

complaint

Miss B complains about The Prudential Assurance Company Limited (“Prudential”)’s handling of her request to take a tax free sum from her pension.

background

Miss B had a with profits fund with Prudential and wished to access a tax free, lump sum before her stated retirement date. Miss B spoke to Prudential in November 2015. Miss B says she was clear she wanted to withdraw 25% of her fund, tax free. She believes the agent led her down the route of partially withdrawing an uncrystallised lump sum and failed to explain that she could’ve transferred her pension to a flexible draw down plan. Miss B says she’d have saved around £10, 000 in tax, if she’d moved her fund to a draw down plan.

Following the call, Prudential sent Miss B information and forms for the withdrawal. Miss B now says this information wasn’t clear.

Miss B went ahead almost a year later in October 2016 and withdrew £35, 000. Miss B confirmed in her application form that she had taken advice from the government’s pensionwise service. Miss B was disappointed that she had to pay tax on part of the withdrawal.

Miss B believes she wasn’t treated fairly because Prudential didn’t tell her about the alternative way of withdrawing some of her fund tax free. As a result she believes she chose a less favourable option for her plan.

Our investigator considered the complaint and decided not to uphold it. He thought the Prudential agent wasn’t giving Miss B advice and didn’t lead her to make a partial withdrawal. He thought Miss B had been given information about the tax implications of the withdrawal and had been encouraged to take independent advice.

Miss B doesn’t agree with this view, so the matter has come to me for a final decision.

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 I’ve listened to the call between Miss B and the agent at Prudential in November 2015.

During the call Miss B explained that she wanted to withdraw 25% of her fund tax free and after a discussion about the value of the fund, settled on a figure of £50, 000.

The agent explained she could not give advice and could not make any recommendations. She confirmed Miss B would be given information only. The following information was provided:

- i. details were given of a government backed pensionwise service that was free to use. Miss B confirmed she would use this service;
- ii. there had been some changes to pension legislation and from April three different options existed for accessing money from a pension: annuity, income drawdown or taking some or all funds as a lump sum;

- iii. if Miss B took benefits from her with profits fund, it could lead to a market value reduction;
- iv. if Miss B withdrew £50, 000 25% of that withdrawal would be tax free, the 75% balance would be taxable at an emergency tax code rate. It would be for Miss B to sort out the correct tax;
- v. if Miss B withdrew all her funds now 25% would be tax free, the balance taxable;
- vi. as these were savings for life, Miss B should think carefully about how this could affect her future income, if withdrawals were taken now;
- vii. paperwork, including risk documentation, would be sent (and was sent) to Miss B by 7 December.

I don't agree that the agent led Miss B to take a partial withdrawal. The conversation was led by Miss B asking how to withdraw an amount from her fund and she settled on the figure of £50, 000.

As advice wasn't being given the agent didn't have to make recommendations about what was suitable for Miss B, but I agree she did have to give information. It was then for Miss B to make her own assessment about what best suited her needs.

The agent was clear from the outset that she wasn't giving advice and before she went into any detail she asked Miss B to confirm that would speak to the government pensionwise scheme, which she agreed to do. And having listened to the call, I think Miss B understood that it was for her to make a decision about the best next steps.

The agent did tell Miss B about the changes to pension legislation. The tax implications for withdrawing a sum from Miss B's fund were also clearly explained. Miss B confirmed she understood this when she said, "so only 25% of the chunk is tax free, on 75% I pay tax". She confirmed she wasn't looking to withdraw the full fund but understood that if she did so 25% would be tax free.

I've thought carefully about this, but I don't think Prudential did anything wrong here. The paperwork was sent to Miss B, including an Accessing your Pension brochure. The covering letter encouraged Miss B to read through everything and to take advice. The forms explained that under Miss B's plan, tax would be payable on 75% of any withdrawal made and that's consistent with the information Miss B was given over the phone. But again, the brochure also mentioned that drawdown was potentially another option – and with this, up to 25% tax-free cash could be taken out at the beginning.

I think Miss B was given enough information to be able to make a choice about whether to make a withdrawal. She was encouraged to take independent advice. And I've taken into account that it wasn't until almost a year later that she decided to make that partial withdrawal. So she had time to get advice or guidance and indeed said she had done so on her application form.

Miss B now says she thought the information provided to her at the time was confusing, but having listened to the call, I don't think there's enough to show Miss B was confused at the

time. And given how long had passed since November 2015, it would've been reasonable for Miss B to take some time to re-familiarise herself with all the potential options available.

I appreciate that Miss B feels she could've made a better decision that would've saved her some tax. But I don't think it's fair and reasonable to hold Prudential responsible for the decision Miss M made. So I won't be asking Prudential to do anything more.

my final decision

I appreciate that Miss B will be disappointed but for the reasons I've given, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 27 December 2017.

Sarah Tozzi
ombudsman