

The complaint

Mr H's complaint arises following a pension contribution he made in July 2019 to his pension plan with The Prudential Assurance Company Ltd (Prudential).

What happened

Mr H established a self invested personal pension (SIPP) with Prudential in 2017. All payments into the SIPP have been made as employer contributions. The transaction record shows employer contributions of £39,200 in the tax year 2017/18 and £40,000 in the tax year 2018/19. In the 2019/20 tax year, between 15 April 2019 and 15 July 2019, regular monthly employer contributions amounting to £8,000 were made. In early July 2019 Mr H made an additional lump sum employer contribution of £16,000 through the web portal.

On 12 July 2019 Mr H emailed Prudential because the contribution was showing as an employee contribution. He asked them to correct the transaction, so it showed as an employer contribution. A contract note summary issued on 8 August 2019 still showed the contribution as an employee contribution, with £4,000 tax relief being applied.

Prudential had made a mistake applying the contribution. It seems that Prudential invested the same £16,000 pension contribution twice in error. Unfortunately, when Prudential tried to reverse the transaction, the £16,000 was returned to Mr H's bank account on 9 August 2019.

On 17 September 2019 Prudential emailed Mr H saying that the £16,000 had been sent to his bank on 9 August 2019 in error and when it should've been sent to Prudential's internal bank account to reinvest it correctly as an employer contribution. Prudential asked Mr H to return the £16,000. A further email was sent on 9 October 2019. Prudential also tried to contact Mr H by telephone. On 2 December 2019 Prudential sent the same request by letter. I understand that Mr H's bank wrote to him twice in December 2019, asking him to get in contact about the credit.

In his email to Prudential on 23 December 2019 Mr H said he'd asked for a call back which hadn't happened. He didn't think contacting his bank was professional and he asked Prudential to contact him instead. He said he'd wasted an hour on the telephone to his bank when letters were sent. He costed his time at £275.

Prudential acknowledged the complaint by letter dated 24 December 2019. Prudential called Mr H on 30 December 2019. Mr H was unhappy with that call which he felt was aggressive. There's also an email sent on 31 December 2019 saying Mr H needed to return the £16,000 within two weeks. Prudential called Mr H and discussed his concerns on 22 January 2020.

In its final response dated 27 January 2020 Prudential set out Mr H's concerns as:

- The poor service he'd received when he called and emailed to try and resolve the matter.
- He hadn't been called back when promised.
- Prudential had contacted his bank to request the return of the payment.

Prudential apologised for the poor service. It said Mr H had been called back and his bank was contacted as the next step in the process to try to retrieve the funds as Prudential hadn't been able to contact him. A new email would be sent to him confirming the bank details and a reference to use for returning the money. A payment of £150 would be made in recognition of the poor service and the inconvenience caused.

I think Prudential also called Mr H on 27 January 2020. Mr H emailed Prudential on 28 January 2020. He said he'd made the payment and he wanted a formal letter confirming receipt and that the matter was now closed. Prudential issued a letter on 29 January 2019 confirming the £16,000 incorrectly issued to Mr H on 9 August 2019 had been received on 28 January 2020, adding '*This error has not financially disadvantaged the plan.*'

An annual statement was issued on 9 February 2020 which showed the payments made into the plan over the previous twelve months.

On 19 March 2020 Mr H emailed Prudential with a screen shot of the transactions around 9 August 2019 and asked for clarification as there were multiple entries. Mr H said he was concerned extra monies had been taken. Following Mr H chasing a reply on 2 April 2020, Prudential responded saying, amongst other things, that it was confident that extra funds hadn't been taken.

Mr H wasn't happy with what Prudential had said and replied on 3 April 2020 saying he'd been unable to make payment without an explanation. Prudential then sent him a transaction history for 2019/2020. Mr H emailed on 23 April 2020 saying he'd received, weeks later, information he could've downloaded himself. He said Prudential's delays had meant he hadn't been able to maximise his 2019/2020 pension contributions.

Prudential issued a third final response on 27 May 2020, to address the further points Mr H had raised. Prudential upheld the complaint because it hadn't answered Mr H's queries in a timely manner but not the complaint about him having been prevented from paying into his pension. Prudential said Mr H had asked on 19 March 2020 for confirmation of the transactions surrounding the £16,000 payment applied in August 2019. He didn't get a reply within the required timescales and a proper explanation wasn't provided.

Prudential went on to explain the four transactions shown on the table supplied to Mr H. The adjustments which had to be made on its system were complex and it wasn't as easy as just moving cash and had to be moved out of different funds with adjustments to ensure it was applied correctly. When the £16,000 was received from Mr H in January 2020 it was applied to his plan. A letter was sent on 29 January 2020 confirming it had been applied and no financial impact had been caused. An annual statement was sent on 9 February 2020 which confirmed what had been paid in over the last twelve months. It gave Mr H the information he required and there was enough time to utilise any used annual allowance and make additional payments in the pension.

Mr H emailed on 27 May 2020 asking for an explanation for each and every transaction relating to the error and a full explanation. He followed up on 10 June 2020, attaching a spreadsheet highlighting all the transactions requiring an explanation. Several further chasers were sent.

On 15 July 2020 Mr H was notified by email that the complaint had been referred to the Chief Executive's Office (CEO's office) and his earlier complaint had been re-opened. Attached was a spreadsheet with an explanation for each of the transactions.

The CEO's office sent an email (a further final response letter) on 28 August 2020. Prudential accepted a better level of service could've been provided and apologised for the

inconvenience caused. Prudential said it had attempted to clarify the position and the transactions and sub transactions surrounding the contribution of £16,000 made in August 2019. Hopefully the information sent on 15 July 2020 had done that. Prudential wasn't prepared to pay Mr H's invoice for the time (as an adviser) he'd spent on the matter. But it said a payment of £300 would be made.

Mr H replied on 3 September 2020 pointing out that the response hadn't addressed the loss of his annual allowance for the tax year 2019/20. Prudential replied on 8 September 2020. It agreed it had been at fault in respect of the £16,000 contribution but not that it was liable for the loss of the annual allowance. It referred to what it had said in its previous complaint response dated 27 May 2020, which confirmed that Mr H's plan was sitting correctly prior to the end of the tax year. Had he chosen to proceed with further contributions that wouldn't have had any impact on the outstanding request for information. Prudential appreciated Mr H wanted further details about each transaction and sub transaction relating to the £16,000 contribution. But it was ultimately his decision not to proceed with any further contributions until he received the information he'd requested. Prudential didn't agree it was liable for this element of the complaint and wasn't prepared to offer further compensation.

Mr H remained unhappy and referred the matter to us. He said Prudential had invested a single pension payment of £16,000 twice. There'd been a delay in trying to sort things out, despite Mr H chasing. He lost his annual allowance for the 2019/2020 tax year and it can't be carried forward. It all took nine months and was only resolved following the CEO office's intervention. He was seeking compensation for the time taken and the long term impact of the loss of the annual allowance.

Mr H discussed his complaint with the investigator who was initially considering the complaint. It was later reallocated to another investigator who issued his view on 3 June 2021. He didn't uphold the complaint. His main points were:

- Following the erroneous transaction in July 2019, no further contributions were made in the 2019/20 tax year. In total Mr H had made employer contributions of £24,000, so there was potential to make further contributions of £16,000 on or before 5 April 2020.
- It was on 19 March 2020 when he'd first began to make enquiries about the corrective transactions that had taken place on 9 August 2019. This was twelve working days before the end of the tax year. The initial email didn't specify the level of clarification, didn't indicate that the lack of information was preventing Mr H from making further contributions or express any urgency given the approaching tax year end.
- Equally, Prudential should've responded to Mr H's enquiry sooner. He only received a response after sending a further email on 2 April 2020 explaining he'd wanted to invest in the current tax year. But by then there was only one working day left.
- The investigator thought Prudential's response was reasonable: it explained the reason for the multiple deductions and gave an assurance that extra funds had not been debited.
- In his response the same day, Mr H said he required further explanation and that, without it, he was unable to make a payment. But the email didn't make clear that the decision to maximise pension contributions for tax year 2019/20 was contingent on Prudential explaining these transactions further, or specifically what degree of explanation was required.
- The onus was on the member to calculate the aggregate pension input amount for all their pensions at the end of a tax year and to compare this to the annual allowance for that tax year and report any excess contributions their self-assessment tax-return. There was no reason why Mr H would've declared pension contributions in excess of

£40,000. As the member and company director, he was aware that contributions of only £24,000 had been made. The annual statement issued on 9 February 2020 confirmed the contributions made in the previous twelve months.

The investigator added that Mr H could've made use of carry forward in the 2020/2021 tax year. The investigator set out his understanding of the position. He agreed that Prudential could've responded to Mr H's 19 March 2020 enquiry sooner. But the trouble and upset payment already offered was within the range the investigator would've recommended.

Mr H didn't accept the investigator's findings and asked for an ombudsman's review. His main points were:

- He hadn't waited until the last minute to query the payments on account. He'd been requesting an explanation for all of the payments/transactions since the account was incorrectly administered.
- There were so many transactions on the account (not a simple removal) that he required an explanation before investing further.
- Prudential consistently failed to explain the numerous/needless transactions until the following tax year - despite constant chasers.
- What the investigator had said about pension premiums was wrong. As a company director, Mr H had a duty to ensure all parts of the tax regime and laws are adhered to. He couldn't invest further without a proper explanation. He couldn't have been expected to pay £16,000 without any explanation of the transactions.
- He'd spoken to the previous investigator at some length about the complaint.

The investigator replied saying Mr H's complaint was that the annual allowance for 2019/2020 had been lost. The investigator's understanding was that Mr H could still make full use of carry forward so, assuming he fully funded for the current year, the unused annual allowance could still be used.

Mr H replied saying as it was an employer premium, the annual allowance ceased in that tax year. His income wasn't enough to allow carry forward for that year.

As agreement couldn't be reached, the complaint was referred to me.

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've read and considered everything. But I've focused on what I consider to be the key factors.

Mr H clearly feels very unhappy with what's happened and Prudential's handling of the matter, including the time taken to sort things out. But essentially I agree with the investigator that there were service issues but the sums already paid by Prudential are reasonable compensation for the inconvenience caused. And I don't see that Prudential's handling of the matter meant Mr H was unable to make a further employer contribution before the end of the 2019/2020 tax year.

Prudential accepts that it made an error with the employer contribution made in July 2019. It seems Prudential applied the same contribution twice in error. Mr H contacted Prudential on 12 July 2019 saying it had been applied as an employee contribution and asking for it to be corrected. The contract note issued on 8 August 2019 still showed it as an employee

contribution. So, over a month after the contribution had been made and almost a month after Mr H had pointed out there'd been an error, it hadn't been corrected.

And when Prudential did try on 9 August 2019 to reverse the transaction, the money was sent back to Mr H's bank instead of being retained by Prudential. And it seems it wasn't until over a month later, on 17 September 2019, that Prudential, I assume having by then realised what had happened, contacted Mr H and asked him to return the money.

Unfortunately it seems Mr H was unable to do that promptly. Prudential sent several requests in September and October 2019. And Prudential tried to contact Mr H by telephone. There's a telephone note dated 26 November 2019 which records that Prudential spoke to Mr H but he said he was too busy and Prudential should call back later. It seems Prudential did that but the call went to voicemail and a message was left. Prudential then wrote to Mr H on 2 December 2019 before then contacting his bank.

Prudential shouldn't have returned the money to Mr H's bank. But, having made that (further) mistake, Prudential was dependent on Mr H returning the money so that Prudential could then correctly reapply it as an employer contribution.

I think Prudential made considerable efforts to get the money back. I don't think Prudential can be blamed for the time that elapsed between mid September 2019, when Prudential first asked for the money back, and December 2019, when Mr H was in contact with Prudential about returning the money.

I know Mr H is particularly unhappy that Prudential contacted his bank who in turn got in touch with Mr H. He's said he had to spend time on the phone to his bank about the issue. I think Prudential contacted Mr H's bank because it had been unable to resolve the repayment issue with Mr H and in an attempt to sort things out. But I do have some sympathy with why Mr H feels Prudential shouldn't have taken that step. And I'm not sure if Prudential told Mr H before contacting his bank that would be the next step.

I've also seen that there seems to have been some further problems in December 2019. Including that Mr H hadn't received a requested call back. He was also unhappy with a telephone call and an email, both at the end of December 2019. But I think Mr H accepted Prudential's apologies and the payment it made for the poor service he'd received.

Mr H did then return the payment and it appeared that by the end of January 2020 the matter had been resolved. And a plan statement issued on 9 February 2020 correctly showed what had been paid into the plan over the past twelve months.

Unfortunately the matter wasn't resolved to Mr H's satisfaction and he got back in touch with Prudential on 19 March 2020, requesting clarification of the transactions in connection with correcting the error. I can understand Mr H's concern that extra monies may have been taken. And I'm conscious that he may have been very busy. Especially as the end of the tax year was coming up and he may have had extra work and enquiries due to the emerging pandemic. But, although I don't criticise Mr H for not following up earlier, nor do I think it's Prudential's fault that he wasn't able to query things further sooner.

I also tend to agree with the investigator that when Mr H raised his further queries on 19 March 2020, he didn't indicate any particular urgency or that deciding whether to make further contributions before the end of the tax year rested on Prudential's response and explanations.

I also bear in mind what I've said above about the time that elapsed between September and December 2019. I don't think it's unreasonable to assume, had the payment been returned

sooner, everything would've happened earlier – reversing and applying the contribution correctly would've been sorted out quicker and Mr H's further queries would've been raised earlier and with more of a window left before the end of the tax year.

And I don't altogether understand why Mr H felt unable to make any further contributions without a more in depth explanation of how the errors had been put right. It seems he was concerned about the multiple accountancy entries, transactions and sub transactions apparently needed to correct the mistakes that Prudential had made, both in incorrectly applying the contribution and then seeking to reverse and correct it and taking into account that Prudential had also in error returned the money.

But Mr H knew the level of employer contributions he'd made during the year and that, if he wanted to make further contributions, what headroom he had.

While I appreciate that Mr H wanted further details, I think he had enough information to be able to make any further contributions that he was planning. It was his decision not to proceed with any further contributions until he received the information he'd requested. Although I think Prudential should've responded more promptly to the further queries Mr H raised on 19 March 2020, I don't think it would be fair and reasonable to say that Prudential's delay meant Mr H was prevented from making further pension contributions before the 2019/2020 tax year ended.

Prudential has admitted there were service failings on its part and has offered compensation for the inconvenience that resulted. I think the sums offered are fair and reasonable and in line with what we'd award. Mr H's complaint is made in his personal capacity and we wouldn't make an award for the time he's spent based on what he might charge his clients in his professional capacity.

Lastly there's been some discussion between Mr H and the investigator about if Mr H is able to make up missed contributions using the carry forward provisions. I don't think the position is straightforward. But I haven't really looked into it, given my view is that Prudential isn't responsible for Mr H losing the opportunity to maximise employer contributions for the 2019/2020 tax year.

Whether Mr H could do something to avoid or mitigate any loss would only be relevant if I agreed that Prudential's handling of the matter meant Mr H had lost the opportunity to make further employer contributions before the end of the 2019/2020 tax year. For the reasons I've explained above, I don't think that was down to Prudential and the mistake it made with the £16,000 contribution and/or any failure to put that right promptly.

So, even if Mr H's position has been compromised and he can't now make up the employer contributions that he'd have made before the end of the 2019/2020 tax year, I'm not going to make any award for that.

My final decision

I don't uphold Mr H's complaint and I'm not making any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 7 June 2022.

Lesley Stead
Ombudsman