

## **The complaint**

Mr P says The Prudential Assurance Company Limited (Prudential) is responsible for poor administration and handling of his personal pension arrangements. Specifically, it didn't act on his instruction to increase his pension contributions and it subsequently failed in its duty of care to him for the security of his personal information. He says the first issue caused him financial detriment and the second concern, worry and embarrassment.

## **What happened**

There's broad agreement about the chronology of events in this case.

On 20 May 2020 Mr P returned completed forms for Prudential to start taking monthly contributions of £500 for his pension plan. Prudential wrote to him on 26 May 2020 to confirm it had actioned the instruction and his payments would start from 6 July 2020.

In March 2021 Mr P realised no payments had been taken from his account. So, on 6 April 2021, he called Prudential to make a complaint. It acknowledged his complaint on 12 April 2021. There was some to and fro between the parties until Prudential provided a final response to him on 7 May 2021.

Prudential upheld Mr P's case and concluded he'd lost investment growth that would've accrued to his plan between July 2020 to April 2021 of around £170. It said if he paid the missed contributions into the plan it would make good the loss. It also offered him £500 compensation for the trouble and upset it had caused.

Subsequently Mr P was contacted by a third party, they told him Prudential had sent them his personal information in error. They contacted Prudential about it on 14 May 2021 and it asked them to destroy all copies of the information received. Mr P made contact with Prudential about the release of his personal information to another person on 17 May 2021. Prudential called him on 24 May 2021 to explain his concerns were being investigated.

In a letter dated 11 June 2021, Prudential accepted it had made an error in sending Mr P's information to another person. It said it was calculating redress for the data breach – later confirming an offer of £500. It also recommended he register for the CIFAS protective registration service as a precaution. This worked by placing a warning flag against his name as someone at risk from identity theft, to let other organisations know to pay close attention if his details were used to purchase products or services. Prudential was willing to cover the cost for 10 years (at a cost of £125).

On 8 July 2021 Prudential called Mr P to discuss his case. He explained he wasn't happy to add the premiums to his pension. He said the compensation of £500 for the failed premium contributions and a further £500 for the data breach was out of kilter – the latter being a far more serious issue. In a later call between the parties Mr P mentioned his online research had shown a minimum compensation award for complaints like his of about £2,000 and so he was unhappy with the total of £1,125 compensation being offered.

Prudential sent Mr P its final response to his complaints on 27 July 2021. It said it believed its total offer of £1,000 compensation and £125 for 10 years of CIFAS protective registration service cover was fair. Unhappy, Mr P referred his complaint to our Service on 28 October 2021. He also referred the data breach incident to the Information Commissioner's Office (ICO).

The Investigator didn't uphold Mr P's case. He thought Prudential had recognised and apologised for the mistakes it had made. And that its offer to put things right was fair. Mr P disagreed and so his complaint has been passed to me to review afresh and to provide a decision. This is the final stage of this Service's dispute resolution 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 P's complaint. I'll explain why.

I've considered the extensive regulation around transactions like those performed by Prudential Mr P. 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 3, which requires a firm to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
- Principle 6, which requires a firm to pay due regard to the interests of its customers.

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 P's complaint.

Firstly, it's clear Prudential are responsible for some serious errors. I tend to agree with Mr P when he says the data breach was potentially more serious than the failure to carry out his pension contribution instructions.

Prudential was slow to inform Mr P about its error in handling his personal information – indeed it was Mr P who initiated contact on the matter when he was told by a stranger what had happened. The way it handled the matter internally was flawed. So the significant concern Mr P expressed about his information being available to somebody else is understandable. And I recognise why he believes recent issues he's had with someone attempting a fraudulent benefit claim using his personal details could be linked to this issue.

In responding to Mr P, Prudential did confirm some forms were accidentally sent to a third party of the same name on 4 May 2021. It said there'd been a system error and that this had been corrected. To avoid repetition of the issue it added a marker to his account to ensure his address was double checked before any correspondence was issued. It said it had also updated its internal processes and procedures.

I understand why Mr P remains sceptical about what Prudential has reported about the data breach. He thinks it was trying to hide what happened. But I've not seen evidence to support what he says. I think it's more likely than not there were internal communication problems, which have been acknowledged.

Mr P has informed this Service of an attempt by a fraudster to use his data to make a benefit claim. I agree with the Investigator when he concluded it was unlikely to have been the result of the actions of the third party who had received his information in error. I say this because that individual made themselves known to him, and that doesn't seem consistent with the same third party using his data to commit fraud. There's insufficient evidence about how the perpetrator obtained Mr P's data to initiate the benefits claim.

Overall, Prudential apologised to Mr P. It informed him about what had happened and the measures it took to ensure the same mistake couldn't happen again. It recommended a precaution Mr P could take to try to safeguard his position, which it would pay for (although I appreciate his reticence in using such a service). And it offered him redress of £500 in recognition of the trouble and upset it had caused.

When I'm considering a complaint like Mr P's I think about whether it's fair to award compensation for distress and inconvenience. This isn't intended to fine or punish a business – which is the job of the regulator. But when something's gone wrong, recognition of the emotional and practical impact can make a real difference.

We're all inconvenienced at times in our day-to-day lives – and in our dealings with other people, businesses and organisations. When thinking about compensation, I need to decide that the impact of Prudential's actions was greater than just a minor inconvenience or upset. It's clear to me that this was the case here. But I've also concluded its offer to put things right was sufficient in the circumstances.

I note Mr P has referred his case to the ICO. It regulates compliance with data protection laws in the UK. It has a number of powers including the power to order businesses to comply with data protection laws and to fine them. But, unlike this Service, it doesn't have the power to award compensation to consumers who've suffered financial loss or have been caused distress by the way a financial business has handled their personal information.

Turning to the matter of Prudential's failure to carry out his pension contribution instruction. I think this matter is relatively clear cut. It has offered to make good any investment loss to him over the relevant period, subject to him now making the monthly contributions he'd intended and which it failed to execute. I understand he doesn't want to do that. It follows that without him making any contributions to his pension he can't benefit from investment growth.

That's not to say Prudential hasn't done anything wrong. But it has apologised. It has offered to return Mr P to the position he'd be in now if it had got things right. And it offered him £500 in recognition of the trouble and upset it had caused in respect of this matter. Again, I've concluded its offer to put things right was sufficient.

The Prudential Assurance Company Limited should honour its offer of redress to Mr P.

**My final decision**

For the reasons I've already set out, I'm not upholding Mr P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 10 January 2023.

Kevin Williamson

**Ombudsman**