have applied even if Mr B had joined the in-house AVC;
- Finding out that charges had continued to be applied to his policy when he thought otherwise would have caused Mr B some distress and inconvenience. Prudential offered £100 compensation which the adjudicator considered was fair and reasonable.

Mr B did not agree and said, in summary:

- He does not seek a “*goodwill gesture*”, which is what the offer of £100 is;
- It is unfair for Prudential not to honour its written agreement to remove “*all charges*”;
- He would like to know how much has been deducted from his pension as fund charges.

Prudential made no further comments.

## 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 reached the same outcome as the adjudicator for broadly similar reasons.

Mr B accepted the offer of redress upon the understanding that “*all charges*” would be removed from his policy. I can understand why he is now unhappy that certain charges continued to be applied. I agree with the adjudicator that Prudential's 2001 letter was not as clear as it could have been.

But I don't agree with Mr B that Prudential is obliged to remove all charges including the fund charge. That is an administration charge to cover the cost of running the with-profits fund.

Prudential has explained that up until 2001 an annual administration charge of 1% was applied but that was removed with effect from April 2001.

Since then the administrative costs have been deducted through the bonus mechanism. The administration charge is not explicit – it is not shown on annual statements – but the administration costs are taken into account in applying bonuses to the with profits fund. Because of that it is not possible for the administration charge to be removed from an individual policy.

Nor do I think that would be right. The charge covers the cost of running the with-profits fund. I don't think that it would be fair to Prudential's other customers if Mr B, as a with-profits policy holder, did not have to pay his share of the cost of running the fund.

And, even if Mr B had been in his employer's in house AVC scheme then, assuming he had chosen the with-profits fund, the same (indirect) charges would have applied. So I don't see that he has suffered any financial loss or disadvantage even though the fund administration charge has continued to apply.

Nor do I think what Prudential said in its 2001 letters created a binding agreement and such that Prudential cannot now apply the fund administration charge in Mr B's case. I accept Mr B's point that he understood that '*all charges*' must include any administration charge. But, on the other hand, the February 2001 letter refers to the removal of all charges from Mr B's policy – which, arguably, could be interpreted as being limited to direct policy charges as such. But, in any event, even where wrong information is given that does not, of itself, create any legal obligation to treat as correct information which turns out not to be.

Although I regard Mr B's position as entirely reasonable, I have explained why I don't think that it would be fair for the administration charge to be waived. But, as I have said, Prudential could have made the position clearer. So, even though Mr B has not been financially disadvantaged, I do consider that Prudential has caused him distress and inconvenience by not making the position completely clear.

I don't see the offer of £100 as a goodwill gesture. Rather it recognises that Mr B has been inconvenienced and disappointed because Prudential's 2001 letters could have been clearer and so prevented any future misunderstanding about what charges would continue to apply. I think that is fair and reasonable and I have made an award below.

I also note that Mr B has asked to be provided with information about fund (administration) charges deducted from his pension. Mr B should contact Prudential for further details. I don't see that it will change the outcome of this decision which is about whether or not Mr B is required to pay that such charges which, in my view, he is.

### **my final decision**

I uphold this complaint in part only. The Prudential Assurance Company Limited should pay £100 to pay Mr B for distress and inconvenience.

Lesley Stead  
**ombudsman**