

The complaint

Miss E complains that The Prudential Assurance Company Limited (Prudential) deferred her Selected Retirement Date (SRD) without her asking it to. And that this led to her missing the opportunity to transfer her Free-Standing Additional Voluntary Contribution (FSAVC) policy without it being subject to a Market Value Reduction (MVR). She also complains that Prudential didn't advise her that her requested transfer value had to be carried out in advance of her SRD. She felt she simply had to inform it of her intentions by that date.

What happened

Miss E has a FSAVC policy with Prudential which started on 7 August 1991. It is invested in a With-Profits Fund. It initially had an SRD a month after Miss E's 60th birthday. But Miss E deferred this to her 62nd birthday.

Prudential's call notes record that in March 2020 Miss E called it to discuss drawdown and options at retirement. Prudential provided transfer and fund values during the call. Prudential's call notes also record that it explained to Miss E that she could defer the plan.

I understand Prudential had a systems error which caused problems for some of its policyholders in early 2022. Miss E was affected by the error. She complained about the error and about how Prudential handled the resolution of the problem. Prudential upheld the complaint. But as the experience had been extremely upsetting for Miss E, she said she resolved to transfer her policy from Prudential as soon as it matured.

Miss E asked Prudential for policy information, which it provided in a 16 February 2022 letter. As at the date of the letter, the policy had a fund value of £132,407.63. The Final Bonus was £89,007.37. And the MVR was £7,688.26. This meant that the total transfer value, which wasn't guaranteed, was £213,726.74.

Prudential also provided Miss E with additional policy information including a leaflet about the MVR: "*Market Value Reduction - a clear explanation*". And gave information about the Final Bonus and the With-Profits Fund.

Prudential sent Miss E a retirement options pack on 24 June 2022, as she was approaching her planned retirement date. The pack provided information on the available options for the policy in retirement. The letter said that the policy had a value of £135,538.58, excluding the Final Bonus and any MVR. It said the estimated Final Bonus was £106,473.41. It gave the total pension pot value, including Final Bonus and MVR, as £242,011.99. And explained that the total pension pot value was the amount it would've paid if Miss E had chosen to take her benefits with it or transferred to another provider on 24 June 2022. The letter said that the value wasn't guaranteed.

The letter also explained the MVR. It said this was an amount it might deduct from certain withdrawals or switches from the With-Profits Fund. It also said:

"It's our way of being fair to all of our with-profits customers. MVRs help make sure that everyone gets a return based on the earnings of the With-Profits Fund over the time their

payments have been invested in it. An MVR would not apply if you take benefits at your SRD or due to any payments as a result of your death. MVRs can change from day to day. We haven't applied an MVR when calculating this value".

The letter also referenced the MVR leaflet for more information. And, under the "What you need to do next" section, stated that:

"If we don't hear from you before your current retirement date, we'll extend your plan's retirement date to age 75".

Miss E called Prudential on 26 June 2022. She said she wanted to ask what the process for transferring her pension was. She said that the customer service agent told her she needed to find a pension company to take the funds and that company would arrange the transfer. She said she was told that the transfer would be handled by the new company.

After the call, Prudential issued a letter dated 28 June 2022 with policy information as at that date. It said the fund value was £135,939.90. And the estimated Final Bonus was £106,819.44. It also said:

"A Market Value Reduction (MVR) doesn't currently apply to benefits held in the With-Profits Fund but may apply in the future. We guarantee not to apply an MVR in certain circumstances e.g. death or your selected retirement age".

And further explained the MVR as follows:

"If the value of the assets underlying your plan is less than the value of your plan including bonuses, we may deduct a Market Value Reduction (MVR) if you:

- decide to retire before or after the date you reach your selected retirement age/date, as specified in your plan literature*
- move the value of your plan to another pension plan and/or*
- switch out of the With-Profits Fund.*

An MVR is designed to balance the interests of continuing investors with those who want to cash-in their plan".

This letter also provided more detail about MVRs by again including the MVR leaflet.

Miss E said she then contacted a potential receiving scheme (provider A) for the transfer on 12 July 2022 to ask it to perform the transfer. She said she filled in a form and left it to them. And that she wasn't aware of any urgency for the transfer to complete, as she'd made Prudential aware of her intentions.

Prudential's call notes from 28 July 2022 state that it spoke with Miss E as she was looking for a transfer value. It said it gave her a value of £243,607.43 with £0 MVR.

Miss E said that provider A contacted her in October 2022 to tell her it couldn't accept the transfer.

Prudential's call notes record that on 21 October 2022 Miss E called to tell it she had planned to transfer her policy, but that the receiving scheme didn't offer the benefits that it did. The notes stated that when Miss E asked Prudential about her SRD, it said that Miss E would auto defer. The notes also record that Miss E was still looking to transfer and would

be back in touch.

Prudential wrote to Miss E on 28 October 2022 to tell her that her 2022 SRD had now passed. And that as she'd not told it when she intended to retire, it'd assumed that it would be sometime in the future. It said it'd updated its records with a retirement age of 75. And said that Miss E must: "*take some action and reach a decision about your retirement income before your 75th birthday*". The letter also said that Miss E could still choose to take her retirement benefits at any time before her 75th birthday.

I understand that Miss E spoke to Prudential about the 28 October 2022 letter. She said Prudential told her that if she wanted to transfer the policy now, an MVR would be applied. And that this would be a deduction of £18,232. She felt that the letter had stated that because she'd not been in touch with Prudential, her policy had been automatically updated with a retirement age of 75.

Miss E felt she had been in touch with Prudential, so she called it to dispute the 28 October 2022 letter. She said Prudential told her that she hadn't responded when the policy had matured. She said she had told Prudential that she wanted to transfer the policy.

Prudential's call notes from 7 November 2022 said that Miss E wanted to discuss the fact that her SRD had been automatically deferred to age 75. And to ask if it could be brought back down. Prudential told her it couldn't, but that she could still take the money from her policy at any time. It also said that it told Miss E that because she was invested in the With-Profits fund an MVR might apply if she took the money from her policy before her SRD. The call notes also recorded that when the £18,232 MVR was quoted Miss E was quite shocked by the fact that she would now need to wait to age 75 to be guaranteed to not get any MVR at all on a claim. It said it explained that the MVR comes and goes as time goes on, so it might not apply at the point Miss E cashed in her policy. The call notes also stated that Prudential had told Miss E about the potential for her SRD to be moved to age 75 in its 24 June 2022 letter.

Miss E made a complaint during the call on 7 November 2022. And also sent a letter of complaint to Prudential dated 22 November 2022. She said that when she'd been told by provider A that it wouldn't accept her transfer, she'd contacted it on 21 October 2022. And that she'd been told by the customer service agent that her wish to transfer had been noted in her details. She felt that when Prudential had told her that her pension had been reinvested until her 75th birthday, it had ignored her transfer request. She also said that although her complaint had been raised in early November 2022, Prudential hadn't contacted her within the five days it said it would.

Prudential issued its response to the complaint on 28 December 2022. It didn't think it had done anything wrong regarding the change of SRD. It said that Miss E's retirement date had been put back to her 75th birthday as her transfer hadn't completed by her SRD. And that it had told her, in its 24 June 2022 letter, that this would happen if she didn't confirm a new SRD.

Prudential acknowledged that Miss E had told it she wanted to transfer out, and that it had received contact regarding the potential transfer to provider A after her SRD had elapsed. But said that as the transfer didn't proceed, Miss E's SRD was automatically deferred in line with the policy terms.

Prudential acknowledged that it hadn't responded to Miss E's complaint the way it should have. So it upheld that part of the complaint. And sent Miss E a cheque for £75 in recognition of the poor service.

Miss E wasn't happy with this response. So on 19 December 2022 she wrote again to Prudential. She said she'd received a letter from Prudential dated 6 December 2022 to transfer her pension. And questioned whether the complaint procedure had finished. She said she hadn't been notified of any resolution. And asked what had prompted the transfer letter.

Miss E said she didn't want her policy to be reinvested. And that she'd told Prudential that before August 2022.

Prudential issued a further complaint response to Miss E on 6 January 2023. It said it had only received the 19 December 2022 letter on 28 December 2022. And that this was why it hadn't covered the new points in its first complaint response.

Prudential upheld the complaint about the unrequested transfer letter. And said that Miss E should disregard the transfer documents she'd been sent. It said that its servicing team had misinterpreted Miss E's 22 November 2022 letter and issued the transfer document on the basis that she'd discussed finding a new provider and the attempted transfer to provider A. It apologised for the error and the confusion caused.

Miss E brought her complaint to this service in early January 2023. She felt she should've been given a chance to find another company to take the transfer before her SRD was automatically changed. She said she felt trapped within her current situation and forced to accept an MVR. She said she wasn't told that there was a time limit on her transfer request. She wanted to transfer her policy and not have to accept the MVR. Miss E also said that she'd found the situation extremely upsetting. And that her dealings with Prudential had contributed to her poor mental health.

Our investigator didn't think the complaint should be upheld. While he recognised the impact this situation had had on Miss E, he didn't think Prudential had acted unfairly in extending her E's retirement date.

Miss E didn't agree with our investigator. She made the following points:

- She'd called Prudential on 26 June 2022 in response to its 24 June 2022 letter asking her to 'contact' it for next steps. She said that although our investigator felt Prudential considered she'd not responded, her phone call was the response to say she didn't want the policy reinvested. So she was shocked when Prudential told her that her policy had been reinvested until her 75th birthday.
- Based on her recollection of the 26 June 2022 call, Miss E said she'd told Prudential she wanted to transfer her fund. And asked it what she needed to do. She said she was simply asking for administrative information on the process, not financial advice. And that her recollection was that the phone call ended with her confirming with Prudential that all she needed to do was to find a company to move the money to. And that it would contact Prudential without her needing to do anything further. She felt she'd adequately informed Prudential of her intentions. And that it had a responsibility to inform her exactly what it meant by 'contact us' in its 24 June 2022 letter. She felt that for her, it meant ringing and telling Prudential her instructions. But that it meant something different, which wasn't clear to her, to Prudential.
- She hadn't been told that the transfer had a deadline. She felt that she'd had to contact Prudential in advance of her SRD. And that she'd told it of her intention not to reinvest.
- Miss E felt that her policy wasn't subject to an MVR at her SRD. And that as it had

now been reinvested, against her wishes, it was now subject to an MVR. She felt this was a penalty which Prudential had imposed on her by proceeding against her instructions.

As agreement couldn't be reached, the complaint has come to me for a review.

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.

Having done so, I'm not going to uphold it. I know my decision will be disappointing to Miss E. I'll explain my reasons for it.

I first considered Miss E's complaints about the MVR.

MVR

I can totally understand why Miss E's original complaint, from early 2022, made her feel uncertain about using Prudential as her pension provider. In its final response to that complaint, Prudential acknowledged that: *"These problems do not reflect well on us and I fully understand the loss of confidence you must feel in our ability to provide a satisfactory level of service."* And while I acknowledge that Miss E feels that she's now unable to transfer her policy to another provider as her transfer would be reduced by an MVR, I consider that this was always the case. I'll explain why.

First, I'll give a little background on the With-Profits Fund Miss E is invested in. And what the MVR aims to do.

Prudential explained, in its 16 February 2022 letter to Miss E, how its With-Profits Fund, in which Miss E is invested, operates.

It said:

"We invest in a broad mix of investment types. We invest in property, UK and international stocks and shares, cash, and corporate and government bonds. Bonuses are how you get your share of the profits".

It then went on to explain how the two different types of bonus – regular and final – are added. And said that the aim of the With-Profits Fund is to: *"smooth some of the extreme highs and lows of short-term investment performance in order to provide a more stable return. We do this by holding back some of the investment returns in good years with the aim of using this to support bonus rates in the years where the investment returns are lower".*

It said that although such smoothing offered some protection against bad market conditions, it couldn't always stop the value of a policy reducing if investment returns had been low.

Prudential then went on to explain the MVR. It said that when a policyholder takes money out of the With-Profits Fund, it might apply an MVR to reduce the fund value. It said it would do this if the value of the underlying assets were worth less than the value of the policy, including all bonuses.

The use of MVRs is common. They effectively allow a provider to determine a policyholder's fair share of the value of the With-Profits Fund when they decide to cash in their policy. MVRs are usually applied when there's been a reduction in the value of the With-Profits

Fund to make sure that the surrendering policyholder doesn't receive more than their fair share of the actual value. They're generally intended as a short-term measure that will be removed once a provider feels that its funds have recovered sufficiently. And their application is usually at a provider's discretion, as long as it's in line with the terms and conditions of the product.

Prudential also provided Miss E with a two-page leaflet, giving details about when an MVR would or wouldn't apply, on a number of occasions, as detailed above. This clearly stated that an MVR may apply if a policyholder transferred to another provider.

However, the leaflet also said:

"For pension plans, we guarantee not to apply an MVR at the selected/normal retirement date, as selected in your pension plan literature, or at the Anticipated Annuitisation Age for relevant Income Drawdown plans".

I can understand why Miss E considered that she would've been able to transfer her policy to provider A, without the application of any MVR, as long as she did so on her SRD. I say this because the MVR leaflet could be interpreted as stating that an MVR wouldn't be applied at the SRD. But this is not the case.

I say this because although Prudential guarantees not to apply an MVR on any money it pays out at a policyholder's SRD, this only means if the benefits from that policy were taken by a policyholder at that time, for example by using the fund value to buy an annuity. The guarantee not to apply an MVR doesn't apply at any time if the policy is transferred to another provider. While I appreciate that this wording could be clearer, I'm satisfied that the two-page MVR leaflet did also state that an MVR may apply on the transfer of a policy.

I can see that Miss E originally felt that her fund wouldn't be subject to an MVR if she transferred it at her SRD. And that after the call on 26 June 2022, she didn't believe there was any rush to transfer her policy, as she felt she'd met Prudential's conditions for an MVR not to be applied. But, having listened in detail to that call, I don't agree that Prudential ever told her that an MVR wouldn't apply if her transfer was carried out at a certain date.

I say this because Miss E told Prudential the following:

"The clarity I'm trying to get is do I start that before or after [my SRD]. I understand there's Market Value Reductions and whatever if I take the money early".

And Prudential said:

"[Your SRD] doesn't factor into this. There can be MVRs as you say".

Based on what I've said above, I can't fairly uphold Miss E's complaint that her policy wasn't subject to an MVR at her SRD, but that it now will be, because Prudential automatically deferred her SRD to her 75th birthday. I say this because an MVR would've always been applied on transfer, regardless of when it took place.

I also can't fairly uphold Miss E's complaint that she hadn't been told that the transfer had a deadline. I say this because it didn't have a deadline. Whether she had been able to complete the transfer before, on, or after her SRD wouldn't have made any difference to whether an MVR would be applied. It would've always applied. However, the amount of MVR would vary over time. And may be £0.

As Prudential told Miss E during its 7 November 2022 call with her, MVRs do change over

time. Therefore it may be possible for Miss E to transfer her policy to another provider when the MVR is set to £0.

I next considered Miss E's complaint that Prudential unfairly changed her SRD to her 75th birthday.

SRD

Prudential sent Miss E a retirement options pack on 24 June 2022, as she was approaching her SRD at this point. Miss E spoke to Prudential a little before her SRD. And told it that she intended to transfer her policy to another provider. Given she'd done this, Miss E felt she'd made Prudential aware of her chosen retirement option.

Prudential said that while it acknowledged that Miss E had been in the process of transferring her policy, as the transfer hadn't completed by Miss E's SRD, it had to defer her retirement date.

Miss E felt that as Prudential was aware of her intended transfer, it should've waited for it to complete. And that it had acted unfairly when it instead deferred her SRA to her 75th birthday. She felt she should've been given a chance to find another company to take the transfer before her SRD was automatically changed.

I can see that Prudential had already told Miss E what would happen if her SRD went by without her policy being accessed, for example both its 9 December 2020 and 24 June 2022 letters to Miss E, stated:

"If we do not hear from you before a plan's retirement date has passed, we'll extend that plan's retirement date to your 75th birthday".

As our investigator said, as soon as a policy goes past its SRD, it can no longer be a part of the pension scheme it had been invested in. So if Prudential hadn't extended Miss E's SRD when the transfer hadn't completed, it would've had to disinvest Miss E's fund from the financial markets it had been invested in. If this had happened, Prudential wouldn't have been able to continue to administer the policy in a way that was beneficial to Miss E. This is because if it'd been disinvested, it would've no longer benefited from investment growth.

Miss E stated on the 26 June 2022 call that: *"I don't need the money but I'd like to put it into a pension fund so it continues to grow"*. So I'm satisfied that in taking the action it did, Prudential acted in her interests.

As I'm also satisfied that the terms and conditions of Miss E's policy required Prudential to defer her SRD in these circumstances, I can't fairly uphold this part of the complaint.

Miss E also felt that she'd told Prudential of her intention not to reinvest her policy. Having listened to the 26 June 2022 call, I'm not persuaded that she ever did tell Prudential this. While I appreciate she expected to transfer her policy away from Prudential, the transfer didn't go ahead. So Miss E's policy was never disinvested. So I've no evidence that Prudential did anything wrong here.

Overall, while I can see that there's been some misunderstandings which have caused Miss E considerable upset, I can't fairly say that Prudential has done anything wrong. So I don't uphold the complaint.

My final decision

For the reasons I've given above, I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 23 May 2023.

Jo Occleshaw
Ombudsman