

The complaint

Mr D complains that The Prudential Assurance Company Limited treated him unfairly when it identified an error with commission payments that had historically been deducted from his pension savings.

What happened

I issued a provisional decision on this complaint earlier this month. In that decision I explained why I thought that the complaint should be upheld and what further steps Prudential needed to take in order to put things right. Both parties have received a copy of the provisional decision but, for completeness and so those findings form part of this decision, I include some extracts from it below. In my decision I said;

Mr D had previously held pension savings with Prudential. Those pension savings had been transferred to another provider in 2020. In 2022 Prudential identified a historical error on Mr D's pension savings. Between 2016 and 2019 it had continued to deduct commission charges from his pension savings which should have stopped at the same time as commission payments to his financial advisor had ceased.

Prudential told Mr D that it had calculated it needed to pay him £2,311.91 in respect of that error. That comprised £1,996.20 for the commission payments, and an additional £315.71 as compensation for the delay in repaying those funds to Mr D. It told Mr D that it would be refunding the total amount to him as a small lump sum pension payment. It said that 25% of the payment could be made tax free, but it would be required to deduct basic rate income tax from the remainder. It sent Mr D a cheque for £1,965.31.

Mr D complained to Prudential, both about the initial error, and the way it had chosen to pay the compensation to him. In particular he said that he was a higher rate taxpayer so would need to pay some additional income tax to HMRC as a result of the payment. He asked why Prudential had not transferred the compensation to his new pension provider, in the same way as it had previously transferred the majority of his pension savings. He thought that would have provided him with a better outcome to the error. And he pointed out that he might have missed out on some investment growth on the compensation.

Mr D had many conversations with Prudential – that I will reflect on in a little more detail later in this decision. Ultimately Prudential agreed that Mr D could return the compensation payment it had sent him, and that it would transfer the compensation to Mr D's new pension provider. And across a series of response letters Prudential paid Mr D a total of £1,050 in respect of the distress and inconvenience he'd been caused.

Prudential has accepted that it incorrectly deducted some commission charges from Mr D's pension savings before they were transferred to the new provider in 2020. I haven't seen anything that makes me think Prudential's actions were intentional, or fraudulent as Mr D has said. Instead I think an administrative mistake was made, and

when it was discovered Prudential took appropriate steps to identify those affected consumers, including Mr D.

I would tend to agree with Mr D that the actions Prudential took to put things right weren't as customer focussed as they might have been. I think it would have been better for Prudential to discuss with affected consumers like Mr D, who no longer held their pension savings with Prudential, what actions could be taken to put things right. Those consumers might have very different financial situations, and so might require more tailored compensation. And, as has been shown here, it is sometimes possible for smaller compensatory payments to be transferred to a new provider some time after the main transfer completed.

But, much of what I have described above, has now been completed for Mr D. Prudential has eventually tailored its compensation approach to his circumstances and preferences. And it has paid the incorrectly deducted commission charges to Mr D's new pension provider. So Mr D will have the benefit of the tax advantages of a pension wrapper on those monies and so might be able, in the future, to mitigate some of the income tax liability Prudential's original approach caused.

I am not, however, satisfied that the compensation Prudential has paid to Mr D was sufficient. It has refunded the commission payments it took in error. And it has added £315.71 to those amounts to compensate Mr D for the time it took for the error to be identified.

But those amounts should have formed part of Mr D's pension savings from the time each of them was first deducted from his pension savings. So they have also missed out on some investment growth following the transfer of Mr D's pension savings to the new provider. At my request Prudential has asked the new provider to calculate the investment growth that was lost between the original transfer taking place, and the refund being added to Mr D's pension savings. The new provider has calculated that loss to be £427.96 and confirmed that it is willing to accept that additional compensation as a transfer to add to Mr D's pension savings

So I currently think that Prudential should pay some further compensation to Mr D as a result of its error.

There is no doubt that the resolution of Mr D's complaint, and the payment of the original compensation to the new provider, took an extended period of time. I can see that Mr D needed to correspond extensively with Prudential, and that the firm failed, on numerous occasions, to provide him with the levels of customer service he could reasonably expect to receive. But in a series of response letters to Mr D, Prudential has paid compensation to him for the trouble and upset it had caused. In total it has paid him £1,050 for the inconvenience he's been caused. And I have seen that it has also recently paid Mr D £300 to cover the accountancy costs he incurred in dealing with the payment, and cancellation, of the compensation as a small lump sum pension payment.

I've thought carefully about this aspect of Mr D's complaint. On balance, whilst there is no doubt that Prudential has fallen short of the customer service it should offer, I think that the compensation Prudential has paid to Mr D for the distress and inconvenience he has been caused is reasonable. So I don't direct Prudential to make any further payments to Mr D in that regard.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Prudential hasn't provided us with anything further. Mr D has said that

he welcomed my provisional decision. But he made me aware that he is in the process of moving his pension savings to another new provider. So I will amend my redress directions to take into account any problems that might cause.

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.

Given that neither party has provided me with any new evidence or further comments I see no reason to alter the conclusions I reached in my provisional decision. So I think that Prudential should pay the additional compensation to Mr D as a result of its error that I set out in my provisional decision, and repeat below for clarity.

Putting things right

Mr D's pension provider has calculated that, had the incorrectly deducted commission charges formed part of the original transfer of funds, it would have benefitted from an additional £427.96 of investment growth. Prudential should pay that sum to Mr D.

Prudential should liaise with Mr D to discuss whether the compensation can be transferred to his new pension provider and be added to his new pension plan. The amount paid should allow for the effect of charges and any available tax relief.

If Prudential is unable to pay the total amount into Mr D's new plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to notionally allow for any income tax that would otherwise have been paid.

The notional allowance should be calculated using Mr D's actual or expected marginal rate of tax at his selected retirement age. I think it is reasonable to assume that Mr D is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, as Mr D would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.

My final decision

My final decision is that I uphold Mr D's complaint and direct The Prudential Assurance Company Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 26 April 2023.

Paul Reilly
Ombudsman