

## The complaint

In summary, Mr M complains that The Prudential Assurance Company Limited invested the proceeds of his pension transfer within a drawdown plan. He wanted the monies to stay in cash and was charged a fee for the advice. He's unhappy with the service he's been provided with.

## What happened

In 2020 Mr M was advised by Prudential to transfer his retirement annuity into Prudential's retirement account (RA). In July the transfer completed, and Prudential's adviser fee was deducted from the proceeds of transfer.

At the beginning of July 2020, Mr M and his wife on his behalf, contacted Prudential. They explained that after taking tax free cash (TFC), they wanted the balance of the proceeds of transfer to be placed into cash. Mr M said they were told this wasn't possible, but an investment switch into cash could be made once the transfer had completed.

In August 2020, Mr M asked Prudential to switch the funds in his RA into cash. This was completed towards the beginning of September.

Prudential responded to Mr M's complaint about the service he had received in September 2020. It explained why it wasn't able to speak to Mr M's brother. It said it thought the advice was suitable and it didn't agree to a refund of the advice charges. And it explained that the value of Mr M's RA had increased from the time it had been invested to the time it was switched into cash, by £174.83. And it said that he had not therefore suffered any investment loss.

Mr M's concerns were looked into by one of our investigators. He explained why he wasn't upholding Mr M's complaint.

Mr M's representative didn't agree. In summary he accepted that companies had to be paid for transfer advice, but only if the process and advice had been professionally delivered. He accepted costs to date were due to Prudential but not necessarily due to the adviser. He queried whether there was any independent verification of Prudential's case notes and why there was no confirmation as to what was discussed to Mr M in writing. He believed advice and the process of implementation were all part of the same process. He was concerned that Mr M's instructions regarding the investment of the proceeds of transfer had been ignored.

The investigator then asked Prudential several questions, including if it had call recordings for the calls Mr M had with it. It explained that it didn't and that it wasn't required to record calls with financial advisers. It also said that as it considered the advice to be correct. It went on to say that if Mr M had cancelled the plan, the initial adviser charge in respect of the advice would still have to be paid.

Prudential also explained that advice was required to take out the RA. But he could have contacted the RA team directly himself at any time to cancel its set up, or to make a fund

switch request. Mr M could have invested the proceeds of transfer into cash after having taken his TFC, but he would have needed to have initiated that himself.

The investigator then wrote to Mr M's representative again and explained what Prudential had told him. And he said he wasn't inclined to change his view of Mr M's complaint.

Mr M's representative responded. In summary he didn't think Prudential had provided the information needed in order to make a fair assessment. He went on to say that Prudential had failed to act on an instruction, and he believed the main reason for the adviser's inaction was so the money was invested and he would then receive his commission. He didn't think the notes could be substantiated as being a true record of what was discussed. And he didn't think it had been clarified as to whether or not the adviser would have been paid any commission.

### **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.

It's clear to me that Mr M and his representative feel very strongly about the issues he has raised with Prudential concerning the investment of the monies into his RA.

In reaching my decision I've focussed on the key issues I think are relevant in order for me to decide if Prudential has done anything wrong. That means I won't have addressed every point Mr M and his representative have made. But I want to reassure Mr M and Prudential that I have thought carefully about everything they have said and provided me with.

Mr M's concerns appear to have stemmed from when the RA was being set up. He isn't happy that the proceeds of transfer after the payment of TFC, weren't invested in cash as he says he requested. And for the avoidance of any doubt, I haven't considered the suitability of the recommendation to transfer his pension into Prudential's RA drawdown plan.

Prudential's contact notes record two conversations between Mr M on the 2<sup>nd</sup> and 3<sup>rd</sup> of July 2020 with the adviser who recommended the transfer. In the record of the conversation on the 2<sup>nd</sup> of July, it appears there was a discussion regarding the balance of Mr M's funds being invested in cash after the TFC had been taken. And this appears to have resulted from a conversation Mr M had with his representative. It records that Mr M was going to speak to his representative again, and the adviser said that he wouldn't be able to speak to Mr M's representative as he lived abroad. So, it doesn't appear to be in dispute that Mr M raised concerns about the balance of the proceeds of transfer being invested in line with the recommendation that had been made.

The record from the 3<sup>rd</sup> of July records that the adviser confirmed he wouldn't be able to speak to Mr M's representative as he lived abroad. But he agreed to speak to Mr M's wife. And this records that the adviser wouldn't do this, Mrs M was told that a move into cash could be made if they "went direct". It records Mrs M was satisfied that if a switch could be made at some point in the future then that would be fine.

Mr M's representative disputes that Prudential's notes are an accurate record of what was discussed between Mr and Mrs M and Prudential's adviser. He has questioned why there was no confirmation in writing of what was discussed, and was concerned Mr M's instructions regarding the investment of the proceeds of transfer had been ignored.

It's not entirely clear to me what independent verification of Prudential's contact notes Mr M's representative thinks should or could have taken place. But I accept the point he has made regarding the conversation and agreement reached, not being followed up by the adviser in writing. I think considering what was discussed, it would have been sensible for Prudential's adviser to have done that. And I am a little surprised that didn't happen.

It would have been helpful to have call recordings of the conversations Mr M had with Prudential. Our investigator asked for those and Prudential has explained that they aren't available. So, I have to consider what evidence is available to me. And I have thought carefully about what Mr M and his representative have told us, together with the documentation provided by Prudential.

Prudential's contact notes are a contemporaneous record of what was discussed. And as such, whilst I acknowledge what Mr M and his representative have said, I don't think it is unreasonable for me to consider them to be an accurate reflection of what was discussed between Mr and Mrs M and Prudential's adviser.

Mr M has referred to an e-mail instruction to request an investment switch. But the only record I have seen is Mr M's e-mail to Prudential of 6 August 2020, when he requested that all of the funds be switched into cash. Prudential wrote to Mr M on 10 August 2020 to confirm that the sale was being processed and would be settled by close of business on 7 September 2020 after the 28-day waiting period on the current fund had expired.

In his communications with the investigator Mr M refers to being told by the adviser that he would need to go "direct". As I've said above, I think it would have been helpful if the adviser had followed up on the conversations with Mr M in writing. But I don't think he necessarily needed to as this was a follow up conversation after the recommendation had been made and no further recommendations were made in respect of the original advice. And I think that having been told that he needed to go "direct" I don't think Mr M should have assumed that what he had asked would be actioned by the adviser. In summary, based on all of the information I have; I simply can't safely say that a confirmed investment switch instruction was given by Mr and Mrs M during the conversations they had with the adviser.

Even if I were to conclude that Mr M had provided a clear instruction that the proceeds of transfer should have been invested in cash, I would need to think about whether he had suffered a financial loss as a result of any switch instruction not having been actioned sooner than it was. And based on the evidence I have; I don't think he did suffer a financial loss. I say this because the information provided by Prudential shows that after Mr M was paid his TFC, the amount invested in his RA was £85,820.11. And at the time it was transferred into cash on 7 September 2020, it had increased in value by £174.83 to £85,994.94. And I've not been presented with any evidence which suggests it would have had a higher value if it had been invested in cash from the outset.

Mr M's representative seems to have accepted that Prudential was entitled to be paid for the advice it provided. But he has expressed concerns as to whether it was appropriate for the adviser to have received any commission, considering Mr M's concerns about what happened when the plan was being set up. For the avoidance of any doubt I think it was appropriate for Prudential to take the adviser charges that it did. Advice was provided to Mr M and accepted by him. And whilst he may have concerns about what happened when the plan was set up, that doesn't mean Prudential wasn't entitled to be paid for the advice it provided. And any remuneration it paid to the adviser out of the adviser charge, was in my opinion a commercial matter for Prudential to decide.

### **My final decision**

For the reasons I've set out above, my decision is not to uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 24 June 2022.

Simon Dibble  
**Ombudsman**