

The complaint

Mr M says when he switched between funds in his Retirement Account he didn't benefit from a unit price reset (UPR). He says The Prudential Assurance Company Limited (Prudential) has treated him unfairly and he's suffered financial detriment.

Mr M is represented by his independent financial adviser (IFA).

What happened

The basic facts of this case are not in dispute.

Following a discussion between Mr M and his IFA it was agreed his attitude to risk had changed. As a result, on 15 July 2021 his adviser requested a switch between funds in his Retirement Account, from the PruFund Risk Managed 2 fund to the PruFund Growth fund. Prudential instructed the switch the same day. After a 28-day waiting period, the units were sold on 12 August 2021 and the money placed into a holding account.

On 25 August 2021, Prudential applied a 3.63% UPR to its PruFund Growth funds, and a 3.78% UPR to the PruFund Risk Managed 2 funds. Mr M's switch was completed on 25 August 2021, but he didn't benefit from either uplift.

Mr M's IFA complained to Prudential on his behalf. To put things right he wanted Prudential to pay what he missed out on, which he calculated as £7,513 - plus interest.

Prudential issued its final response in November 2021. It said it had followed its processes properly and the way switching and UPR's worked had been clearly set out in its policy documents. Mr M disagreed and brought his case to this Service.

An Investigator considered Mr M's complaint. Although he understood why he felt he'd missed out because of what had happened, he didn't uphold his case because he didn't think Prudential had done anything wrong. Mr M disagreed.

As both parties couldn't agree with the Investigator's findings and conclusions Mr M's complaint has been passed to me to review afresh and to issue a decision. This is the final stage of our process.

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.

Where there's conflicting information about what happened and gaps in what we know, my role is to weigh the evidence we do have and to decide, on the balance of probabilities, what's most likely to have happened.

I've not provided a detailed response to all the points raised in this case. That's deliberate; ours is an informal service for resolving disputes between financial businesses and their

customers. While I've taken into account all submissions, I've concentrated my findings on what I think is relevant and at the heart of this complaint.

I'm not upholding Mr M's complaint. I'll explain why.

I've considered the regulation around transactions like those performed by Prudential for Mr M. The FCA Handbook contains eleven Principles for businesses, which it says are fundamental obligations firms must adhere to (PRIN 1.1.2 G in the FCA Handbook). These include:

- Principle 2, which requires a firm to conduct its business with due skill, care and diligence.
- Principle 6, which requires a firm to pay due regard to the interests of its customers.
- Principle 7, which requires a firm to pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

So, the Principles are relevant and form part of the regulatory framework that existed at the relevant time. They must always be complied with by regulated firms like Prudential. As such, I need to have regard to them in deciding Mr M's complaint.

Information about how switching between PruFunds, the smoothing process and how UPRs work are set out in guides and the policy terms and conditions provided by Prudential.

The Investigator summarised the key matters in the following terms:

"When switching out of a PruFund, there is a 28-day waiting period which applies and is from the date the switch instruction is actioned. The purpose of this is to protect the with-profits sub-fund, in the interest of with-profit policyholders and shareholders. For this period, the unit price used is the unit price at the end of the 28 days. Mr M's switch instruction was received and actioned on 15 July 2021, and so the end of the waiting period was 12 August 2021 as the 28th day. Because this was before the unit price resets in question, the uplifts weren't applicable at this time."

"At the end of the waiting period the units are sold and placed in a holding account until the next investment date. As per the terms, whilst the money from the units sold is held within the holding account, it's not subject to unit price resets and so Mr M's fund wouldn't have been able to benefit from any unit price resets in this timeframe."

I've reviewed the original complaint to Prudential by Mr M's IFA. It said:

"[Mr M] switched out of PruFund Risk Managed 2 and into PruFund Growth (75%) and Vanguard LS 60% Equity (25%). Switch was instructed on 15th July and funds were sold on 12th August and placed into the PruFund Growth Holding account - Meaning the client missed out on the UPR's for PruFund RM2 on the sell side and also PruFund Growth on the buy side."

"Clients fund value before UPR yesterday was £289,260. UPR of the selling fund was 3.78%, UPR of the buying fund was 3.63%. So client has lost out on around £8,000 purely because they've moved between PruFunds due to a change in [attitude to risk]."

"We understand the mechanism of the 28-day delay before funds can be sold to avoid manipulation of the smoothing process. However we feel that something should have been put in place for investors who are switching from one PruFund to another, especially in exceptional circumstances like this where UPR's have been applied to every PruFund."

“...If the clients were selling completely out of the PruFunds and had missed out on the UPR's then we would agree that whilst the timing would be unfortunate, that is the nature of these investments. But to completely miss out for merely moving between PruFunds feels very unjust.”

Prudential responded to Mr M's IFA in the following terms:

“...As per the Terms and Conditions, once a fund switch is requested from the PruFund range of funds it cannot be cancelled and the units are subject to a 28 day waiting period.”

“Furthermore, any funds being invested into a PruFund are subject to the same rules of the smoothing process, regardless of the investment origins of the investment. I understand you disagree with this process and feel we should protect customers switching from one PruFund to another, particularly under the circumstances of the recent UPR being beneficial to customers. However, we clearly set out the smoothing process, including the process around UPRs in our literature and we have processed the switch in line with said process.”

“As such, following the switch the funds were correctly placed into the holding account until 25 August 2021 when they were swept into the fund, and were therefore not entitled to benefit from the UPR applied on the same date.”

“I appreciate you have cited within your complaint you feel Mr M has been unfairly disadvantaged. However, any customer who switched between PruFunds following the July 2021 sweep date would not have benefitted from the increase. These customers all shared the same risk and therefore were all treated fairly.”

“Furthermore, to allow Mr M to switch and still benefit from the UPR would make it unfair on every other customer who did not choose to switch funds, and on those who did but have not raised a complaint.”

“The fund switch terms and conditions are clear, and the literature regarding our UPRs, Unit Price Adjustments and Estimated Growth Rates are all readily available to you prior to any advice given to your client.”

I've reviewed the terms and conditions applicable to Mr M's Retirement Account and other relevant documents such as the step-by-step guide to the PruFund smoothing process. I've concluded that Prudential followed what it said it would do in the circumstances Mr M found himself in.

I've also considered how Prudential actioned Mr M's IFA instructions. I can't see there were any delays or other problems with what it did.

I don't think my conclusions will be a surprise to Mr M and his IFA because I think they understand that Prudential haven't technically done anything wrong. Their argument is more about whether the existing processes it follows are fair in what the firm has recognised were unusual circumstances.

“The main crux of our argument is that while the monthly test to decide whether a UPA is applied is completely formulaic without any human decision, the decision to apply a UPR on 25th August was unprecedented and a completely discretionary decision made by Prudential. From the correspondence we have received, it seems pretty clear that the driving factor behind this decision was that the smoothing process was not working as intended. Prudential say in their own words that these were 'exceptional circumstances' and 'might never actually occur again', therefore we believe that Prudential should have had a process in place (above the standard UPA procedures) to protect customers who may have been disadvantaged by this one-off decision, particularly customers such as this client who were switching between PruFunds at this time...”

Prudential says it welcomed feedback from Mr M's IFA about how its PruFund mechanism works. It said is always thinking of how this can be kept as efficient and effective as possible. But it didn't commit to making changes, especially as the circumstances giving rise to his concerns were unusual and might not happen again.

It isn't the role of this Service to instruct firms on how to design their business processes. And so in the circumstances of Mr M's case, while I recognise his disappointment I won't be instructing Prudential to put things right in the way he'd like. To do so would effectively be to disadvantage other Prudential customers.

My final decision

For the reasons I've outlined, I'm not upholding 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 4 January 2023.

Kevin Williamson

Ombudsman