DRN-4670472

The complaint

Mr W complains about the poor service The Prudential Assurance Company Limited (Prudential) provided him with. He also complains that it incorrectly applied a Market Value Reduction (MVR) to his pension at retirement.

What happened

Mr W had a Group Personal Pension Plan with Prudential, which was set up by his former employer with a Normal Retirement Age (NRA) of 65. It was invested in the With-Profits (WP) Fund.

Prudential sent Mr W a pack explaining his retirement options on 6 June 2021, a few months before he reached his NRA. The pack noted the following:

"*As you're invested in the With-Profits Fund, this value includes the deduction of any Market Value Reduction (MVR) that may apply. See the enclosed 'MVR – A clear explanation' for more information*."

That leaflet included the following statement: "*For pensions plans, we guarantee not to apply an MVR at the selected/normal retirement date, as specified in your pension plan literature*."

The retirement pack also stated: "*If we don't hear from you before a plan's retirement date has passed, we'll extend that plan's retirement date to your 70th birthday*."

Prudential sent Mr W another letter on 26 September 2021. This was headed: "*It's now time to decide what to do with your pensions savings*". The letter also included the statement:

"If we don't hear from you before your current retirement date, we'll extend your plan's retirement date to age 70."

It also gave some information about the MVR. And referred Mr W to *the "MVR - A clear explanation"* leaflet for more information.

Prudential's call notes show that Mr W called it on 2 December 2021, as his NRA was approaching and he wanted to defer if for a year to tie in with his State Pension Age. The call notes recorded that Prudential told Mr W that if he hadn't contacted it he would've been automatically deferred.

Prudential wrote to Mr W on 3 December 2021 to confirm the deferral of his pension benefits.

Prudential's call notes show that Mr W called it on 20 December 2021, as he was concerned with the letter it'd sent him about the deferral. The letter had stated that no further contributions would be made. But Mr W wanted them to continue.

Prudential sent Mr W his annual plan summary on 5 April 2022. This included his updated NRA in late 2022. The letter stated that the current transfer value for the pension was £32,595.01 and confirmed that there was no MVR at that time.

Prudential sent Mr W a pack explaining his retirement options on 6 June 2022.

Mr W spoke with Prudential on 20 September 2022. He said he was thinking about buying an annuity with his pension funds. Prudential's call records show that it told Mr W that it'd stopped offering annuities. So it provided him with the details of an annuity arranger, but said that he didn't have to use that arranger. Mr W chose to use that arranger to help him to buy an annuity with his Prudential pension. It arranged for an annuity to be bought with a provider I'll refer to as provider S.

Prudential wrote to Mr W again on 29 September 2022 as he was approaching his revised NRA.

Prudential sent a further letter to Mr W on 5 January 2023 as his revised NRA had passed. The letter was headed: "*Deferral of pension benefits*". It said that as Mr W hadn't told Prudential when he intended to retire, it'd assumed that it would be some time in the future. It said it had updated its records with a retirement date of five years after the revised NRA that had just passed.

Prudential wrote to Mr W on 18 January 2023 about his request for an Open Market Option (OMO). The letter stated that as Mr W's funds were invested in the WP Fund, the amount it would pay might be reduced to reflect the market value of the underlying assets if the funds were removed at any time except at the selected pension date or death.

Prudential said that Mr W's fund was currently valued at £38,847.97 as of 16 January 2023. And that this included an MVR of £486.61. The letter also asked Mr W to contact Prudential to confirm that he still wanted to proceed with the OMO despite the MVR. Prudential's call records show that Mr W confirmed on 18 January 2023 that he still wanted to proceed, despite the MVR.

Mr W complained to Prudential on 18 January 2023 about the service he'd received. He said his claim had been delayed as he'd needed to confirm the MVR. And that he'd had to go back and forth between Prudential and the annuity arranger about the matter. He didn't think that Prudential or the annuity arranger knew what each other was doing, as the annuity arranger had told him the claim had been delayed because of a direct debit which had been made on 28 December 2023.

Mr W also wanted to complain because he'd had to chase Prudential for the information he needed. And that he'd been sent to the wrong department when trying to contact it. He felt his claim should've been completed by this point. He was also unhappy that Prudential hadn't called him back when it'd promised to.

Mr W additionally complained about Prudential sending him the letter about the deferral of his NRA to 2027. He also felt that Prudential had incorrectly applied the MVR to his fund. He wanted compensation for all the stress the claim had caused him.

On 24 January 2023 Prudential confirmed that an MVR of £486.61 had been applied to Mr W's fund. It made a tax-free cash lump sum payment to Mr W of £9,711.99. And paid the remaining £29,135.98 to provider S.

Prudential acknowledged Mr W's complaint on 24 January 2023. It also issued holding letters for the complaint on 13 February 2023 and 13 March 2023.

Prudential wrote to provider S on 31 March 2023 about the delay in transferring Mr W's pension fund to it. It asked provider S to provide information so that it could establish if Mr W was financially disadvantaged as a result of that delay. It specifically asked for details about the funds and prices that would've been used if it had sent £29,114.51 on 10 January 2023.

Prudential issued its final response to the complaint on 31 March 2023. It upheld some parts of the complaint about the service it'd provided to Mr W. Prudential apologised for the extremely poor service he'd received. And said it had sent him £350 in respect of the impact that poor service had caused. It also agreed that it had delayed Mr W's tax-free cash payment. It calculated that this had caused him a financial loss of £5.99. Prudential also acknowledged that Mr W might've been in a different position now in respect of his annuity but for its delays. It offered him two options about how it could put him back to where he should be.

Prudential didn't agree that it had incorrectly deducted the MVR. It also confirmed that it hadn't received any commission or introducer fee for passing Mr W to the annuity arranger. And said it had sent a general letter about its decision to stop providing annuities in 2018.

Mr W wasn't happy with Prudential's response. So he brought his complaint to this service. He said the issues he'd faced had caused him stress and anxiety.

Prudential wrote to provider S on 16 May 2023. It confirmed that the transfer value of Mr W's pension as of 9 December was £38,726.22. Provider S replied on 1 June 2023 to check the figure provided. It said that there was around a £10,000 increase in the fund value which it felt was unlikely given the: "*size of the pot and the delays we caused*". It asked if the number was incorrect.

I understand that on 1 June 2023, provider S issued its final response to the complaint Mr W had with it about the delays it had caused in the set-up of his annuity. It said it would pay Mr W £150 for the distress the delays had caused and for taking longer than it should have to address his complaint. It also said that it'd honoured the annuity rate it had initially quoted.

Provider S said it would address any loss of interest or reduction in fund value when it'd received details from Prudential about what Mr W's pension pot value would've been.

Our investigator felt that Prudential had been correct to apply an MVR to Mr W's pension funds in January 2023. He also felt that the compensation offer it had made to Mr W in respect of the poor service it had provided was fair and reasonable.

Our investigator acknowledged that Prudential was trying to work with provider S to determine whether the delays it'd caused had led to any financial loss. And that it had outlined how it intended to address any such loss in its final response letter. But that this issue was still outstanding. He felt that other than this issue, Prudential didn't need to do anything further.

Mr W didn't agree with our investigator. He was also upset because he felt that provider S was continuing to experience delays with Prudential to the point where it had closed his complaint with it. He shared a letter from provider S dated 20 July 2023. This said that because Prudential hadn't responded to its request for information, it had closed his complaint. Mr W said he wanted an Ombudsman to consider his complaint. He felt that the information from provider S showed that Prudential had failed to respond to its request for information.

Our investigator shared provider S's 20 July 2023 complaint update with Prudential on 28 July 2023. Prudential asked our investigator if he would be happy if it liaised with provider S to ensure that each party paid the correct amount of redress to Mr W with no overlap. Our investigator agreed.

Prudential shared information with this service on 10 August 2023 which showed it had responded to provider S in respect of the value of the policy. It provided a copy of an email dated 15 June 2023 which confirmed that the value it had quoted at 9 December 2022 was for the total funds held under Mr W's plan. But that as it had already paid the tax-free cash lump sum before the balance of the fund was transferred to provider S, the balance for the OMO should've been £28,707.16.

Our investigator wrote to Prudential on 25 August 2023. He said that it hadn't yet considered whether its actions during the setting up of Mr W's annuity with provider S had resulted in a financial loss for him. He asked Prudential to provide full details of how it proposed to calculate any redress that might be required in this case.

Prudential wrote provider S again on 31 August 2023 to request the information it needed to assess any financial loss. It also wrote to Mr W on 31 August 2023. It acknowledged that it had delayed his transfer. It felt it should've transferred £29,114.51 on 10 January 2023, rather than the £29,135.98 it'd actually transferred on 24 January 2023. Prudential told Mr W that it had asked provider S for the information it needed to carry out the loss calculations. But said that if Mr W could instead provide that information it could carry out calculations on that basis.

Mr W was unhappy that Prudential hadn't managed to get the information it needed from provider S. So he raised a further complaint in September 2023.

Prudential issued a final response letter to this complaint in October 2023. It arranged to pay Mr W £150 compensation because it had initially issued incorrect information to provider S. But it explained that although it had been in contact with provider S several times to try to get the information it needed, it hadn't yet received this.

Prudential issued a settlement offer to Mr W on 28 December 2023, which it shared with this service on 19 January 2024.

Prudential said it had delayed the transfer to provider S. And that its aim was to put Mr W in the position he would've been in had it not caused delays. It also said that provider S had still not provided the information it had requested. So to avoid any further delays, it had carried out its own calculation. This showed that Mr W was due £554.40 in compensation for the delay. Prudential said it had arranged for this amount to be paid to Mr W. Prudential also said that it had completed the calculation using a method based on this service's 8% rate for compensation awards.

Our investigator asked Mr W whether he accepted Prudential's offer, which he felt was in line with what this service would've recommended. Mr W said that he was still unhappy with the service he'd received from Prudential, including its complaints handling.

Our investigator issued a further view on the complaint on 28 February 2024. He felt that Prudential's offer was fair. He said this was because although Prudential had said it was responsible for a delay in settling benefits of two weeks, it had based its settlement offer on a higher value and a longer period than the actual delay. Therefore he felt that the compensation Prudential had paid was a fair and reasonable offer made to bring this matter to a close.

Mr W didn't respond to our investigator. 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 agree with our investigator that the compensation Prudential has offered Mr W for the poor service and for the delays it caused is fair under the circumstances of this complaint. I know this will be disappointing to Mr W. I'll explain the reasons for my decision.

Where a business has made an offer to settle a complaint – as Prudential has done – what I have to decide is whether, in all the circumstances, that offer is fair and reasonable.

In this case, in its first final response letter Prudential acknowledged that it provided a poor service to Mr W. It apologised, reimbursed postal costs and paid Mr W £350 in recognition of the poor service it'd provided. It also calculated and paid interest on the delayed tax-free cash payment. But it wasn't yet in a position to calculate any financial loss that might have occurred due to the delayed transfer of the rest of Mr W's pension fund to provider S.

In its second final response letter, Prudential acknowledged that it had initially issued incorrect information to provider S. It apologised and made a further £150 compensation payment to Mr W. But it still didn't have the information it needed to calculate any financial loss from the delay.

Prudential's December 2023 settlement offer attempts to address that financial loss. It wanted to base its calculations on the assumption that it had paid provider S £29,114.51 on 10 January 2023 rather than the actual payment of £29,135.98 it made on 24 January 2023. But when it didn't get the information it needed from provider S, it based its calculation on 8% interest on a three-month delay and a fund value of £30,000. It also made the payment to Mr W with no tax deducted.

I first considered whether the December 2023 settlement offer is fair.

Is the December 2023 settlement offer fair?

Mr W hasn't made any specific points about why he disagrees with Prudential's offer. But I can see that he felt that Prudential wasn't trying to resolve his concerns in a timely manner. I understand why he felt that, as he wasn't aware of all the steps Prudential was taking to try to get the information it needed so it could finalise its complaint response. But I can't fairly agree.

I say this because the evidence shows that Prudential did try to get the information it needed for the financial loss calculation from provider S. And when it didn't get that information, it took steps to carry out its own calculations using a longer delay period and a higher pension than was actually transferred. Therefore I'm satisfied that the offer Prudential has made to Mr W in respect of the financial loss its delays caused is fair and reasonable.

I acknowledge that Mr W is also unhappy with Prudential's complaint handling.

Consumers do sometimes tell this service that they're upset about how a business has looked into their complaint. When this happens, we have to carefully identify precisely what the complaint that's been referred to us is about, and whether it's within our jurisdiction.

If the complaint to us is solely about the complaints process, without any connection to the underlying financial service that the business provided, then we may not have jurisdiction to look at it.

In this case, Mr W is unhappy about the length of time it's taken for Prudential to resolve his complaint. As his complaint here isn't about the provision of, or failure to provide, a financial service, I'm unable to consider it as it's outside the scope of our jurisdiction.

I next considered whether I felt Prudential had fairly considered Mr W's other complaint points.

Did Prudential fairly consider Mr W's other complaint points?

I indicated above that I agreed that Prudential's compensation offer for poor service was reasonable. I'll explain why.

I can see that Mr W experienced various service issues with Prudential. These included excessive hold times for calls, issues with its phone system, having to chase Prudential for information, not receiving promised call backs and not being kept informed throughout the retirement process.

Prudential apologised for this poor service. And acknowledged that the process had caused Mr W a lot of stress and concern. But it didn't uphold other aspects of Mr W's complaint. I think the most significant aspect that it rejected was whether it had correctly applied an MVR, which I'll consider later in my decision.

I'm satisfied that Prudential has taken reasonable steps to put things right in respect of the poor service. Although I don't doubt that the issues Mr W faced caused him stress and frustration, I consider that Phoenix has made a fair offer under the circumstances, which is in line with the offer I might've made if it hadn't.

I next considered whether Prudential fairly applied an MVR to Mr W's pension fund

Should an MVR have been applied?

Mr W felt that an MVR shouldn't have been applied to his pension because his NRA was set at the age he took his pension and Prudential didn't apply an MVR at NRA.

The evidence shows that Mr W called Prudential on 2 December 2021 to ask it to defer his pension for a year. Prudential did make the requested change. But it said that it should've deferred Mr W's retirement age for five years, rather than the one he'd requested. It said that it had deferred Mr W's pension for five years after he'd gone past his revised selected retirement age in December 2022. And that this meant that at the time that Mr W had taken his retirement benefits in January 2023, his deferred retirement age had passed.

Prudential said that it had sent Mr W letters on 6 June 2021 and 6 June 2022 which both stated that his policy would be deferred if he didn't take his benefits. And that its letters dated 26 September 2021 and 29 September 2022 also referred to the policy being deferred. The evidence also shows that Mr W was provided with information about when the MVR would be applied.

Prudential said that the MVR only didn't apply on the NRA set by Mr W's former employer, which was 65. And that the first date that it was guaranteed not to apply was age 70, as this was the age that Mr W's retirement date should've been reset to in December 2021.

From what I've seen, although Prudential made a mistake when it set Mr W's retirement age to 66 at his request, and then when it updated his deferred retirement age to 71, rather than the 70 it should've been set to, this didn't in itself lead to the MVR being applied. I say this because by the time Mr W took his benefits, he hadn't reached 70, the age that the MVR was guaranteed not to apply. And he wasn't taking his benefits on the NRA set by his former employer. Therefore I'm satisfied that Prudential correctly applied the MVR.

I’m sorry that Mr W has suffered stress and anxiety as a result of the issues he’s faced with Prudential. But I’m satisfied that the compensation offers Prudential has made are fair and reasonable under the circumstances.

As I can see that Prudential made its settlement offer after Mr W brought his complaint to this service, I uphold this complaint. But I don’t consider that Prudential needs to improve its compensation offer.

Putting things right

I require The Prudential Assurance Company Limited to pay Mr W the compensation it offered him in its March 2023, October 2023 and December 2023 final response letters. If it has already made all of the compensation payments it offered in those letters, it need take no further action.

My final decision

For the reasons set out above, I uphold Mr W’s complaint. I require The Prudential Assurance Company Limited to take the actions detailed in the “Putting things right” section above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr W to accept or reject my decision before 17 April 2024.

Jo Occleshaw
Ombudsman