

complaint

Mr H complains that The Prudential Assurance Company Limited failed to collect premiums on his pension since March 2014. He says he told The Prudential in 2014 that he wanted to keep the plan in force (not take benefits) and continue to pay premiums. He also complains that when he tried to put matters right in 2016 by supplying a new direct debit The Prudential failed to re-start collection.

background

I issued a provisional decision on 20 October 2017. The background to the complaint is contained in that decision. A copy is attached and forms part of this final decision.

Mr H confirmed that he was happy with the provisional decision.

The Prudential did not accept the provisional decision. It said that Mr H's actions as to another pension he held with it should be taken into account. It said this second pension was a retirement annuity. This was arranged with a retirement date of September 2012. When retirement options were issued as to this plan in 2012 Mr H completed a form to defer taking benefits, identifying that he wanted to continue taking payments. It says if the deferral form is not returned then premium payments will continue.

It says the pension which is the subject of this complaint is different and if instructions are not received at the selected retirement date then premiums cease to be collected. It said that its view was that in the telephone call discussed in my provisional decision the conversation was predominantly about ensuring that benefits were not taken.

It says after the call Mr H was sent a Pension Options Selection Pre-retirement Questionnaire and this was similar to that received in 2012. It says that this document was in response to deferring his pension, rather than taking benefits and therefore Mr H was not led to believe he should ignore this form. The form itself discusses stopping premiums and deferring benefits.

The Prudential also says that Mr H should have noticed premium payments were not being taken as they were being taken for his other pension and it was his responsibility to make sure they were paid. Therefore it is not responsible for the missed payments since 2014.

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 have taken into account The Prudential's comments but I remain of the view that the complaint should be upheld. Mr H's reasonable interpretation of what he needed to do after the telephone conversation to allow his payment to be collected would be as he assumed – nothing. I do not believe that he should have known, by dealing with a different kind of pension about two years before this point, that what he was led to believe was wrong and he needed to do more.

I did consider in my provisional decision when it was reasonable for Mr H to have realised when payments were not being collected. In my view this was at the point when the annual

statement was issued. He would have no particular reason to think before this point, having been told by The Prudential that payments would be collected, that payments were not being collected.

my final decision

My final decision remains as set out in the attached provisional decision. If Mr H makes up the arrears on his pension then The Prudential should add the applicable tax relief to them. It should also pay a sum equivalent to the growth Mr H would have obtained on the missed premiums in the period that the premiums were missed from 2014 until the date of the 2015 annual statement. Ideally this should be applied to his pension but if it cannot then it should be paid to Mr H or used to reduce the arrears if he wishes.

The Prudential should now contact Mr H to give him the opportunity to pay any arrears and to re-start premium payments if he wishes.

The Prudential should also pay Mr H £200 for the inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 January 2018.

David Bird
ombudsman

copy provisional decision

complaint

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background

Mr H complained to The Prudential but it did not uphold his complaint. It said that Mr H had not returned a pensions option form in 2014 that would have allowed it to continue to collect premiums.

It also said that in 2016 it did not receive the direct debit Mr H said he returned. So it could not collect premiums at that point.

Mr H referred his complaint to this service. He questioned why The Prudential, having not received the options form back in 2014, did not chase him for it. He also asked why it had not chased him for the direct debit in 2016. He said he wanted to get his pension back on track.

An adjudicator at this service upheld the complaint. They said that, in a telephone conversation with The Prudential, Mr H had confirmed that he wanted to keep contributing to his pension. He was then told that he didn't need to do anything else for that to happen. So he would not have thought he needed to return any forms if he had received them.

The Prudential did not agree and said that the information Mr H had been given in the telephone conversation was about not vesting his pension, not continuing premiums. So he was not told he did not need to do anything for his premiums to continue. It also said that Mr H should have noticed premiums were not being taken from his bank account after March 2014 and that his annual statements showed that contributions were not being made to his pension.

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.

I have listened to the telephone conversation between Mr H and The Prudential employee about his pensions.

They talked about how Mr H wished to defer taking benefits from his pensions. And he makes it clear that he still wishes to continue contributions to his pension. It is confirmed that his pension will remain invested before he takes benefits or changes his investment instructions.

He clearly says he wants to 'carry on as normal' with his contributions. That is acknowledged and Mr H asks twice whether he needs to do anything further or sign anything, to which he is told, 'no'. He is told that if he gets anything else to do with his earlier conversation relating to the 'quotes' (which I assume are retirement quotes) he need not do anything. There is no guidance or information that he will need to do anything else to allow his pension to continue and contributions to continue – which would have been very straightforward to confirm.

I do not agree with The Prudential that Mr H would understand the guidance that he didn't need to do anything further or sign anything related to another issue. That may have been clear to Prudential but, based on the telephone conversation, it would not have been clear to Mr H. It is clear that Mr H would

reasonably understand that this guidance related to him deferring his pension and continuing with contributions.

So when Mr H was sent the options form he would reasonably believe that, as he had been advised, this did not need to be completed.

I therefore do believe Prudential are responsible for the fact that Mr H's premiums were not being collected after March 2014, up to a point.

Prudential has said that it would have been reasonable for Mr H to notice that premiums were not being collected after March 2014. In particular it says he was sent pension statements saying that payments to his pension had not been collected.

I have seen an annual statement dated 22 March 2016 which covers the period February 2015 to February 2016. This does state that no payments have been collected in that year.

The Prudential has confirmed that it does not have a copy of the 2014 to 2015 statement. So it cannot be known with absolutely certainty what information that contained. However, given that these were standardised statements, I believe it very unlikely that it would not have also recorded that zero payments had been made.

Although it is my view that The Prudential is responsible for the premiums not being collected from March 2014 I also have to consider if Mr H should have reasonably noticed at some point they were not being collected. As discussed, the 2016 annual pension statement does fairly clearly indicate no premiums have been collected and the 2015 statement would have likely said the same. It is also true that there was the potential for Mr H to notice that money was not being taken from his bank account.

I therefore think that on balance it would have been reasonable for Mr H to notice that premiums were not being collected on receipt of his March 2015 statement.

Bearing all this in mind I have considered what would be fair to put matters right.

Mr H has said he can make up the arrears and The Prudential has said if he does so then it can apply tax relief to them. So assuming Mr H does that then in terms of any material financial disadvantage to him it would appear that this is restricted to any growth he would have obtained on that money (which The Prudential is not offering to make up). Given my view that The Prudential is responsible for premiums not being collected until March 2015 I believe that a fair resolution would be for it to pay a sum equivalent to the growth Mr H would have obtained on the missed premiums in that period. Ideally this should be applied to his pension but if it cannot then it should be paid to Mr H or used to reduce the arrears if he wishes.

I also believe The Prudential's failure would have caused some significant inconvenience to Mr H and therefore intend to award him a further £200 in this respect.

I note Mr H has raised a further issue of premiums not being restarted in 2017 when he asked for this. The Prudential says it did not receive his direct debit. It is difficult to reach a definite finding on this issue based on the evidence – essentially I cannot find it is more likely that The Prudential is at fault. And I do not believe it has a proactive duty to chase for documents in this situation.

my provisional decision

I intend to uphold the complaint about the failure of premium collection in March 2014 and make the award discussed above.

The Prudential would need to make arrangements for Mr H to make up the arrears and collect future premiums.

David Bird
ombudsman