

complaint

Mr K complains about the service he received from The Prudential Assurance Company Limited (Prudential) when he wanted to take the benefits from his personal pension. This included being denied access to the online valuation facility and a lack of answers to the questions he raised. Mr K says that as a result of this “poor service” he was prevented from drawing his benefits as two separate payments either side of the tax year which would have resulted in him paying less tax. He wants compensation for the loss he says he’s suffered.

background

Mr K held a personal pension invested in a With-Profits fund – originally with Scottish Amicable which was later taken over by Prudential.

Prudential wrote to Mr K in May 2018 providing a fund valuation in advance of his selected retirement date (SRD) of 16 October 2018. In the letter it was suggested he should seek financial advice to discuss his options if he wanted to draw the benefits from the pension. Prudential said it would contact Mr K around four weeks prior to the SRD with details of his retirement options.

In August 2018 Mr K received a letter about the plan and then in September 2018 he received a retirement pack setting out his options, which included contact details for Pension Wise – a free impartial service provided by the government to help people understand the options available.

Following receipt of the information Mr K contacted Prudential to ask a number of questions regarding his pension. These included details about how the cash fund worked and whether his pension included any guarantees. However, these questions were not answered to Mr K’s satisfaction.

In September 2018 Mr K registered to use Prudential’s online account system – but he had problems using it and having deferred his SRD he was denied access to the system to obtain a valuation of his pension.

By the end of September 2018 Mr K complained about the service he’d received. He said:

- the secure message facility wasn’t fit for purpose. He’d had many problems with its speed and formatting, and he hadn’t received an answer to the message he did send. He said he’d wasted two weeks setting up the facility but was no closer to be getting the answers to help him decide how to draw his benefits.
- He’d not been able to get the help he needed when he’d rung Prudential as it seemed to want him to seek financial advice elsewhere.
- He thought it would now be difficult to adhere to the SRD and wanted to know how Prudential would make up for any ‘lost time’.

Prudential apologised for the problems Mr K had experienced and said it would investigate his complaint.

Mr K then contacted Prudential to explain that he was unable to make a decision about his pension as he hadn’t been provided with the necessary information. He said he wanted the pension to remain within the With-Profits fund at his SRD and instructed it to remain “on

hold". He also said Prudential had incorrectly addressed him – which he said it had also done previously.

Prudential accepted it hadn't provided a good service and initially offered Mr K £125, and subsequently increased that by a further £150 (making £275 in total), as a gesture of goodwill for the trouble and upset caused to him. It said if he decided to access his pension in the following 30 days it would review the matter and compensate him if its poor service had financially impacted him.

But Mr K wasn't satisfied with this response, so he brought his complaint to us. In his complaint he explained that he'd only had one objective with Prudential, which was to draw his pension benefits in one lump sum. He thought this would be the best thing for him as he'd been disappointed with Prudential's service in many ways. But he also intended to take the money, in the forms of two cheques, either side of a tax year in April 2019. He said this would mean he would have paid less tax overall and allowed him to make contributions to ISA's within two separate tax years. As well as that the saving in tax would have allowed him to make up a shortfall he has in national insurance contributions following a change in state retirement ages.

One of our adjudicators looked into the matter and said Prudential hadn't provided a good service. He considered that the goodwill payment and Prudential's offer to review whether its poor service had impacted Mr K financially, if he wanted to draw his benefits, was fair and reasonable. The adjudicator also offered to provide Mr K with a specific contact at Prudential to help him with the process of accessing his pension benefits.

Prudential provided a point of contact for Mr K and agreed to extend its offer to look into whether Mr K had been financially disadvantaged.

But Mr K didn't agree, and he made a number of response points which in summary were:

- Prudential failed to provide professional customer service in late 2018 and early 2019. This was evidenced by poor quality reading material, poor written correspondence, poor telephone contact and service, poorly functioning online service, poor unprofessional staff, use of multiple names for the same investment funds, and mis information of the process to draw his pension benefits.
- Prudential failed to act in a timely manner to ensure he could utilise the most efficient way to draw his benefits over two tax years.
- When he contacted Prudential to take his benefits in March 2019 it took 46 days to receive a cheque. This timeframe meant he missed the HMRC deadline to be able to make a contribution to top up his national insurance credits.
- He didn't receive a response to the problems he had accessing Prudential's online messaging and information service.
- He wasn't provided with the sort of information he needed in advance to be able to make the complex choices relating to the type of annuity – or other option he might want to take.
- During this time Prudential wrote to him explaining that it "*no longer provided that type of annuity*". He thought Prudential failed to communicate with him when it decided to stop providing the annuity – especially as it was aware that he was in the process of investigating his options. Had he known earlier he could have acted sooner.
- He only decided to use the opportunity of taking "*two cheques*" after the delays up to March 2019. It was now clear to him that Prudential couldn't have concluded that

possibility before the end of tax year deadline. There were other factors involved in that decision as well which only became clear at the time of his request.

- He says two cheques could have been issued on 4 and 6 April 2019, which would have avoided the taxation of just one lump sum at 20%. He says it was only Prudential's "*erratic and unprofessional service*" that stopped it being achievable.
- He didn't think Prudential could "manage" its illustration process. He said it failed to provide him with the illustrations he asked for and failed to explain why it "*no longer offers annuities for this type of product*".
- Why was the 'pre-printed' risk warning only sent to him in late March 2019. This caused delays in taking his pension and could have been sent out at any point in the process. It took Prudential 46 days to issue a cheque after he contacted it in March 2019 to draw his benefits. But in November 2019 he was told a cheque could be issued "*within the next 10 days*".
- He didn't receive answers to any of his questions about the 'cash fund' so he was unable to decide how to use it and move his claim forward. He says this was due to Prudential's mismanagement.
- The number of terms Prudential used to explain the 'cash fund' meant it was difficult for him to understand how the fund worked. There was no consistency or clarity in the information about the fund.
- In his letter of 18 September 2018 Mr K asked for annuity quotations and clarification of who provided Prudential's annuities. He didn't think he was provided with this information – despite the fact he'd requested a telephone appointment to discuss the matter. He said this question wasn't answered until 11 March 2019 – which didn't allow him enough time to take benefits either side of the tax year.

Another investigator clarified Mr K's complaint, as a result he confirmed the following points:

- Mr K had four options for drawing his benefits. But the most appropriate option to make a capital withdrawal in a tax efficient way was to transfer the funds to an income drawdown plan. This required Mr K to take financial advice which he didn't ask Prudential to provide, and Prudential had recommended Mr K sought that advice on numerous occasions – so it wasn't reasonable to say that Prudential caused Mr K to have to encash his entire pension and pay a higher amount of tax.
- He thought Prudential had provided enough information about the cash fund by November 2018 for Mr K to be able to decide what he wanted to do with his pension.
- He noted that Mr K hadn't contacted Prudential to discuss his annuity options – although he accepted that Mr K had little confidence in Prudential at that point. But he felt that, even if Prudential had provided an annuity illustration, Mr K wouldn't have opted to go ahead.
- He felt that Mr K's own comments suggested he had a requirement for capital and therefore would have either encashed the pension or gone into drawdown. Given Mr K didn't appear to want to take financial advice he was only left with the total encashment option.
- Overall Prudential's offer of compensation for the level of service it provided was fair and reasonable in the circumstances.

In March 2019 Mr K contacted Prudential and was provided with details of how to draw his pension benefits. He returned all the necessary documents to take the plan as a cash lump sum – which was paid to him in April 2019.

Mr K didn't agree with either the investigator or the initial adjudicator's findings and asked for his complaint to be referred to an ombudsman, so it's been passed to me for a review. Mr K asked me to consider the following questions:

- Did Prudential's customer service lead to a failure to provide him with annuity quotations?
- Did Prudential's customer service lead to him losing income from a potential annuity?
- Could he have paid less income tax by splitting payment of it over two tax years?
- Was Prudential's service from December 2018 to April 2019 considered to be professional enough and should further compensation be considered?

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 outcome that's been reached and for largely the same reasons. Mr K has provided detailed submissions to support his complaint, which I have read and considered in their entirety. However, I trust that he will not take the fact that my findings focus on what I consider to be the central issues, and that they are expressed in considerably less detail, as a discourtesy. The purpose of my decision is not to address every point raised in detail, but to set out my conclusions and reasons for reaching them.

And for further clarity this decision will only be considering Mr K's complaint about Prudential. I won't be looking at Mr K's comments about the way this service has dealt with his complaint to date as this has been dealt with separately, and not as part of my role in determining this issue with Prudential.

Drawing the benefits over two tax years

Mr K says when he came back to Prudential in March 2019 to draw his pension benefits it took 46 days until the cheque was paid to him – which he thought was an unacceptable delay and cost him the opportunity to send a cheque to HMRC for his national insurance 'top up' contributions. I haven't seen any evidence that Mr K told Prudential how to pay his benefits until March 2019, despite his dealings with it from mid 2018. So I've carefully considered the actions of both parties from March 2019. Prudential said that it would make the payment when it had received all the outstanding requirements and, looking at the sequence of events, I think Prudential acted reasonably and in line with its regulatory requirements. It provided Mr K with the necessary risk warnings and eventually made payment within 9 working days of the requirements being met – so I can't safely say that Prudential caused unnecessary delays there.

Mr K has said that much of the paperwork he received was unnecessary and simply repeated information he'd already told Prudential. He says it just wasted further opportunities to pay him before the end of the tax year.

But, as I've said, I think Prudential was required to provide the warnings and information it issued, and I don't think it could have speeded up the process by "cutting out" these steps. I haven't seen any evidence to show that Prudential included unnecessary information or confirmation requests during the payment process.

Mr K has suggested that he's suffered a 'consequential' financial loss as he wasn't given enough help or time by Prudential to set up payments from his pension so that he could take two payments either side of a tax year. He's provided calculations of the tax he would have

paid in that scenario as opposed to the position he found himself in. He said *“to have taken my benefits in 2 cheques, for example, one dated 4 April 2019 and the second dated 6 April 2019 could have been done. It could have been prepared at the end of March and with a P45 for one year and I believe a second P45 for the following year.”*

There’s no evidence that Mr K told Prudential that he was looking to take his benefits in the form of two cheques either side of the tax year. Or that he wanted a payment to be made with the end of the tax year as a deadline. So, I don’t think Prudential was made aware that it should be working toward such a request. But in any case, the only way Mr K could have drawn his benefits in stages, or in separate pots, was if he’d transferred his pension fund into a new drawdown plan. If he’d simply taken an annuity or transferred to another provider or, as happened here, taken the benefits as a taxable lump sum, the payment would always have been made as one single payment.

If Mr K had indicated he wanted to transfer his benefits into a drawdown plan he could have taken the tax free sum and withdrawn ad-hoc payments whenever he wanted, including across tax years. But he didn’t indicate that he wanted to transfer to a drawdown plan – which was something Prudential said he would need to take advice to do. I don’t think, on balance from all the evidence that I’ve seen, that Mr K wanted to take advice about a drawdown plan option. But in any case, even if he had decided on that course of action, it’s unlikely that he could have received that advice and been able to draw any income from the plan before the end of the tax year. Of course I accept that Mr K wouldn’t have needed to pay tax on his entire fund if he’d set up a drawdown plan, but as I’ve said there’s no evidence that this was an option he wanted to pursue.

So, in the circumstances I don’t think Mr K could have chosen an option that allowed him to receive two separate payments either side of the tax year – so I don’t think Prudential should have to refund any of the tax Mr K paid when he accessed his pension benefits.

The issue of the cash fund

It’s clear from Mr K’s email of 11 October 2018 that he was confused by the reference to *“cash fund”* and *“exempt cash fund”* within a previous letter from Prudential. And he stated that this meant he wasn’t able to decide on what action to take. This was only five days before his original SRD so I think this would have inconvenienced him and disrupted his planning. I can see he was left with no alternative but to maintain his existing fund while he awaited an answer to this and other outstanding questions.

Mr K says that when he did receive the information about the cash fund it was inconsistent and unclear. He says Prudential referred to the fund in a number of ways and was unclear about its charges and potential for returns. And I know that Mr K would have liked the information to have been clearer and set out in a certain way.

But that doesn’t mean Prudential did anything wrong here simply because Mr K was unhappy with the format of the information. Looking at the letter Prudential sent on 15 October 2018 it confirmed some basic facts about the cash fund, and it had previously referred Mr K to its website where details of all its funds were available. Although I accept Prudential could have done more in terms of what it told Mr K in October 2018. However, Prudential raised the question of the cash fund in its retirement pack, when it explained that the terms and conditions of Mr K’s plan meant his pension would be switched into the cash fund no earlier than a month before benefits were drawn. This was to remove the potential for any significant falls in the plan’s value.

So, it wasn't really a decision that Mr K had to make as the switch was made automatically unless he decided to defer his benefits, which he did in October 2018, in which case the funds remained in the existing fund until one month before the new SRD. So, while I understand that Prudential could have been more robust in providing information about the cash fund, which I think can be dealt with below under the heading of "poor service", I don't think the issue of the cash fund caused Mr K any financial loss or should have added to any delay in his ability to access his benefits.

The poor service Mr K says he was given from Prudential in 2018 and 2019.

Mr K received a retirement pack from Prudential in August 2018 in advance of his SRD. It confirmed the approximate fund value of his plan and set out three main options to access his benefits. It confirmed that he should contact Prudential to discuss these options and gave details of how he could contact Pension Wise and/or his financial adviser if he wished to do so— which Prudential recommended. Prudential also outlined that Mr K's investment would revert to a cash fund, prior to him accessing his benefits, if he decided to draw them.

Thereafter Mr K did contact Prudential and, in a letter dated 18 September 2018, he asked for details of how to transfer the pension to the cash fund. He asked for details on how to take the whole fund – after drawing his tax free cash and paying 20% tax on the balance. He also asked for annuity quotes for £30,000 and £40,000 and whether Prudential simply facilitated annuities as opposed to providing them. He set out dates and times for Prudential to call him.

I don't think it was unreasonable for Mr K to ask these questions, I would have expected Prudential to either provide answers to them or to have explained why it couldn't answer them, for example if advice was needed instead of information. But I can't see that Prudential did directly answer Mr K's questions here and can understand Mr K's frustrations around the way he was treated from this point forward. Indeed there's no evidence to show that Prudential had addressed a number of Mr K's points until it began to investigate his complaint. Mr K was so frustrated about the lack of response and information that on 11 October 2018 he requested that his pension wasn't switched to another fund and remained as it was until the complaint process was completed.

Following this request from Mr K, Prudential issued several communications which built on previous answers to his complaint. Each one contained some form of request for Mr K to make contact to discuss his options around accessing his pension. I think this was a reasonable way to address the annuity question. Prudential didn't have enough information about Mr K's circumstances and objectives to provide quotations along the lines he had requested.

It needed to know what additional options to include: such as guarantee periods, single or joint life annuities, escalating income or fixed income and whether it needed to consider enhanced or impaired life annuities according to Mr K's lifestyle or medical history. So I think it made sense to ask him to contact it so that it could explore these options and provide more appropriate illustrations. I think the confusion at this time was that Prudential was trying to answer Mr K's questions and provide any outstanding information whilst dealing with his overall complaint, while Mr K didn't want Prudential to progress his claim to draw his pension benefits until he was satisfied with the outcome of the investigation.

The unfortunate consequence of this was that Mr K didn't contact Prudential directly about accessing his benefits until March 2019 which meant benefits weren't paid across two tax years as Mr K says he would have liked.

I note that Mr K brought his complaint to us in November 2018, so I appreciate he was clearly trying to resolve the issue. But equally I haven't seen any evidence that Prudential told Mr K he couldn't continue with his claim for pension benefits during that time. I know Mr K will say that he didn't wish to complete his claim until the outstanding issues were resolved, but it's not clear to me what new information he was provided with before March 2019 which meant he was able to progress matters, or whether he simply wanted to try and get his benefits before the end of the tax year passed.

Mr K has explained, in great detail, the problem with each part of Prudential's service and the impact it had on him. I've looked at his submissions very carefully and I can understand the frustration he would have had over some of these matters. I agree that some of the information he received could have been clearer in helping him finalise his decision and I can appreciate how he felt over his experience of both telephone and online communication. I think Prudential could have dealt with Mr K's request for annuities illustrations in a clearer way and I've also seen how Prudential did address Mr K in different ways, which included as Ms K, which I can understand would have caused him some distress.

Mr K has also explained that his experience with various businesses in recent years persuaded him to draw his pension benefits with Prudential as one lump sum so that he could control his funds in retirement. And he's been consistent in what he's said about this matter. So I can understand Mr K's frustrations that many of the things he says he suffered previously such as IT problems and poor service seem to be the reason he's not been able to conclude his transaction with Prudential.

But Prudential has acknowledged its shortcomings here and has paid Mr K £275, in total compensation, for the distress and inconvenience its service caused him throughout this matter. I note Prudential's final I response letter confirmed that "*I acknowledge the recent information we provided has been piecemeal and lacks the detail you have asked for. Please accept our apologies for this. I would like to stress this has been the result of poor service on our part, rather than anything more sinister. We have clearly let you down and I am able to support your complaint as a result of this this.*" The letter went on to answer most of Mr K's complaint points and gave him the opportunity to contact Prudential in order to resolve the issue of his benefits and said it would look to compensate him if its poor service caused any delays in paying his benefits if he concluded matters within 30 days, which unfortunately didn't happen.

So there's no dispute that Prudential made errors and caused significant distress and inconvenience to Mr K here. So primarily what I need to consider is how that impacted on Mr K and whether the compensation that's been paid is enough. Overall, in this case, I think the sum offered (and paid to Mr K) is within the range of what I'd expect to see for failings such as this. So I'm not going to ask Prudential to do any more. I don't think Prudential was responsible for any delay in Mr K not formally requesting his benefits until March 2019, even though I think it could have been clearer in its information and communications. And I think Prudential completed the payment process in a timely manner when Mr K did request his benefits.

But, on balance, I don't think Mr K would have chosen the option of taking financial advice in order to transfer his pension to a drawdown plan, which I'm satisfied Prudential made Mr K

aware of. So I don't think he would have been able to achieve his preferred method of receiving two separate cheque payments to reduce his income tax liability.

my final decision

The Prudential Assurance Company Limited has already paid £275 in total to settle the complaint and I think this offer is fair in the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 2 February 2021.

Keith Lawrence
ombudsman