

complaint

Mr B was advised to start a personal pension by The Prudential Assurance Company Limited. He complained about that in 1993 and received a refund of his own contributions. Recently, he has received statements showing that he still has some benefits with Prudential as a result of contracting out of the State Earnings Related Pension Scheme (SERPS). He now wants to be compensated for that loss as well as the years of stress that this has caused him.

background

Mr B says that he joined his employer's pension scheme in 1988. Shortly after that he was advised by Prudential to start a personal pension. He realised in 1993 that he could not have both pensions. So, he complained to Prudential and received a refund of his contributions.

He has now received statements showing some benefits in the personal pension. Mr B said that he queried the statements and was told by Prudential not to worry about it as it was a mistake.

In October 2013 Mr B received a letter saying "we think you might own a Prudential policy". Prudential wanted Mr B to prove who he was before any further information could be released.

Mr B complained to Prudential as he believed that the policy had been cancelled in 1993.

Prudential investigated the complaint. The policy exists because Mr B was advised to contract out of SERPS. Because they don't have the file from 1993 Prudential assessed whether Mr B should have been advised to contract out of SERPS. They concluded that Mr B did not meet the criteria to be contracted out of SERPS.

Prudential offered to put things right for Mr B. They said that they would ask the Department for Work Pensions (DWP) if they would accept a refund of Mr B's payments and reinstate SERPS for the years in question. If this was not acceptable to DWP they would compensate Mr B by enhancing his pension fund.

Mr B did not accept the offer as he said that he did not trust Prudential. He then referred his complaint to this service.

The adjudicator told Mr B to accept Prudential's offer to put things right for him. Mr B then signed and sent the letter of acceptance back to Prudential. However he felt that Prudential should pay him compensation.

Prudential have offered £50 but Mr B didn't accept this as he felt it didn't reflect the stress and anxiety he had endured over the years. He asked for the complaint was passed on to an ombudsman.

The adjudicator explained to Prudential that the offer for distress and inconvenience should be £150-£200. Prudential did not agree as this was not in line with awards made on other cases. Prudential said that they would wait for the decision made by the Ombudsman.

my findings

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

Mr B was advised to start a personal pension in 1988. It's accepted that he was employed in a public sector organisation. He was a member of his employer's pension scheme. When he discovered that he couldn't pay into the personal pension he complained to Prudential. A refund of his own contributions was made. I accept that Mr B thought that his policy with Prudential had been cancelled.

It isn't clear to me why the policy wasn't entirely cancelled. In my view it's most likely that this was an oversight on behalf of Prudential at the time. There is a very small benefit left in Mr B's personal pension. I think this probably relates to backdated payments for the time before Mr B joined his employer's pension scheme.

Prudential has now accepted that Mr B should not have been advised to contract out of SERPS. I think that's the correct answer. But, I think that should have been identified in 1993. I also think it's likely that Mr B thought that his pension arrangements had been put right in 1993.

I think that Mr B should have any of his SERPS benefits reinstated. So I agree that Prudential's offer is fair. If the SERPS benefits cannot be reinstated then Prudential will need to compensate Mr B for any financial loss.

I think that Mr B has been caused some distress by Prudential's actions. That started with the initial advice to start a personal pension, which was found to be unsuitable. And I think Mr B was entitled to think that Prudential had put that right. It must have been worrying for him when he found out that they hadn't.

Awards of compensation for distress and inconvenience are a matter of judgement. They depend on the individual facts of the case. However the principles to be applied are set out in a note available on our website. In my view, a moderate award of up to £500 is appropriate in this case. But, in working out how much that should be I have to consider the impact on Mr B. Clearly, it was upsetting for him to find out that his pension problems had not been put right some 20 years earlier. I think that has caused him some distress.

The offer from Prudential of £50 does fall into the category for a moderate award. But, I don't think it's enough. This has been a long-standing problem that Mr B thought had been put right. In my view, the compensation to Mr B should be £200. That's in addition to compensation for the financial loss.

my final decision

I uphold this complaint. The Prudential Assurance Company Limited must now:

- Reinststate Mr B's SERPS benefit. If this is not possible compensate for the financial loss from contracting out of SERPS.
- Pay Mr B £200 for the distress and inconvenience caused by its errors.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 4 February 2016.

Roy Milne
ombudsman