Financial Ombudsman Service

complaint

Mr B has complained that The Prudential Assurance Company Limited ("Prudential") has caused him delays in taking three of his pensions. He says he should have been able to take his pensions earlier and that they have fallen in value whilst he's been waiting.

background

The background to this complaint is set out fully in my provisional decision, which is attached and forms part of this final decision.

Mr B had three separate pension funds held with Prudential. They all had maturity dates set by Mr B in the past, which was when he'd originally said he wanted to take his pension benefits. The maturity dates ranged from December 2016 to June 2017 and are set out in the following table:

Policy	Maturity date
***1609	1 December 2016
***2271	1 May 2017
***9390	1 June 2017

In November 2016 Mr B, via his wife, spoke to Prudential about his plans. He said he wanted to take an annuity and talked about taking all three pensions at the same time. He was told that he could wait and take all three pensions when the last one matured or he could take all three together immediately.

On 4 January 2017 Mr B called again to ask if Prudential had received an email he sent in December saying he wanted to take all three pensions immediately – Prudential said it hadn't received the email. Mr B discussed the type of annuities he wanted, but he was told this wasn't something that could be arranged over the phone. He was told Prudential would have to send out quotes in the post for him to accept.

In my provisional decision I noted that there were several more phone calls, and I thought that, by 22 January 2017, Mr B had decided to take his pensions together. But I also thought Mr B wasn't able to set up the annuities as Prudential sent the forms to fill in via the post and, as Mr B lived overseas, they didn't reach him in time. I thought Prudential should've done more to help him access his pensions.

I thought Prudential should put Mr B, as far as possible, in the position he'd be in if he'd been able to set up three annuities to start at the same time – on 1 March 2017. And I thought Prudential needed to pay £250 for the distress caused by the delays.

Prudential responded to my provisional decision to say it didn't agree with my conclusions. It said it had to send out packs to its customers to ensure that they were in an informed position about what to do with their pensions. Prudential said that during the call on 4 January 2017 Mr B asked it to cancel the instruction he sent to start all three annuities together and in the call he only gave instructions to take the first of the available annuities (***1609). So Prudential doesn't agree it was Mr B's intention at that stage to take all three pensions together.

Prudential has explained that Mr B went through an application for an enhanced annuity, which was completed on 6 January 2017. It says it explored the ways of sending the information Mr B needed to take the annuity and the application form was sent electronically, but the rest of the information – including the quotation – couldn't be sent that way due to the sensitive information it contained.

Prudential has said that Mr B asked on 24 February 2017 about arranging the details for his two remaining pensions to be emailed to him when they came to mature. It points out that, if Mr B had wanted to take all of his pensions together, he wouldn't have made this request.

Mr B responded to my provisional decision. He said he'd had to manage for around a year without getting the annuity payments he should've got. Mr B has explained that it still took a long time to arrange the annuities and this was only done when he'd been able to complete the forms needed using email. To give fair compensation, Mr B would like me to award punitive damages of several thousand pounds to compensate for the stress and suffering he's been through whilst waiting for his annuities to be arranged.

my findings

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

I've thought about what Prudential has said took place in the call on 4 January 2017. In the call Mr B asked the advisor about taking the last two pensions early and whether they would lose any guarantees – the advisor says guarantees could be lost. The advisor agreed to send out a quote and application form for them. I agree at this point Mr B hadn't given clear instructions that he was definitely going to take all three pensions together. In fact Mr B asked Prudential to ignore the email he sent asking for the pensions to be taken together and he agreed to wait until he had all of the information before deciding what to do.

But I think this changed when he called again on 22 January 2017. The call was, in the main part, between Prudential's advisors and Mr B's wife acting on his behalf. Mrs B said she was calling as Mr B wanted to turn his last two pensions into annuities. It was confirmed that he wanted to take the pensions and start the process that day. Mrs B was then transferred to the claims department.

After Mrs B was transferred she said "*we have two pension plans we'd like to change into an annuity*". She was asked if Mr B had received all of the options packs, and she explained the problems they'd been having with the post and that items take around a month to get there. Mrs B asked about using emails to send quotes for the two pensions, but the advisor said the server wasn't secure enough to send information in that way.

Mrs B asked for a valuation for the two pensions over the phone and this was given. She explained that if an annuity quote was sent it would take around a month to arrive and then a further month for an application pack once it was accepted – this was Mr B's experience from the first, already arranged annuity. Mrs B said they knew what type of annuities they wanted and for them to be set up in the same terms as the first one. She knew Mr B needed to see actual quotes before he could accept them and the advisor agreed to send them out as first class post.

I think it was clear in this call that Mr B wanted to go ahead and arrange an annuity for the final two pensions. Mrs B said they had all the information they needed and just wanted quotes for the annuities. Mrs B checked that the bonus would be attached to the quotes and it was confirmed that it was and the valuations would be guaranteed for a date until mid-

February – Prudential had already provided information previously about what guarantees there were, so Mr B was able to make an informed decision about them. I think it is important that Mr B wasn't asking for quotes for the value on the maturity dates, he asked for immediate quotes. I don't think at this stage Mr B wanted to wait for anything else and he was trying to access his pension funds.

I think the reason he wasn't able to arrange the annuities as quickly as he wanted was due to the problems with the postal service. I accept that Prudential wasn't responsible for how post was processed, but I think Mr B had made his intentions clear and more should've been done to get quotes to him that he could've accepted – Mr B had set out the problems he'd had with the post at some length and in previous calls. I think if he'd received the quotes generated on 22 January 2017 he would've accepted them and I think there was enough time to arrange an annuity to start on 1 March 2017.

I've thought about what Prudential has said Mr B asking on 24 February 2017 for the details about his last two pensions to be emailed to him, rather than being posted, so he could take them when they matured. I've also listened to a call Mr B made on 28 February 2017 where he said he was worried about the pensions not being available when they matured and he talked again about the problems he'd had with the post. He asked whether it was possible to just send the quote letter without the added information to make sure they arrived in time to be accepted. I don't think this changes the fact that Mr B wanted quotes to be sent in January for him to access his pensions – he asked for them to be sent on 22 January and he knew they would be valid until mid-February, so I think he wanted to access his pension then. I think the reason he made contact was to make sure that future quotes, when sent, would be received in time to be accepted.

So for these reasons, and those set out in my provisional decision, I still think Prudential needs to put Mr B in the position he'd be in if all three annuities had been arranged to start on 1 March 2017.

Mr B has asked for Prudential to pay punitive damages for the problems he's had – I note he thinks Prudential may have deliberately delayed him taking his pension in order to reduce the amount payable. I understand he feels strongly about this and the delays would've caused him some financial pressure waiting for his annuities to be arranged. But I don't think Prudential has deliberately caused delays to reduce the value of Mr B's pensions. Rather, I think the problems have been because of the way it has sent information to him. And the amount I award is designed to compensate Mr B for the problems he's experienced – I'm not able to award compensation to punish a business.

In my provisional decision I set out how I thought Prudential needed to compensate Mr B. I thought Prudential needed to work out what his tax-free lumps sums would've been on 1 March 2017 and pay him the difference between what he actually got when he took them and what he would've got then. I also thought Prudential needed to work out what annuity payments he would've received if the annuities were set up to start on 1 March 2017 and pay him the missed payments. So these amounts would mean Mr B would get paid the money he should've been if the delays I set out hadn't happened.

But I also thought Prudential needed to add 8% per year simple interest to these amounts. This isn't something Mr B would've had if the annuities had been set up earlier. Instead it's designed to compensate him for the time he was out of pocket. Mr B has said he's had to use money from some of his other assets to cover his outgoings whilst he's been waiting for his pensions, so this is designed to compensate him for that. Overall, I think the compensation set out in my provisional decision, including the 8% per year simple interest, is a fair way of compensating him for having to wait to access his pensions.

I've also considered the award I proposed to make of £250 for the delays and distress they caused. Mr B has said this isn't enough and he's said Prudential pays similar amounts to customers for more trivial problems. This is a complaint where Prudential is able to work out and compensate Mr B for the actual financial loss he's suffered and, as I've explained above, I think compensatory interest should be added to that loss. But I've also thought about the frustration Mr B had in the continued delays caused by the postal issues he raised. Our awards for distress and inconvenience aren't designed to punish businesses, but are there to compensate consumers for the upset caused. Having looked at all of the circumstances, I still think an award of £250 is appropriate.

what Prudential needs to pay Mr B

Prudential needs to work out what tax-free lump sums and net of tax annuity payments would have been made to Mr B to the date of calculation on policies ***2271 and ***9390, assuming they started on 1 March 2017. It should add 8% per year simple interest to each from 1 March 2017 to when he gets paid.

In terms of past loss, it should then deduct any tax free cash or net of tax annuity payments that have been paid, plus any tax free cash that is due to be paid and pay Mr B the difference.

In terms of future loss, if the gross annuities that would have been bought on 1 March 2017 are higher than the gross annuities that are going to be paid, Prudential should either buy an annuity for Mr B to make up the difference, or pay Mr B the capital equivalent value of the two as a lump sum, less 20% to account for the basic rate tax that would otherwise have been payable on it.

If the future annuities are higher than those that would have been bought on 1 March 2017, the capitalised value for the difference in the amounts can be deducted from the past loss as calculated above.

Once Prudential has worked this out it has to take basic rate tax off any of the 8% per year simple interest amounts that are due. Mr B can then claim this back from HMRC if he doesn't pay tax.

Prudential should pay a £250 due to the distress caused to Mr B.

my final decision

For the reasons set out above, I uphold Mr B's complaint against Prudential Assurance Company Limited and I direct it work out and pay compensation as indicated in my decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 30 May 2018.

Mark Hutchings

ombudsman

provisional decision

complaint

Mr B has complained that The Prudential Assurance Company Limited (“Prudential”) has caused him delays in taking three of his pensions. He says he should have been able to take his pensions earlier and that they have fallen in value whilst he’s been waiting.

background

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In November 2016 Mr B, via his wife, spoke to Prudential about his plans. He said he wanted to take an annuity and talked about taking all three pensions at the same time. He was told that he could wait and take all three pensions when the last one matured or he could take all three together immediately.

On 4 January 2017 Mr B called again to ask if Prudential had received an email he sent in December saying he wanted to take all three pensions immediately – Prudential said it hadn’t received the email. Mr B discussed the type of annuities he wanted, but he was told this wasn’t something that could be arranged over the phone. He was told Prudential would have to send out quotes in the post for him to accept.

Mr B says the information Prudential sent didn’t get to him in time as he lives overseas. He says the information sent was quite large and hadn’t been posted in the correct way, so it took over a month for him to receive the quotes by which time they had lapsed.

The first annuity Mr B took – from policy ***1609 – started in March 2017, three months after the maturity date. But shortly afterwards he was told that the value of his remaining pensions had fallen. Mr B didn’t think this was fair as he’d wanted to take the remaining two pensions earlier and at the same time as the first one, so he complained.

Prudential said it hadn’t sent excessive information to Mr B and it had to comply with regulatory requirements when sending information to its customers. It didn’t think it was responsible for any delays in the postal system. Prudential also said Mr B’s pension funds had fallen in value due to a change in bonus rates declared in April 2017.

Unhappy with Prudential’s response, Mr B brought his complaint to this service.

One of our investigators looked into the complaint and thought Prudential should have offered Mr B an alternate way of communication, so thought it needed to pay £150 compensation for the distress caused. But he didn’t think Prudential was at fault for the loss of value of Mr B’s pensions and that it had given him adequate warnings about that fund values could fall. But Mr B disagreed, so the complaint has been passed to me for a decision.

my provisional findings

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

To decide this complaint I've had to think about what Mr B's intentions were about his pensions and what he said to Prudential about those intentions. Having done so, I think it was clear Mr B wanted to take all of his pensions at the same time and I don't think Prudential did enough to enable him to do that. So I think Prudential needs to put him in the position he would have been in if he'd taken his three pensions together.

In November 2016 Mr B spoke to Prudential as set out above. I don't think at that time he'd made up his mind what he wanted to do with his pensions. It was at this point he was told he could take all of his pensions together immediately, but there might be an effect on the level of annuity available to him.

I've listened to several calls Mr B had with several advisors on 4 January 2017. He said he'd sent an email in December indicating that he wanted to take all three pensions in the same way at the same time – by taking the maximum 25% tax-free cash available and annuities set up in identical terms for joint lives with himself and his wife. I haven't seen a copy of this email as Prudential said it wasn't received, but I think by this time it was clear Mr B knew what he wanted to do with his pensions.

In the 4 January 2017 call, Mr B was told this couldn't be arranged over the phone. Instead he needed to wait for the retirement packs to be sent out on the last two pensions and a quote to be sent out on the first pension. Mr B asked for quotes to be sent out on all three pensions.

On 9 January 2017 Prudential sent out quotes for his second pension (***2271) and this letter said it was sent as Mr B has asked about accessing his pension. It gave a quote for the pension to start on 6 February 2017, so before the maturity date of 1 May 2017, but it didn't include the provision for joint lives as Mr B wanted. I'm satisfied that this letter shows Prudential knew at this stage Mr B wanted to access his pension early. Mr B says this letter was received on 13 February 2017, so too late to accept the quote.

Before that letter arrived, Mr B called Prudential again on 22 January 2017 to say he hadn't received anything about his pensions. He told Prudential that there were problems with the way it was sending information. Small letters would arrive quickly, but anything with more information was being delayed. Mr B explained he knew how he wanted to access his pensions and asked Prudential to send the quotes by email. He was told this wasn't possible as email wasn't secure enough to send quotes. But it would be possible to send the forms needed to accept the quotes by email.

Mr B was able to print off the forms needed to accept the quote on his first pension (***1609) so it was set up to start paying an annuity on 1 March 2017. Mr B called Prudential again in February 2017 to ask about setting up his other annuities in the same way, but again he was told a quote would have to be sent out in the post.

But on 3 March 2017 Prudential sent Mr B a letter for his pension ***2271 indicating that the fund value had fallen by around 30%. And a month later Prudential wrote to say his third pension (**9390) had fallen by a similar amount.

I don't think I need to comment upon the change in fund values as I think Mr B's annuities should have been set up before the fall in value. On balance I think it was clear by 22 January 2017 that Mr B had decided to take his pensions together and that he'd told Prudential about the problems he was having with the post.

I think Prudential should have done more to help him access his pensions, either by sending the quotes via email or sending the quotes without the extra information as Mr B had requested on 22 January 2017 – I'm aware Prudential has a secure e-mail system for its customers to use. And I think Prudential should have allowed him to fill in the forms for his second and third pensions in the same way as with his first. Had it done so, I think Mr B would have set up his annuities before his pensions fell in value.

I'm aware Prudential has said it had to send all of the extra information alongside the quote, but I don't think that was necessary in Mr B's case. That's because he'd already received this alongside his first pension quote, so there was no need to send it again. Or, as this material wasn't sensitive, it could have been sent electronically. But, importantly, Mr B told Prudential that he thought the delays were due to the inclusion of this extra information and asked for Prudential not to send it. But despite his request, Prudential didn't try any other way of sending him a quote.

Overall, I think Mr B should have been able to arrange his pension plans for policies ***2271 and ***9390 at the same time he took his benefits from policy ***1609. Mr B was clear he wanted to take all three policies in the same way, so I think Prudential needs to put him in the position he'd be in now if that had happened.

Prudential needs to work out what tax-free lump sums and net of tax annuity payments would have been made to Mr B to the date of calculation on policies ***2271 and ***9390, assuming they started on 1 March 2017. It should add 8% per year simple interest to each from 1 March 2017 to when he gets paid.

In terms of past loss, it should then deduct any tax free cash or net of tax annuity payments that have been paid, plus any tax free cash that is due to be paid and pay Mr B the difference.

In terms of future loss, if the gross annuities that would have been bought on 1 March 2017 are higher than the gross annuities that are going to be paid, Prudential should either buy an annuity for Mr B to make up the difference, or pay Mr B the capital equivalent value of the two as a lump sum, less 20% to account for the basic rate tax that would otherwise have been payable on it.

If the future annuities are higher than those that would have been bought on 1 March 2017, the capitalised value for the difference in the amounts can be deducted from the past loss as calculated above.

Once Prudential has worked this out it has to take basic rate tax off any of the 8% per year simple interest amounts that are due. Mr B can then claim this back from HMRC if he doesn't pay tax.

I've also thought about the delays and distress caused to Mr B by what has gone wrong. I agree with our investigator that Prudential should pay compensation for this. Taking all of the circumstances into account I think a fair amount is £250.

my provisional decision

For the reasons set out above I currently intend to uphold Mr B's complaint and tell Prudential to pay compensation as set out above.

Mr B and Prudential should now let me have any further information they'd like me to think about before I issue a final decision.

Mark Hutchings
ombudsman