

complaint

Mrs B complains that The Prudential Assurance Company Limited (Prudential) told her that the proceeds of her late husband's pension plan would continue to be invested until she decided which course of action to take – after it had previously said no growth would be added. She says that, because she took Prudential's advice, she's lost any growth that would have been applied to the plan and wants Prudential to pay her what she says she's lost.

She also says this matter caused her significant distress and inconvenience at a very difficult time.

background

Mr B held a flexible retirement plan with Prudential. Unfortunately he passed away in April 2018. The value of the plan at that time was £311,938.75. After Prudential was made aware of Mr B's death it wrote to Mrs B in July 2018 setting out the options she had regarding the plan. These were to:

- Take a lump sum.
- Continue with income drawdown.
- Purchase an annuity.

No tax was to be deducted from any of the options, although Mrs B had two years in which to satisfy Prudential's requirements if she wanted to receive the benefit as a lump sum.

On 5 October 2018 Mrs B contacted Prudential to discuss her options. She was told that the drawdown plan would not attract any further investment growth unless it was converted to a dependent's drawdown plan and invested according to her attitude to risk. Prudential said it would pass her details to her adviser who Mrs B then met with to consider the various options.

Because of what she'd been told previously Mrs B asked the adviser about investment growth and – while recommending that she maintained the drawdown plan so that she could access income in the future when required, he stated the funds would *"continue to be invested and returns are tax free....the correct position is that your funds are invested and working for you"*.

In January 2019 Mrs B contacted Prudential to withdraw her funds. She asked for a valuation but discovered that the plan hadn't accrued any interest or growth since her husband's death. So she complained about the conflicting information she'd been given. She said she'd trusted the adviser and assumed that the plan would continue to grow as a result of the advice she was given and had made her plans accordingly. She said she would have withdrawn the money when Mr B died if she'd known there wouldn't be any further returns.

Prudential confirmed that the adviser had provided incorrect information and that her plan wasn't designed to attract any investment growth after Mr B's death. It apologised for the conflicting information she was given and offered £250 as compensation.

Prudential transferred Mrs B's pension funds to her savings account on 6 February 2019.

But Mrs B wasn't happy with that outcome and brought her complaint to us, where one of our investigators looked into the matter. He said Prudential had provided conflicting information and felt that if it hadn't Mrs B would have withdrawn her funds shortly after the adviser met with her. He thought Prudential should pay Mrs B the interest she would have received if, in October 2018, she'd put the money into the same account that she did actually later transfer the funds into. He also thought the Prudential's offer of £250 for the distress and inconvenience the conflicting information had caused was fair and reasonable.

Prudential accepted the assessment and agreed to pay the amount of extra interest that had been suggested. But Mrs B didn't agree. She said the interest should be payable from the date of Mr B's death until the date the money was withdrawn. She said Prudential had benefitted from having the money during that time which she thought was unfair. And she said she would have "*shopped around*" for an account with a better interest rate if she'd known there was no interest payable after Mr B's death. But in any case she believed Prudential should pay her the same rate that Mr B was earning on the plan when it was in his name.

The investigator said he thought the terms and conditions of the plan were clear in that the value of the plan is calculated at the date of a plan holder's death, and no further growth or interest is then added – so it wouldn't be fair to ask Prudential to backdate any interest payments. He said he'd chosen a date of two weeks after the incorrect information was given to Mrs B as the date from which Prudential should make up interest payments. He also chose the account in question as a reflection of what Mrs B actually did with the funds rather than what she *might* have done.

Mrs B asked for her complaint to be referred to an ombudsman as she didn't agree. So it's been passed to me for a review.

my findings

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 agree with the investigator and for broadly the same reasons.

Prudential has accepted that it did provide conflicting information to Mrs B in 2018 and has now agreed to compensate her for the interest she lost whilst the plan remained with Prudential before it was eventually transferred. So the issue that I need to consider is whether the dates and interest rates that have been put forward to be used to calculate the compensation are fair and reasonable.

I've looked at the technical guide that was available for this particular Prudential pension plan. And under the section around "*death benefits*" it states "*If, instead of using the value of the PP plan to buy a dependant's pension under an annuity, the dependant wishes to take income payments, it may be possible, subject to terms and conditions, to convert the PP plan to a dependant's income drawdown plan.*"

And I've also looked at the Key features document for the product which said "*If you die before you start taking your benefits, we'll normally pay the money in your Personal Pension plan as a lump sum to your next of kin or nominated beneficiary....If you invested in either of the SIPP options, we may take instructions from your beneficiaries on how and when to sell assets in the Self-Invested Fund*"

So I don't think Prudential did suggest that it would continue to leave the funds invested on the death of a plan holder in its product literature, and I don't think it acted incorrectly by not adding growth to the plan after Mr B's death. But, as Mrs B wouldn't necessarily have seen these documents as they would have been issued to Mr B, she would have relied on any information given to her from Prudential regarding how the fund would be treated. There's no evidence that Mrs B specifically asked Prudential whether the fund would remain invested, and I can't see that Prudential did tell Mrs B that the fund would remain invested before it spoke with her in October 2018. So I don't think Prudential did anything wrong up to that point.

I know Mrs B says she would have invested the funds elsewhere if she'd been made aware that no further growth would be added after her husband's death. But Prudential wasn't made aware of his death until July 2018 and I don't think it was obliged to tell Mrs B specifically about the position regarding growth not being added.

Prudential did make Mrs B aware of her options in July 2018 – and there's no evidence that it said the plan would remain invested at that time. But I don't think it was reasonable to expect Prudential to provide Mrs B with answers to every conceivable question that might have applied to how the plan would be treated following Mr B's death. That information might have been available within the product literature or was perhaps best answered at the point at which Mrs B asked those questions, initially to Prudential on the telephone and subsequently to her adviser.

Either way I wouldn't have expected Prudential to have necessarily provided that information in its general summary of July 2018, especially as it explained that it might be advisable for Mrs B to discuss her options with her adviser.

It would seem that when Mrs B did ask Prudential about the matter, it first advised her – correctly – that the value of the plan had been fixed at the date of Mr B's death. But several days later the adviser contradicted that information when he stated the funds would *“continue to be invested and returns are tax free....the correct position is that your funds are invested and working for you”*.

So I agree with the investigator that, if the adviser had confirmed the correct situation, that would have become the point at which I think Mrs B would have asked to withdraw the funds to ensure they benefitted from some kind of growth. The investigator suggested that Mrs B could have withdrawn the funds within a period of two weeks, and I think that's a reasonable timeframe in which to expect the transaction to have completed. The time taken to process the actual lump sum withdrawal in January 2019 was around three weeks. But I think that, if the adviser had confirmed to Mrs B that the plan would not attract any further growth, she would have withdrawn it at that point and not had to wait an extra week or so for the forms to be sent out (she already had the options letter from July 2018).

So I think it's fair to conclude that two weeks would have been a reasonable period, from the time the adviser should have confirmed there was no growth on the plan, for Mrs B to have arranged for the funds to be withdrawn and transferred to an 'account' of her choosing.

It's difficult to be certain about what Mrs B would have done with the funds if she'd withdrawn them when she became aware there was no interest being paid. I accept Mrs B's point that she only put them into her existing account when she received them and if she'd been made

aware earlier of interest not being paid she would have “*shopped around*” – especially as a friend who was advising her had investment experience.

But Mrs B was made aware in early January 2019 that no interest had been added to the fund and – as I’ve stated – it took several weeks before the money was eventually transferred to her. So I think she had time to look at alternatives during that period of time and I would have expected her to have found an account paying a higher interest rate if one was available. But there’s no evidence that she did have an alternative account available, so I’ve decided that the fairest solution would be to follow what Mrs B did actually do when the money was withdrawn.

Of course I accept that Mrs B *may* have found a better account with more opportunity to look around, but I think it’s more likely she would just have paid the money into the saver account that she eventually used in February 2019. I think, on balance, that Prudential should put Mrs B as close as possible to the position that she would have been in had she withdrawn her funds as soon as was possible after it was confirmed to her that no growth would be added to the plan. I think that calculating what her fund would have been worth if it had been transferred to the same account that she eventually used, best represents that position.

I know Mrs B would like us to go further and compensate her from the time of her husband’s death using the growth rate from the funds it had previously been invested in, especially as her attitude to risk had previously been shown by the adviser to be similar to Mr B’s. But as I’ve already explained, when Mr B died the plan was essentially ‘frozen’ and required Mrs B’s instruction as to how she wanted a new plan to be set up for her. So the existing composition of funds didn’t apply and it was for Mrs B to decide how to invest her money when it was transferred to her. Based on what Mrs B did, I believe it’s fair to use her existing account to determine how much extra’ interest’ Prudential should now pay her.

I note that Prudential has sent a cheque for £250 to Mrs B for the distress and inconvenience caused by this matter. I have carefully considered the impact of the incorrect information on Mrs B – over and above the financial loss she’s suffered. And I think that she would have been concerned when she learnt that the plan hadn’t accrued any further growth despite being told it would by the adviser. But Prudential has acknowledged this and overall I think the payment of £250 is within the range of what I’d expect to see for an error such as this. So I’m not going to ask Prudential to do any more.

my final decision

For the reasons that I’ve given I uphold Mrs B’s complaint against The Prudential Assurance Company Limited.

I agree with the investigator that The Prudential Assurance Company Limited should calculate the interest Mrs B would have earned on her funds if they’d been transferred to her account on 30 October 2018 instead of the date in February 2018 that the funds actually arrived in her account. The interest rate that applied to her savings account at that time should be used to calculate the interest lost.

The payment should be made without deduction of tax, so that Mrs B can include it when calculating any tax liability from the interest on her overall savings.

And I consider the payment of £250 for the distress and inconvenience caused by The Prudential Assurance Company Limited is fair and reasonable in all the circumstances of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 26 April 2020.

Keith Lawrence
ombudsman