

## **complaint**

Mr C is unhappy with the time The Prudential Assurance Company Limited (Prudential) took to pay out his pension. Prudential has offered compensation but Mr C doesn't think it's enough. Mr C is claiming loss of interest on the funds sent late and any additional tax liabilities he incurred because the funds were not paid out to him before 6 April 2016.

Mr C also says Prudential hasn't recognised the severity of its data breach by sending letters to his old address.

## **background**

Mr C wanted to take his personal pension with Prudential as a cash lump sum on his 65<sup>th</sup> birthday in late December 2015. Mr C didn't get the money until mid-July 2016.

What had happened was, because Mr C had previously been made bankrupt, Prudential first had to check with the Official Receiver (OR) that it didn't have any interest in Mr C's pension. Unfortunately Prudential sent the letter meant for the OR to the wrong address – Mr C's address at the time he'd been made bankrupt. The problem wasn't spotted until 14 March 2016 when the letter and reminders were returned to Prudential.

Prudential wrote, on the same day, to the OR at the correct address. The OR replied on 19 May 2016 asking for details of Mr C's pension policy. Prudential says it didn't receive the letter until 24 May 2016. Prudential replied to the OR's letter on 31 May 2016.

On 8 June 2016 the OR sent Prudential and Mr C a '*letter of no interest*'. Prudential says it didn't get the letter. When Mr C returned from holiday (on 25 June 2016) he sent Prudential his copy of the OR's letter.

Prudential then sent the risk warnings form to Mr C to complete and return. Prudential got it back on 4 July 2016 and issued a return of funds form. The fully completed documents were received back on 8 July 2016, and settlement was made by telegraphic transfer on 15 July 2016. This was based on a fund value of £34,405.52.

Following Mr C's complaint Prudential said it would offer him compensation for delays and for sending letters to Mr C's old address. Prudential offered Mr C £461.02 plus £300 for trouble and upset caused and £25 to cover postal and telephone expenses.

The offer of £461.02 was calculated using the net lump sum paid to Mr C - £29,877.72 – plus simple interest at 8% for 88 days. That gave £576.27 from which a deduction for income tax at 20% (£115.25) was made.

One of our adjudicators looked into what had happened. He didn't think the compensation offered by Prudential was enough. He thought Prudential had delayed things by 123 days. He suggested that Prudential should consider increasing the compensation for trouble and upset to £500. Mr C had been kept out of his money for a long time. This was particularly stressful for him as he'd had money problems in the past. And the matter was clearly important to him.

Prudential didn't agree. It said Mr C had telephoned Prudential on 30 December 2015 to tell Prudential about his bankruptcy. Up until then it hadn't known about any bankruptcy. When

Mr C gave *'the address at the time'* this was his own address. Prudential acknowledged it had written to the wrong address for the OR. Although it said that was based on information from Mr C, Prudential agreed it should have checked.

Reminder letters were sent to the OR but it wasn't until 14 March 2016, when the correspondence was returned, that Prudential realised it had written to the wrong address. A further letter was issued the same day. It then wasn't until 28 June 2016 that Prudential received (from Mr C) the letter of no interest.

Taking into account the delay in receiving the OR's letter (confirming it didn't have an interest in the policy) Prudential said it would have had all it needed to settle Mr C's benefits on 9 May 2016. That was later than the 8 April 2016 date Prudential had earlier said. What was paid to Mr C was based on a gross value of £34,405.52, which was the higher fund value available. Prudential had made an allowance for the tax reclaim Mr C had made for £5,512.56 and calculated interest at 8% from 18 April 2016 to 15 July 2016 – so it was more generous than if calculated from 9 May 2016. Prudential didn't think it should have to pay any more.

Mr C wasn't happy either. To summarise his main points:

- Prudential had told him, during a telephone call on 9 June 2016, it needed to send a form to him. Prudential said it would be posted to arrive the next day. When it didn't arrive Mr C, who was about to go on holiday, chased it up. He was assured it would be sent when he was away. Mr C asked that any other necessary forms should be sent too. But when he got back from his holiday (on 25 June 2016) there was only one form, which Mr C returned.
- When he called to check it had been received he was told that Prudential hadn't received the OR's letter. So he sent his copy. When he confirmed it had been received he was told there was another form he needed to sign. So another few days were lost.
- If he hadn't been proactive, it wouldn't have been done in the time it did take.
- It also took Prudential twelve days to respond to the OR's letter, which was excessive. And, in any event, Prudential's letter to the OR should have contained all the information the OR later requested and which is common where there's been a bankruptcy.
- Overall Mr C said payment could have been made towards the end of March 2016, so before the end of the tax year.

I disagreed with the conclusion reached by the adjudicator and issued a provisional decision. I thought the offer made by Prudential was sufficient for the errors it had made and the delays it had caused. I said:

*'The complaint is about the time it took for Mr C to get his money. Prudential has paid compensation on the basis it delayed things by 88 days – so but for its delay Mr C's lump sum would have been paid on 8 April 2016 (although Prudential now says Mr C wouldn't have got his money until 9 May 2016).*

*Prudential accepts that it should have checked the OR's address. Because it didn't, time was lost between 6 January 2016 (when Prudential wrote to the OR) and 14 March 2016 (when its letter and reminders were returned and Prudential realised it had written to the wrong address). So the delay there was 68 days (nine weeks and 5 days).*

*I've looked at whether there were other delays on Prudential's part. The adjudicator suggested that Prudential had delayed for 12 days (from 19 May 2016 to 31 May 2016) in replying to the OR's letter of 19 May 2016. But Prudential's explained it didn't receive the letter until 24 May 2016. And it replied within five working days. I don't think that's unreasonable.*

*Prudential says it didn't get the OR's letter of 8 June 2016. On the one hand I don't see any reason to doubt that. But, on the other, it could have been received but misplaced. So, in theory, there would be a further twenty or so days' wasted until Mr C supplied the letter that had been sent to him. So that would take the total delay to about 88 days (not making any allowance for delivery of the letter etc).*

*The adjudicator added another 17 days to that – for the period 28 June 2016 until 15 July 2016. I don't agree. I can see why Prudential wouldn't have issued the risk warnings form until it knew that the OR wasn't claiming an interest in the policy. And there was then other paperwork to complete before the lump sum could be realised. Where, as here, there's a process to be followed, it won't always be possible to issue all the forms at once or in advance of earlier requested information having been provided.*

*I can understand why Mr C felt he needed to be proactive. I agree that he shouldn't have to chase up each and every stage of the process to ensure that further delays didn't arise. Doing so will have added to the inconvenience he suffered. But I think the amount paid is adequate compensation even taking that into account.*

*And, despite what Mr C's said, I don't think it would have been possible for the payment to have been made before the end of the 2016 tax year. Mr C's bankruptcy complicated things and was always going to mean some further enquiries were necessary before Mr C's money could be paid. I don't think Prudential could necessarily have pre-empted all the queries that the OR raised.*

*Prudential has paid interest on the basis of 88 days delay. I think that's the most that Prudential could be responsible for. Prudential has also paid £300 for the trouble and upset that Mr C's suffered and a further £25 for his expenses. I think that's fair and reasonable. So I'm not going to ask Prudential to pay any more.'*

I invited both parties to provide further comment before I issued my final decision.

Prudential said it had no further comment to make and would await my final decision.

Mr C disagreed with my provisional decision. He was upset I'd recommended he should receive less compensation than the adjudicator had proposed. He also felt the time he'd been waiting to hear from us was unacceptable.

Mr C's reiterated that his original claim stands. He seeks the additional compensation the adjudicator proposed plus a further claim for the additional tax he's had to pay because the money wasn't released by Prudential until the subsequent tax year.

Mr C's comments were detailed. I've read his letter in full but to avoid making this decision very lengthy I've summarised the points he's made as follows.

- His actions meant things moved on more quickly than would have happened if he hadn't been so proactive.

- He'd told Prudential he'd previously been made bankrupt and sent a copy of his release certificate. So he can't be blamed for giving an incorrect address for the OR.
- Prudential wrote three letters to his old address and didn't realise an error had been made until he told them.
- Prudential should be familiar with the OR's requirements and could have dealt with the OR more efficiently.
- The OR confirmed it had sent a letter of no interest to both Mr C and Prudential in this case. Prudential denies receiving it. Mr C had to send Prudential his own copy. In any case he'd informed Prudential three weeks earlier than it claimed he had.
- Just before he went on holiday Prudential informed him he needed to complete one further form which would be sent using next day delivery. That didn't arrive and he was told it hadn't been sent but would arrive the following day. When he hadn't heard from Prudential he was told there had been an oversight. So he wasn't able to complete the form until he'd returned from his holiday. If Prudential had done what it said it would do time would have been saved.
- When he returned the form he asked Prudential to confirm whether there were any further steps to be taken. He was told there was nothing further to do. But, two weeks' later, he got another letter to deal with.
- These two periods need to be taken into account. If Prudential had been diligent throughout, the end of tax year deadline would have been met.
- He will be seeking legal advice with a view to taking court proceedings against Prudential.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I know Mr C is very unhappy. I've thought carefully about the points he's raised.

I can understand he's disappointed when the adjudicator recommended that he should get more compensation. But ours is a two stage process. If the matter isn't settled on the basis of what the adjudicator recommends then an ombudsman has to decide the case. The ombudsman will take a fresh look at the issue and will make his or her own decision which may not be the same as the adjudicator's view.

I can also see why Mr C feels that it would all have taken even longer if he hadn't tried to move things forward. But, as I said, I think the inconvenience he suffered as a result is adequately reflected in the compensation that's been paid.

I don't think Mr C is to blame for the mistake with the OR's address. Prudential has accepted that it was at fault by writing to the wrong address for the OR. And it's paid compensation for the delay that was caused. Even if Prudential had another document with the OR's address (and so should have known the OR's correct address anyway) the delay is the same and compensation has been paid.

I still don't agree that time would definitely have been saved if Prudential had supplied the OR with more information at the outset. And, as Prudential's letters were sent to the wrong address, having more personal information in the letter might have added to Mr C's worries. And, in any event, I don't think it was up to Prudential to 'second guess' what the OR might want to know.

I've thought about the two periods of delay Mr C has pointed to. Because the form didn't arrive when Prudential had said it would Mr C couldn't complete it until after he'd got back from his holiday. But, as that still wasn't the end of the process, the other letters would still have needed to await Mr C's return from holiday. And, even if Prudential wrongly told Mr C that it didn't need anything else, once Prudential realised that wasn't the case Mr C would always have needed to complete the other documents before the money could be released.

So I don't agree with Mr C that his benefits could have been paid before the end of the 2015/2016 tax year.

Mr C's fund was switched to cash on 27 December 2015. As the fund value didn't alter significantly, Mr C didn't lose out by any falls in value during the time taken to pay out his benefits. He might say he'd have switched to cash later if he'd known it was going to take as long as it did – so as not to lose out on potential fund growth. But Prudential has paid 8% interest on the fund value for the period 18 April 2016 until 15 July 2016 - 88 days - which is the most delay I think Prudential could be responsible for. So Mr C's been fairly redressed for any delay during the period his fund was in cash.

Just to be clear, although I've said the fund value didn't change, there were some slight fluctuations in the values available and which Prudential has explained. Mr C received a gross fund value of £34,405.52. Prudential says this value was higher than it would have been, had it been paid out earlier. And Prudential has added interest on the higher amount from an earlier date.

I think what Prudential has done to put matters right is fair and reasonable. So I'm not going to require Prudential to do anything more.

I note what Mr C's said about taking legal proceedings. A final decision is the end of our process. If Mr C doesn't accept my decision then it won't be final and binding on him and Prudential so it may be open to him to take court proceedings, if so advised.

### **my final decision**

I'm not upholding Mr C's complaint and so I'm not making any award in his favour.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 14 June 2018.

Lesley Stead  
**ombudsman**