DRN-4875495

The complaint

Mr L has complained about the delays incurred by The Prudential Assurance Company Limited when transferring his pension funds from it to Curtis Banks. Mr L has said that the delays had a negative impact on the transfer value of his pension funds.

What happened

Mr L requested a transfer of his pension funds on 3 January 2023, but due to prolonged delays, this didn't complete until 27 February 2024.

Prudential accepted that it had caused delays in the transfer, and said that it should have completed the transfer by 23 May 2023. It said that it would undertake a loss calculation to determine whether Mr L had been financially disadvantaged by the delays, and it also offered Mr L a total of £1,225 in recognition of the distress and inconvenience the matter had caused him.

Mr L didn't feel that the compensation offered to him in respect of the distress and inconvenience was sufficient, however, and so referred the matter to this service.

One of our investigators considered the complaint and thought that it should be upheld. She said the following in summary:

- There was no dispute that Prudential had caused delays, and so she'd considered whether the period for which it would be undertaking the loss assessment was appropriate.

- Having done so, she didn't think that it was. She concluded that the transfer should have completed by 27 March 2023. In support of this position, the investigator said that, following the initial transfer request on 3 January 2023, Prudential needed to revert to Curtis Banks to request a letter of authority. But Prudential didn't take any action until 21 February 2023.

- Prudential had accepted that, even without the letter of authority, it could have begun the transfer process by sending forms to Mr L by 10 January 2023.

- It was reasonable to assume that Mr L would then have returned the forms within two weeks – by 24 January 2023 – and also reasonable to allow Prudential a further week to review the forms and, by this point (31 January 2023) to have checked with Mr L that he was happy to proceed on a cash basis rather than "in specie".

- On the basis of the actual time taken for Mr L to confirm that this was how he wished to proceed, this would have happened by 2 February 2023. It was then reasonable for Prudential to have taken a further week to consider the next steps and send its request for additional information following receipt of further forms by 9 February 2023.

- But Prudential had then assumed that Mr L wouldn't have returned the additional information until 19 April 2023, which was more than two months later. The investigator considered that it was Prudential which had caused these delays, however, and that had it been clearer in its communications with Mr L, it would have received the required information back from Mr L within two weeks at most – and so by 23 February 2023.

- Prudential could then have reasonably taken a further week to review the information, and then requested that Mr L seek advice, in line with its processes, by 2 March 2023. When Prudential did put this to Mr L, he responded 18 days later, and so it was fair to assume that, on the same basis, Mr L would have responded with the signed declaration by 20 March 2023.

- Following this, and allowing Prudential a further week to finalise its requirements, the transfer should have completed by 27 March 2023.

- The customer service provided by Prudential had been poor throughout. Prudential failed to return phone calls, there was a lack of updates and the transfer only then completed after multiple chasers. Prudential also sent information to an Independent Financial Adviser, with whom Mr L had said he had no connection. Mr L had expressed concern about this, but the investigator didn't think that information beyond Mr L's name and plan numbers had been shared with that third party.

In terms of putting things right, the investigator said that Prudential should compare the actual value of Mr L's Curtis Banks plan with its notional value, had the transfer completed on 27 March 2023 instead of 27 February 2024.

If there was a loss, Mr L's pension plan should in the first instance be topped up so that it no had that value, taking into account any available tax relief and the effect of any charges for doing so.

If that wasn't possible, then Prudential should pay the loss amount directly to Mr L, with a deduction for the income tax which Mr L would likely pay on his retirement benefits.

In terms of the impact on Mr L, the investigator had considered the guidelines which this service sets out for compensatory awards in respect of this. She referred the parties to our website which provides further details on this.

The investigator said that she appreciated that Mr L had spent many hours on trying to resolve the matter, but this service wouldn't normally consider "hourly rates".

The amount offered by Prudential fell within the bracket on our website where *'a business's mistake has caused substantial distress, upset and worry – even potentially a serious offence or humiliation. There may have been serious disruption to daily life over a sustained period, the impact felt over many months or over a year.'*

As such, the investigator thought that the amount of £1,225 was fair and reasonable.

The investigator also said that, if Mr L remained concerned about the personal information which Prudential had shared with a third party, he may address these concerns to the Information Commissioner's Office.

Prudential accepted the investigator's conclusions.

Mr L responded to comment upon Prudential's confirmation, which preceded the investigator's assessment, that it had undertaken a loss calculation on the basis of a notional transfer date of 23 May 2023. Mr L said that Prudential was in no position to have made the transfer on that date.

Mr L further requested that the performance of the stock market whilst his money had been "locked away" in Prudential's underperforming funds be taken into account. He said he sought compensation for the positive performance of the stock market which he'd missed out on.

In response, the investigator said that, as Prudential had accepted her assumed notional date of transfer which predated 23 May 2023, Mr L could disregard Prudential's prior letter.

Mr L responded to repeat that Prudential wasn't in a position to undertake the transfer in May 2023, and that its misleading information would warrant a significant fine if this had happened overseas.

As agreement couldn't be reached on the matter, it's been referred to me for 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.

And having done so, I've reached broadly the same conclusions as the investigator, and for similar reasons.

I note that Mr L remains concerned about Prudential's letter in which it confirmed that, on the basis that the transfer should have taken place in May 2023, he hadn't been financially disadvantaged.

I think there may be some confusion here – both Prudential and the investigator have said that, but for the delays that it caused, the transfer *should* have occurred earlier, not that Prudential was in fact in a position to process the transfer at that earlier point.

But the investigator has in any case wound that notional transfer date back further, and I agree with her conclusions in that regard. Had the delays not occurred, then I think the transfer should have taken place on 27 March 2023.

Mr L has further said in his response to the investigator that he should be compensated for missing out on stock market performance during the delay period. But I would make a couple of observations here. It seems that the Prudential funds did increase during the delay period. I take Mr L's point that other funds might have performed better, but it would be difficult to fairly and reasonably conclude what other funds Mr L may have chosen during the delay period without there being the suggestion of now employing the benefit of hindsight.

Whilst I also accept that Mr L may have made different fund choices at different times, the most credible evidence as to what Mr L would have transferred into is the funds he actually chose when the transfer completed. And by winding back the transfer to the notional date of 27 March 2023, the performance of those alternative funds for the delay period is therefore factored in. In other words, Mr L will be placed in the position as if he'd been invested in those funds from 27 March 2023, rather than remaining in Prudential's funds until 27 February 2024.

In closing, I've also noted what Mr L has said about the fines which Prudential might face in other jurisdictions. But I'd comment that this service is designed to right financial wrongs, rather than to fine or punish businesses. That's the role of the regulator, to which Mr L may direct such concerns if he wishes.

Putting things right

As with the investigator, my aim is to place Mr L as closely in the position he would now be in, had the delays not occurred.

As such, The Prudential Assurance Company Limited should compare the actual value of Mr L's Curtis Banks plan, as at the date of this final decision, with its notional value at the same date, had the transfer completed on 27 March 2023 instead of 27 February 2024.

If there is a loss, Mr L's pension plan should in the first instance be topped up so that it now has that value, taking into account any available tax relief, protections in place and the effect of any charges for doing so.

If that isn't possible, then The Prudential Assurance Company Limited should pay the loss amount directly to Mr L, with a deduction for the likely higher rate income tax which Mr L would pay on his pension benefits. As Mr L will be able to withdraw 25% tax free, this should only be applied to the remaining 75%, therefore resulting in an overall deduction of 30%.

Any redress due to Mr L should be paid within 28 days of The Prudential Assurance Company Limited receiving notification of his acceptance of this decision. If it isn't, interest at the rate of 8% simple pa should be applied to the redress sum from the date of this decision to the date of settlement.

As also noted by the investigator, Mr L will have been caused considerable distress and inconvenience by this matter. It will have been a very frustrating and stressful period for Mr L, and I agree that he has been poorly served by The Prudential Assurance Company Limited.

But, as with the investigator, I need to take into account awards which this service might make in similar circumstances, and in line with the guidance on our website, I think the description of the award bracket into which £1,225 would fall is reflective overall of the situation here.

My final decision

My final decision is that I uphold the complaint and direct The Prudential Assurance Company Limited to undertake the above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 31 October 2024.

Philip Miller
Ombudsman