

complaint

Mrs B complains about The Prudential Assurance Company Limited (“Prudential”). She’s unhappy with the advice she received to transfer the proceeds of a pension she had into a Personal Pension Plan (“PPP”) with Prudential.

background

In March 2009 Mrs B completed and signed an application form to transfer the pension she held with a provider I’ll refer to as “Provider Z” to a PPP with Prudential.

On 24 August 2017 Mrs B wrote to Prudential and to summarise she said:

- she wanted to complain about the poor investment advice Prudential had provided
- one of Prudential’s agents who’d arranged her original investment with Provider Z, had later advised her to transfer her pension to Prudential
- Prudential should’ve advised her to withdraw from her PPP to mitigate the losses she was experiencing but it didn’t
- she wanted a full refund of contributions she’d made to her plan

Prudential responded to Mrs B on 6 September 2017. In summary it said:

- Prudential’s representatives didn’t have access to products or investments which belonged to Provider Z
- Mrs B should contact Provider Z who’d be able to confirm who sold Mrs B’s Provider Z plan
- having reviewed its records Mrs B’s Prudential PPP was sold by an independent financial adviser
- it was only responsible for advice given by its own appointed representatives

Mrs B countered Prudential and said it was clear she’d received bad advice from it and that this was demonstrated by the poor returns she’d experienced on her PPP. Mrs B again asked Prudential to refund of all the contributions she’d made to her plan.

Prudential replied and said its decision regarding her claim that it had provided her with bad advice remained the same as that outlined in its letter of 6 September 2017. Again, it didn’t uphold her complaint.

On 17 January 2018 Mrs B wrote to Prudential. In summary she said:

- she’d been advised by Prudential to transfer the pension she’d previously held with Provider Z to Prudential
- she’d questioned the advice Prudential gave at the time specifically regarding whether its charges would erode the value of her plan. But she was reassured by the adviser that this wouldn’t happen
- based on the performance of her pension it seemed she’d deliberately been given bad advice which was driven by commission production

- since she'd transferred to Prudential the value of her plan had dropped from £16,576.42 to £7,451.35
- she wanted to be put back in the position she would've been in had she not transferred to Prudential

On 25 January 2018 Prudential responded to Mrs B and in summary:

- confirmed the value of her plan ending 365 (which related to a single contribution transfer value from Provider Z) had increased from £16,576 to £29,989.22 since it was invested with Prudential. And plan ending 335 (made up of contributions from 2009 to 2012) had gone from £5,552.82 to £7,451.35
- the adviser Mrs B referred to wasn't an agent of Prudential. He was an independent financial adviser. So any issue Mrs B had with the advice she was given at the point of sale or the recommendation to transfer had to be investigated by them

Further to this Mrs B wrote to Prudential and again maintained that her complaint was correctly directed to Prudential. She said the adviser she dealt with told her he represented Prudential and that Prudential allowed him to sell its products. Mrs B repeated that Prudential was responsible for the bad advice she'd been given

As Mrs B remained unhappy with Prudential's response she referred her complaint to our service.

One of our investigators considered the matter and in summary said:

- she understood Mrs B felt Prudential should take responsibility for the financial adviser who'd provided the original advice but she didn't agree
- Prudential wasn't liable for the original advice provided and the available evidence supported this
- it wasn't Prudential's responsibility to assess the recommendation Mrs B's financial adviser was making
- Prudential was simply the product provider and therefore only responsible for administering Mrs B's plan
- she wouldn't be asking Prudential to do any more

Mrs B responded and said she still felt Prudential was responsible for the advice she received. She said Prudential allowed her financial adviser to "*hold himself out to be employed*" by it and nevertheless, Prudential's underwriters should've questioned the adviser's advice when it received Mrs B's application.

Because Mrs B disagreed with our investigator the matter was passed to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm not intending to uphold Mrs B's complaint. I'll explain why, but before I do, I should emphasise that while I've taken serious note of the correspondence, arguments and comments made by both parties, I

have limited my response to what I consider to be the issues central to this complaint. That is to say:

- whether Prudential advised Mrs B to take out her PPP
- whether Prudential is responsible for the advice Mrs B received to take out her PPP

I've carefully reviewed the application form Mrs B completed and signed on 20 March 2009 to commence her PPP with Prudential. The form clearly shows that financial advice was given to Mrs B by an independent financial adviser. The adviser's details are provided in the form and there's a name and address stamp for the agency the financial adviser belonged to. There's nothing to suggest the financial adviser was an agent of Prudential. Indeed the agency stamp provided specifically refers to another company.

Based on the application form I'm satisfied Mrs B wasn't advised by Prudential to take out her PPP. I can see that Mrs B has been provided with the details of the individual who provided her with advice in 2009 however it appears Mrs B has chosen not to raise her concerns with them. This is Mrs B's choice. However, I'm mindful of the fact that if Mrs B is unhappy with the advice she received it would be most appropriate for her to direct her complaint to the individual/company which provided the advice. In this case that isn't Prudential.

Mrs B has said the financial adviser she dealt with regarding her PPP said he represented Prudential. She says that as Prudential allowed the financial adviser to hold himself out to be employed by it, it's responsible for the advice the financial adviser provided. I'm unable to agree with Mrs B on this point. I haven't seen anything to persuade me that Prudential permitted the adviser Mrs B dealt with to present himself as being an agent of it. Again, if Mrs B has concerns the adviser misrepresented himself then that's something she may wish to take up with the adviser. I don't consider Prudential responsible for this.

I note that Mrs B thinks Prudential had an obligation to assess whether the investment advice she was receiving from her financial adviser was appropriate. She feels Prudential should have questioned the advice she was receiving. But there was no requirement in the situation for Prudential to do this. In these circumstances Prudential's responsibility was that of an administrator, ensuring Mrs B's PPP was managed in line with the instructions provided in the application form completed by her and her financial adviser.

Mrs B clearly feels strongly about what's happened and that Prudential hasn't acted as it should've done. I'd like to assure Mrs B I've thought carefully about what she's said. But based on this and the available evidence I'm unable to hold Prudential responsible for the advice she received from an independent financial adviser.

I don't doubt Mrs B's sincerity or strength of feeling in bringing this complaint but I don't think there are any grounds here for me to reasonably conclude that Prudential has done anything wrong regarding the issues she has raised.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 17 August 2018.

Chillel Williams
ombudsman