

## **complaint**

Mr R complains about the service he's received from The Prudential Assurance Company Limited.

## **background**

Mr R and his wife went through a divorce and following this a court issued a Pension Sharing Order (PSO) in 1999. The order was to remain in place until such times as Mr R's ex-wife cohabited for six months, remarried or a further court order was issued. This continued until 2018 with the former Mrs R receiving 50% of the benefits of Mr R's pension.

In March 2018 Prudential became aware that Mr R's ex-wife had changed her name when they received a request to change the name on the cheques they were issuing. It was confirmed to them in April 2018 that she'd remarried in 2003 and was now Mrs L.

In September 2018 Prudential paid Mr R 50% and correctly stopped the other 50% going to Mrs L. In November 2018 Prudential wrote to Mr R and let him know his wife was no longer entitled to 50% of his pension payments as she'd remarried in 2003. They went on to pay him the remaining 50% that would have been due in September, in December 2018.

Mr R complained to Prudential. He was unhappy that Prudential hadn't contacted him sooner. He believes Prudential were at fault for failing to stop payments to his ex-wife which amount to around £26,000. He wants Prudential to reimburse him this amount.

Prudential responded to the complaint and in summary said:

- It was Mrs L's responsibility to notify them of a change in circumstances and they weren't at fault for making payments based on the information they held.
- They accepted they should have notified him sooner that his wife was no longer entitled to 50% of his pension.
- They also acknowledged they hadn't handled his complaint as well as they would have liked.
- They have paid £500 compensation for the trouble and upset caused by the service they'd given.
- They made an additional payment of around £14 to compensate for 8% interest on the late payment of the second 50% from September 2018.

Mr R wasn't satisfied with this response and brought his complaint to our service. One of our investigators looked at the complaint and didn't think it should be upheld. She agreed there had been some service failings by Prudential, but she thought the compensation already paid was fair. And she didn't think Prudential were at fault for continuing to make payments to Mrs L, as they couldn't reasonably have known that she'd remarried.

Mr R disagrees and has asked for an ombudsman to review his complaint.

## **my findings**

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 and for essentially the same reasons. I know Mr R feels very strongly about this, so I'd like to explain why.

I'd like to make clear that I'm only able to consider the actions of Prudential and I'm not able to direct any other party to take any action in relation to this complaint.

Understandably, the main point of Mr R's complaint is that Prudential made payments to Mrs L between 2003 and 2018 which she wasn't entitled to. I've thought carefully about this point and I'm sorry to tell Mr R that I don't think Prudential were at fault for making these payments. I don't think they had an obligation to check whether or not his ex-wife had remarried. They were reliant upon the information provided to them and I don't think they can be fairly blamed for Mrs L not informing them of her marriage in 2003.

It follows on from this that I don't think there is any reason for Prudential to refund Mr R what they've paid Mrs L and then to pursue her for this money themselves. The dispute is between Mr R and Mrs L and this is something Mr R may wish to seek legal advice about.

Mr R says he thinks the court order only refers to annual payments, so even if Prudential were within their rights to pay Mrs L 50% of the annual payments, they shouldn't have paid her a share of his ad-hoc withdrawals. He also refers to the wording used in Prudential's final response letter dated 3 January 2019. Specifically that no payments were due until September 2018. He interprets this as supporting that ad-hoc payments should not have been made to Mrs L under the terms of the court order.

I've looked carefully at the court order which says that Mr R must pay his ex-wife "*50% of the net pensions payable thereunder annually...*" The court order was issued years prior to the more recent changes in legislation that now allows a more flexible approach to pensions.

I don't agree that the wording of the order (or of Prudential's letter) means that they were wrong to pay 50% of the ad-hoc withdrawals to Mrs L. As at the time of those payments, they were unaware she had remarried. And I don't think their interpretation of the court order that 50% of the net pensions payable be paid to Mr R's ex-wife was unreasonable.

Mr R also thinks Prudential should have informed the court when they became aware of the situation in relation to his ex-wife. I can see that Prudential wrote to Mrs L's solicitors to inform them that she had failed in her legal obligation to notify them of the change. They also let her know that no further payments would be made to her. This is in line with what I would expect Prudential to do in these circumstances and I don't think they were wrong not to inform the court.

Once Prudential were aware of the change in circumstances they made no further payments to Mrs L. But I agree they could have informed Mr R of this sooner and that they could have avoided half of his September 2018 payment being delayed. Prudential also acknowledged some failings in their contact with Mr R when trying to resolve matters.

Where a business has made a mistake we look to, as far as is possible, put the customer back in the position they would have been in, had the mistake not happened. Prudential have already paid Mr R around £14 to reflect 8% simple interest on the amount he should have received in September 2018 that he didn't receive until December 2018. I'm satisfied that financially, this puts Mr R back in the position he would've been in, had the payment been made on time.

But I do agree this has been a distressing experience for Mr R. And whilst I acknowledge not all of the upset this must have caused him can be attributed to Prudential, I do think they have caused Mr R some distress and inconvenience. Prudential have already offered and

paid Mr R £500. This too is in line with what I would recommend in these circumstances. Because of that I don't think it would be fair for me to direct Prudential to increase this amount.

I have considerable sympathy for Mr R who hasn't received a large sum of money through no fault of his own. But I don't think Prudential are responsible or liable for this. So there isn't any basis upon which I can fairly ask them to reimburse Mr R.

**my final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 20 March 2019.

Richard Annandale  
**ombudsman**