

The complaint

Mr T complains that The Prudential Assurance Company Limited failed to deal with a request to transfer his pension savings to another provider in a timely manner. As a result he says the value of the transferred benefits was reduced by approximately £40,000.

What happened

I have issued two provisional decisions regarding this complaint. In my most recent provisional decision, issued in February 2021, I explained why I didn't think the complaint should be upheld. Both parties have received a copy of that provisional decision, but for completeness I provide an extract of my findings below. I said;

I think that the majority of the early findings I made in my [first] provisional decision remain appropriate. But for clarity I will confirm that I am still of the opinion that;

- Despite the incorrect information provided by Prudential I don't think it reasonable to expect Prudential to honour the information it provided and value date Mr T's transfer at the date his transfer instruction was received.*
- I think that the transfer of Mr T's pension savings took place more or less in line with the timescales that Prudential would expect. I have noted that Prudential feels that a strict application of its normal SLA might have expected the funds to be moved a day earlier, but I remain of the opinion that this didn't cause a financial loss to Mr T.*

When looking at a complaint such as this, I need to consider two aspects. I look at whether something has gone wrong. And I look at whether that has caused the consumer to lose out. Or in the case of incorrect information being provided, whether the consumer might have acted differently had the right information been provided. And that was the basis on which I thought Mr T's complaint should be upheld in my first provisional decision.

I still think that Mr T would have been very unhappy, given the volatility in the market, had he been told that his transfer, and the disinvestment of his pension investments, would take place at an unspecified date up to ten business days later. And so I think he might have looked at what steps were available to him to mitigate the risks of the value of his pension savings being reduced by adverse market movements. But following the additional information Prudential has provided to me, I now conclude there was little, if anything, that Mr T could have done to protect the value of his pension savings.

Prudential has confirmed that Mr T's pension savings were held in two PruFund investments. And it has provided me with the T&Cs applicable to those funds. It is clear from those terms that any sale of those investments would be subject to a 28-day waiting period – I understand that is designed to protect the other investors in the fund from significant withdrawals at times such as when Mr T instructed his transfer.

So, despite Mr T understandably wanting to liquidate his pension investments before any

unit price adjustment was applied, the T&Cs would have prevented him from doing so. He was only able to transfer his funds to another scheme earlier than the 28-day waiting period since Prudential generally waives the waiting period requirement for external transfers – though I should note that the T&Cs don't appear to require it to do so.

That means that I cannot reasonably conclude that Mr T would have been able to act any differently even if Prudential had provided him with correct information at the outset of the transfer process. The transfer process itself left the exact timing of any transaction (within the general bounds of the accepted 10-day processing period) to Prudential. And any instruction from Mr T to liquidate his pension investments would have suffered a 28-day notice period, and so wouldn't have been concluded any sooner.

I appreciate how disappointing my new provisional decision will be for Mr T. He was keen to protect the value of his pension savings from market volatility and the application of the unit price adjustment by Prudential. But unfortunately for him those options weren't available to him given the nature of his investments and the T&Cs around his pension plan. So I no longer think that he would have acted differently if he'd been given correct information by Prudential about the timescales. It follows that I no longer think this complaint should be upheld.

I invited both parties to let me have any further comments and evidence to consider before I reached a final decision on the complaint. Prudential has told us that it doesn't have anything further to add. Mr T has provided some further comments and supporting evidence. Although I am only summarising here what Mr T has said I want to reassure him that I have carefully read everything he has sent before reaching my final decision.

Mr T has shown that Prudential received the transfer request via the Origo system on 12 March. Its terms and conditions say that it will facilitate the transfer out "as soon as reasonably practical..." So Mr T has asked for clarification why Prudential relies on an agreement with the FCA that working to a 10-day service for transfers rather than what is contained in its terms and conditions.

Mr T says the contract note that Prudential provided for the sale of his investments before the transfer shows they were placed on Friday 27 March, with the funds being sent to the new provider the following day. But he says that Prudential has said the timeline for selling down funds would see the trades be placed on day 1, before settling 5 days later.

Mr T says that Prudential was in control of all aspects of the transfer – it was the SIPP administrator, and was the parent company to the investment managers of the funds in which he was invested. So his investments could have been sold at any time that Prudential chose. He understands that the functionality of the software used by Prudential to administer its retirement account product doesn't allow transactions to be backdated.

Mr T says that had the transaction been completed earlier he would have avoided the application of the unit price adjustment (UPA). That would have meant the value of his funds being transferred would have been higher.

Mr T doesn't agree that a 28-day waiting period applies to all sale transactions. He notes that I said it was waived for sales to allow transfers to other providers. And he says it is also waived for other reasons such as paying administration charges, and placing pension savings into drawdown. He says that after receiving my provisional decision he enquired about selling ISA holdings in the same funds as his pension savings were invested. He says he was told on two separate occasions that they would be sold the next day.

So Mr T feels that Prudential had a number of opportunities to sell his holdings before the UPA was imposed. He thinks that Prudential chose not to take those selling opportunities and as a result he has lost out.

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.

Mr T has provided some detailed and careful arguments to support his complaint and I thank him for the time he has taken to express himself so clearly. I think that much of what he has said is entirely reasonable. It is clear that, in an ideal world, Prudential could have sold his holdings and transferred his pension savings to the new provider much sooner. But I think it is important for me to make the very clear distinction between what Prudential "could" do, and what Prudential "should" do.

When Mr T made his transfer request, it was against a backdrop of great market volatility. In fact Mr T said that volatility was one of the reasons he decided to transfer to another provider – since he thought its investment choices were better aligned to his risk appetite. So Prudential was facing a degree of pressure on both its investment funds, and its administration function. I think it fair to assume that meant that were a number of other consumers in a similar position to Mr T, making similar requests to either transfer, or disinvest their pension savings.

So, in line with the regulator's guidance Prudential would need to take great care to ensure that it treated all consumers equally and processed any requests in an orderly manner. And that no doubt necessitated Prudential paying careful attention to the timelines it was required to follow under the terms and conditions of its products, and its agreements with the regulator about what might be reasonable.

I don't disagree with Mr T's conclusion that Prudential could have processed his transfer request much sooner. And had it done so he might have avoided some of the reductions in value that the UPA imposed. But by doing so Prudential would have no doubt needed to prioritise Mr T's request above that of other consumers – and most likely to the detriment of those consumers. I cannot conclude that would have been a fair approach.

I haven't seen anything that suggests Prudential was required, under its terms and conditions or the regulator's guidance, to process Mr T's transfer request sooner than it did. I accept that when Mr T recently checked the processing timescales, at a far more stable time in the markets, that Prudential might have offered to execute his instruction far sooner. But I am mindful that Mr T's enquiry related to a different product with different terms and conditions. And I don't think that Prudential's response now, implies that it acted incorrectly in March 2020.

I appreciate how disappointing my decision will be for Mr T. But the additional information he has provided to me hasn't altered my opinion that Prudential didn't act unfairly when it transferred his pension savings to the new provider. Prudential accepts that it might have given incorrect information to Mr T's advisor at the outset of the process. But I don't think Mr T could have done anything differently at that time to prevent the UPA being applied to his pension investments.

My final decision

For the reasons given above, and in my earlier provisional decisions, I don't uphold the complaint or make any award against The Prudential Assurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 20 April 2021.

Paul Reilly
Ombudsman