

The complaint

Mr H complains that The Prudential Assurance Company Limited made a mistake when processing his pension payments, which led to him having to pay more income tax.

Mr H is supported by a firm of independent financial advisers (IFA) both in overseeing his pension account and in bringing this complaint.

What happened

In early April 2018, the IFA, on Mr H's behalf, told Prudential that Mr H wanted to take income from his pension account via a phased drawdown arrangement. The IFA sent an online instruction, which indicated that Mr H wanted to receive a combination of tax-free cash and taxable income.

Shortly after, the IFA told Prudential the instruction was wrong. It said it had incorrectly asked Prudential to set up a phased drawdown arrangement, when what Mr H wanted was an uncrystallised funds pension lump sum (UFPLS) arrangement. The IFA asked Prudential to amend the instruction to ensure Mr H received a UFPLS payment of £1,316.60 a month (on top of another payment not specifically relevant to this complaint).

According to Prudential's files, in May 2018, Mr H received the following UFPLS payments:

- 3 May 2018 - £1,316.60
- 29 May 2018 - £1,316.60

And in addition, he received another payment of £986.50 on 9 May 2018.

In July 2018 there were email exchanges and phone calls between the IFA and Prudential to discuss Mr H's pension payments. Amongst those:

- On 4 July 2018 the IFA said Mr H wanted to receive all of his pension payments on the same date, but it had been unable to arrange this online. It also asked Prudential to check the amount of a payment made on 29 May 2018, as the IFA didn't think it was right (it said Mr H apparently received £1,119 instead of £1,316.60) even though other payments, including the one made on 3 May 2018 (which the IFA indicated was April 2018's payment) was for the right amount.
- On 10 July 2018 the IFA said (noting that Prudential had already indicated UFPLS payments were being made) Prudential seemed confused when it said there was no way to enable all of Mr H's pension payments to be made on the same date. Whereas the IFA thought that contradicted an earlier conversation it had with Prudential's account manager who suggested payments could be made on the same date *if* changed to a UFPLS payment.
- Prudential's account manager replied later that day. She explained payment due dates – specifically that, "*with a regular UFPLS payment, both the TFC (tax free*

cash) and the income leave us on the same date". The account manager apologised for any mixed messages previously given. She also said "The client is on a month 1 tax code and has had 2 payments in the same tax month...Therefore, the tax has been taken slightly higher for the second payment, as the tax calculation has been done on the total amount paid in that period".

In April 2019, Prudential sent Mr H a P60 showing his pension income and tax paid in the financial year ending 5 April 2019. The IFA complained to Prudential. It said Mr H's P60 for 2018/19 was wrong and therefore HMRC couldn't refund the tax he'd overpaid. The IFA asked Prudential to look into this, so that Mr H could apply for a tax refund.

Prudential responded In July 2019. It said Mr H's P60 was correct, as it showed all of the payments he'd received and the tax that was due as a result. The IFA asked Prudential to look into the matter again and said that Mr H would be looking for compensation in respect of the overpaid tax.

Prudential sent another response later in July 2019. It upheld Mr H's complaint. It explained it had amended the payment instruction in April 2018 as requested but forgot to cancel the previous instruction relating to phased drawdown payments. So, that meant Mr H received additional taxable income of £986.50 in 2018/19, which increased the amount of tax due by £197. Prudential paid Mr H £100 compensation to recognise the inconvenience caused by its error. However, it felt the IFA would have known about the error around July 2018 and could have done more to correct it. So, Prudential didn't think it was responsible for the additional tax that became due and said it wasn't going to reimburse Mr H for the equivalent amount. Prudential added that multiple payments being sent to Mr H in one month (and the fact he was subject to month one tax code) could have caused him to be over taxed and suggested he might want to contact HMRC about that.

The IFA responded and said Mr H wasn't satisfied with the £100 compensation paid. It said he wanted a full refund of £197 (but was willing to accept £97 on top of the compensation of £100 already paid). That was because, by its own admission, the error stemmed from Prudential's failure to properly act on Mr H's instruction. Prudential said it had nothing further to add.

Mr H, via the IFA, brought his complaint to us. One of our investigators looked into it. She felt Prudential hadn't done enough to address the impact of its mistake. So, she said it was fair for Prudential to refund the full amount of the additional tax (£197) that became due.

Prudential didn't accept the investigator's assessment. Amongst other things, it said that whilst it made an error in making two payments to Mr H in May 2018, the original error stemmed from the IFA's incorrect instructions; so, Prudential felt the IFA should bear some of the responsibility to make sure things were set up correctly. It also felt the IFA was aware of the mistake in July 2018 and should have taken steps to have it corrected then. As Prudential didn't agree with our investigator's assessment of the complaint, the matter has been passed to me to decide.

What I've decided – and why

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

I need to consider whether it was fair and reasonable for Prudential to say, having recognised its error, that it wasn't prepared to refund an amount equivalent to the additional tax that became due. In thinking about this question, I've taken account of Prudential's arguments that the IFA should have checked the instruction had been amended properly in

April 2018. And that it should have taken steps to correct the mistake once it became aware of it in July 2018. But I'm not persuaded by either of those arguments.

Once the IFA made it clear to Prudential in April 2018 (having quickly noticed its own error) what the right payment instructions were, I think it was reasonable for the IFA to assume that Prudential would act on those instructions. And that action should have included cancelling the previous (incorrect) instruction concerning the phased drawdown. But Prudential didn't do that. And I don't think it's reasonable for Prudential to say that the IFA should have again checked the amended instructions had been acted upon. Prudential is the administrator for the account, so only it could update the payment arrangements and cancel the previous incorrect instruction. And I think it was reasonable for the IFA to expect Prudential to do that.

Further, whilst there were a few exchanges between the IFA and Prudential in July 2018, I've seen nothing that persuades me the IFA was aware of Prudential's earlier mistake around July 2018. And I think if the IFA had known about the mistake, its likely, on balance, it would have taken action to address it. That's because, Mr H had gone to some lengths to set up his pension payments in a tax efficient manner – including instructing an IFA to help him do that. So, I think it's reasonable to assume that if the IFA noticed a problem that was likely to adversely affect Mr H's specific arrangements, it would have contacted Prudential to sort it out. And Prudential hasn't provided any evidence - beyond its comments – to support its position that the IFA was aware of Prudential's error. And whilst I've seen correspondence, in July 2018, concerning apparent confusion on Prudential's part about payment dates and Mr H's instructions, I've seen nothing to suggest the IFA would have known Prudential hadn't cancelled a previous payment instruction.

Also, whilst explaining payment dates and apologising for any mixed messages, the only other thing Prudential appears to have brought to the IFA's attention was that Mr H received two payments in May and that he was subject to an emergency tax code. The IFA already knew about two payments being made in May - it had already mentioned that - and it indicated it thought one was for April 2018. So, I don't think Prudential's response would have led the IFA to think it needed to take further action. And if Prudential thought the IFA had misunderstood the position, or the problem stemmed from something else (as eventually turned out to be the case), I think it should have looked into things more closely to find out what was going on. Had it done so, it's likely to have realised that the first payment instruction hadn't been cancelled. But it didn't do that. And, as a result of its error, Mr H had to pay £197 more in tax than he expected because he'd received more pension income than he wanted.

So, for the reasons I've set out above, it follows that I don't think Prudential acted fairly and reasonably when administering Mr H's pension account. Nor do I think its subsequent responses were reasonable in the circumstances described. And I think an appropriate response now is for Prudential to pay Mr H £197 in respect of the additional tax that became due as a result of its error. I say that because, whilst I accept Mr H received an additional pension payment, the amount of that payment was essentially reduced by £197 once he became aware he was liable to pay more tax. And, once Mr H became aware (having received his P60) about the additional tax payable, even if he'd asked Prudential to adjust future payments, it's still likely Mr H would have had to pay HMRC the additional £197 tax that was calculated on the previous year's payments.

I've also noted Prudential's comment that Mr H was subject to month one tax (emergency tax code) in the year 2018/19, and that may have accounted for some of the additional tax due. That may or may not be the case. But the fact remains that Prudential's error led to Mr H paying more tax unnecessarily because he'd received more payments than he should have done. That happened because of Prudential's mistake. So, I think it's fair for Prudential to now reimburse Mr H for the extra tax he had to pay. It's also clear that this matter has

been a source of frustration and inconvenience for Mr H. But Prudential has already given him £100 compensation in respect of that. So, I'm satisfied that amount fairly recognises the impact of Prudential's actions and I don't intend to instruct it to pay further compensation.

My final decision

I uphold this complaint. I direct The Prudential Assurance Company Limited to pay Mr H £197 in respect of the additional income tax that became due as a result of its mistake.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 13 April 2021.

Amanda Scott
Ombudsman