DRN-4458750

The complaint

Mrs W complains that The Prudential Assurance Company Limited has unfairly changed the Selected Retirement Date ("SRD") on some of her pension plans.

What happened

Mrs W holds pension savings with Prudential that are spread across a number of different pension plans. Prudential says that most of the plans arose from Mrs W's former membership of a group pension plan ("GPP"), however one plan was previously opened to receive a transfer of pension savings from another firm.

The SRD on the plan that received the transferred pension savings was originally set to when Mrs W reached 50 years of age. Following changes in pension legislation Prudential wrote to Mrs W to tell her that it would need to change the SRD to her 55th birthday. And in 2013 Mrs W got in touch with Prudential to ask that her SRD was changed to her 60th birthday, in December 2025.

Prudential says that request was only applicable to the specific plan. It says the SRDs for the other plans were set by the rules of the GPP and were in 2030. But the statements that Prudential has sent to Mrs W since 2013 have shown the SRD of December 2025 applying to all of her pension plans. Mrs W says that her understanding was that the change she requested in 2013 had been applied to all her pension plans.

In October 2022 Prudential sent Mrs W an annual statement on one of her pension plans. That showed her SRD for that plan was set to December 2030. However the same statement, issued the year before in October 2021, showed the SRD for that plan to be December 2025. Mrs W says that she had based her retirement planning on the information she'd received from Prudential since 2013 showing the SRD in 2025. She says that if the later date were imposed she would potentially need to pay a significant market value reduction ("MVR") to take her pension benefits in 2025 as she planned.

Prudential told Mrs W that it accepted the statements it had sent her over the years had shown an incorrect SRD for the GPP policies. It apologised for the inconvenience this might have caused her, and provided details of the correct dates across all her plans. It confirmed that she would be able to take the benefits from any of the pension plans at any time after her 55th birthday. Mrs W was unhappy with that response as taking the benefits early would mean they might be subject to a MVR. So she brought her complaint to us.

Mrs W's complaint has been considered by two of our investigators. Ultimately, the second investigator thought that Mrs W had reasonably relied on the information Prudential had provided over the past eight years about her SRD. So he thought that Prudential should alter the SRD on all Mrs W's pension plans to reflect a SRD of December 2025. And he asked Prudential to pay Mrs W £200 for the inconvenience she'd been caused.

Prudential didn't agree with that assessment. It said that no changes had ever been made to the SRDs of the GPP policies, nor were any changes permissible under the scheme rules. It said that the retirement age shown on any annual statements always projects to the lowest retirement age of any plan held by the consumer. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Mrs W accepts my decision it is legally binding on both parties.

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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mrs W and by Prudential. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

I think I should first say that it has been difficult to obtain all the information we would like from Prudential in order to assess this complaint. At times information has been incomplete, or not provided at all. But, as set out in the regulator's rulebook, if necessary it is reasonable for me to reach a decision on the basis of what has been supplied and take account of the failure by a party to provide information requested. I am satisfied that what Prudential has supplied, and the comprehensive information provided by Mrs W, allow me to determine a fair outcome for this complaint.

Prudential has told us that its statements always reflect the lowest retirement age of any pension plan held by a consumer. That is clearly not the case, and was the reason that Mrs W made her complaint in the first place. Up to, and including, the statement she received in 2021 the SRD was shown as December 2025. But the statement she received in October 2022 reflected a SRD of October 2030. Although I note that a more recent statement, issued in October 2023, has reverted to the 2025 SRD. So it does seem that Prudential is facing some difficulty in accurately representing the SRD to Mrs W.

I have no reason to doubt Prudential when it says it has never been allowed within its rules to alter the SRD of the GPP policies. And, had that been something it had consistently explained to Mrs W over the years, I don't think she could have any reasonable expectation of taking those pension benefits in 2025 without the risk of a MVR being applied.

But Prudential accepts that hasn't been the case. Despite what it has now said about the earliest date being used, it told Mrs W that its systems had incorrectly stated the SRD on some of the plans in the annual statements. And it apologised to Mrs W for the inconvenience the error would have caused her. The terms and conditions of pension plans are complex, and so I don't think it would be reasonable to expect Mrs W to challenge information she was given consistently by Prudential. I think she had a reasonable expectation that the information she was being given about the SRD across her pension policies was correct.

In response to our investigator's assessment, Prudential said that there is wording on its statements that confirms its assumption that all benefits would be taken at the time as the SRD shown earlier on the statement. We have asked for, but not received, clarification of that wording and a copy of the relevant statements. But in any case, I don't think a statement of that nature would be sufficient to alert Mrs W that some of her pension plans might have different SRDs despite what is shown on the statement.

Mrs W has told us that she decided to cease working in her business in 2021. She says she made that decision on the understanding that she would be able to take her pension benefits, without the application of a MVR, in December 2025. Based on the information she had previously received from Prudential I don't think that was an unreasonable conclusion to have reached.

So it is understandable that, around three years before what she thought was her SRD for all her pension plans, Mrs W was very disappointed that Prudential made what appeared to be a unilateral change to most of those dates. It seems the decision she had made in 2021, based on the information Prudential had supplied for the past eight years, was irreversible. And the 2022 statement also showed a significant increase in the value of the MVR that was currently applicable. It had risen from around 3% of the affected pension savings to approximately 10% of their value.

Of course Mrs W has said that she doesn't intend to take her pension benefits until what she thought was the SRD for all policies in December 2025. So it is possible that the MVR might change during the next two years. But there is no guarantee that the MVR will fall in value – it might just as easily rise. And of course Mrs W's expectation was that none of her pension savings would be affected by a MVR if she took then at the SRD in December 2025.

So I don't think it reasonable for Prudential to simply pass this matter off as an error that might have caused some disappointment or inconvenience to Mrs W. I think she has received consistent information from Prudential over an extended period of time that has reasonably led her to make irrevocable financial decisions. I don't think it reasonable to expect her to think the information she had been given by Prudential might be incorrect. So, like our investigator, I think this complaint should be upheld, and Mrs W paid some compensation.

Our investigator suggested that Prudential should amend the SRD across all of Mrs W's pension plans to reflect the previously quoted date of December 2025. Prudential has said that is not possible given the rules of the GPP policies. I have no reason to doubt what Prudential says in that regard. But that then presents something of a difficulty since Mrs W will only incur financial detriment if she decides to take all her pension benefits in December 2025 and, most importantly, a MVR applies at that time. And of course neither Prudential nor Mrs W have any way of knowing now what any MVR might be in two years' time.

So whilst I, and I am sure Prudential and Mrs W, would prefer for any redress to be set out and paid now, I cannot make an appropriate direction. So the redress I direct below will only become due should Mrs W decide to take at least some of her pension benefits at the time of her 60th birthday in December 2025. At that time it will be clear whether or not a MVR applies, and if so Prudential should pay compensation equal to that amount and add it to Mrs W's pension benefits.

There is no doubt that this matter will have caused a degree of distress and inconvenience to Mrs W. I am mindful that she didn't intend to take her pension benefits immediately and so she would have been aware that there was a period of time for matters to be resolved. But she has faced a period of time where she will have needed to decide whether to rethink her retirement plans, given the potential that a MVR might apply to some of her pension savings. So I think Prudential should pay a further sum of £200 to Mrs W, on her acceptance of this final decision, for the distress and inconvenience she has been caused.

Putting things right

If it is able to do so, Prudential should amend the SRD on all of Mrs W’s pension plans to her 60th birthday in December 2025. But should that not be possible, Prudential should do the following;

- On receipt of any instruction from Mrs W to take her pension benefits at the time of her 60th birthday in 2025, Prudential should assess whether any MVR applies to those benefits, that wouldn’t have arisen had the SRD been set to that date.

- If a MVR applies, that wouldn’t have applied as set out above, Prudential should pay compensation to Mrs W equal to the value of the excess MVR that is to be deducted.

  Prudential should pay the compensation into Mrs W's pension plan to increase its value by the total amount of the compensation before any benefits are taken. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.

  If Prudential is unable to pay the total amount into Mrs W's pension plan, it should pay that amount direct to her. 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. This is an adjustment to ensure the compensation is a fair amount – it isn’t a payment of tax to HMRC, so Mrs W won’t be able to reclaim any of the reduction after compensation is paid.

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

Prudential should also pay £200 to Mrs W, on her acceptance of this final decision, for the distress and inconvenience she has been caused.

My final decision

My final decision is that I uphold Mrs W’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 Mrs W to accept or reject my decision before 5 January 2024.

Paul Reilly
Ombudsman