

## **complaint**

Mr B has raised a number of concerns about The Prudential Assurance Company Limited. In particular he feels that they have failed to provide him with accurate information about his pension figures.

## **background**

I issued my provisional decision on 6 March 2014. A copy is attached and forms part of this final decision. In summary I said that Mr B made a complaint to this service about Prudential on which an ombudsman issued a final decision in 2011. Mr B also complained about the firm of advisers that arranged his plan. That complaint was not upheld by this service. But, I understood that Mr B pursued that claim through court although the firm has since made a private settlement.

In summary it was felt that Mr B could have re-opened an existing plan with Prudential rather than start a new one. Prudential agreed to carry out a loss assessment when Mr B took his benefits to establish if he had been disadvantaged. My provisional decision was not to uphold the complaint.

I invited both parties to the complaint to provide any further evidence or arguments that they wished to be considered before I issued my final decision.

Mr B did not agree with my provisional decision. He said that:

- It was incorrect for me to say that he had received compensation. He had in fact recovered commission that Prudential had paid to the firm of advisers.
- I had not disputed that Prudential had repeatedly sent him incorrect information. The fact that he was unable to obtain the correct figures from Prudential had prevented him from making a larger claim against his advisers.
- It appeared that I believed it was acceptable practice for firms to provide *'false information and incorrect pension plan figures'*.

Prudential had nothing further to add.

## **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 acknowledge that Mr B received a payment from the adviser for the commission that had been paid. Prudential said that it will not take account of this in its calculation.

Prudential has to make some calculations when Mr B takes his pension benefits. It will need to explain how it made those calculations. If Mr B is not happy at that stage he will be able to refer a complaint to this service. One option could be to ask an independent firm to review the calculations. Our normal approach to those situations is to say that a consumer would need to meet those costs themselves. If that review shows Prudential's calculations were wrong then an ombudsman could consider making an award for the reasonable costs incurred.

Mr B says that the incorrect information given by Prudential meant that he wasn't able to make a larger claim against his adviser. I accept that Prudential hasn't provided a reasonable level of service. It has already made payments for that. In my view, if Prudential calculates the loss Mr B has suffered that will fully compensate for his loss. I understand that Prudential will not take account of the payment he has received as a refund of the commission from his adviser. I'm not satisfied that any incorrect information given by Prudential will cause any additional loss. That's because I think the refund that has been made is closely related to the loss.

I realise that this is not the decision Mr B would like. But I don't think it is appropriate for me to make an award at this stage.

### **my final decision**

My final decision is that I do not uphold this complaint.

Under our rules, I'm required to ask Mr B to accept or reject my decision before 9 November 2015.

Roy Milne  
**Ombudsman**

## Copy of provisional decision

### complaint

Mr B has raised a number of concerns about Prudential. In particular he feels that they have failed to provide him with accurate information about his pension figures.

### background

Mr B made a complaint to this service about Prudential on which an ombudsman issued a final decision in 2011. In summary it was felt that Mr B could have re-opened an existing plan with Prudential rather than start a new one. Prudential agreed to carry out a loss assessment when Mr B took his benefits to establish if he had been disadvantaged.

Mr B also complained about the firm of advisers that arranged his plan. That complaint was not upheld by this service. But, I understand that Mr B was going to pursue that claim in court although the firm has since made a private settlement.

A number of further issues were raised with Prudential by Mr B throughout 2013/14. These mainly centred around information and figures requested by Mr B about his potential benefits.

Mr B referred his complaint with Prudential to this service in 2014. In summary he said that:

- He had been trying to obtain figures from Prudential to determine the full extent of his financial loss.
- As Prudential had not provided him with accurate figures he was only able to claim a limited amount of compensation from his (former) advisers.
- As a result of the above Mr B felt that he could not rely on Prudential to correctly calculate the level of compensation he would receive when he took benefits.

Mr B has provided this service with copies of his correspondence with Prudential and a detailed breakdown of the figures and information he is querying.

The case was assigned to one of our adjudicators who didn't feel that we should investigate the complaint. In his view, the issues raised could be traced back to the original case against Prudential. As this service had already asked Prudential to take action when Mr B was due to take benefits he didn't think it was appropriate for us to revisit the matter.

Mr B didn't agree with the adjudicator. He felt that

- *'I am seeking the appointment of an independent accountant to check the compensation figures when I take benefits. The Prudential are to pay the accountants fees.'*
- Mr B also reiterated his concern that the Prudential has *'repeatedly sent me false information'* and stated that he was worried by Prudential's claim that they didn't keep information on the growth rate of their pension plan.
- The reason that he'd requested figures from Prudential was so that he could *'establish how much compensation I was owed by my IFA and their parent company'*.

A submission was also made on Mr B's behalf by his MP. That repeated Mr B's complaint that Prudential prevented him from obtaining proper compensation by repeatedly providing false pension plan figures and misleading information. And because of the number of times Prudential have sent Mr B false figures he is concerned that he won't receive the correct amount when he takes his pension benefits.'

The MP went on to say that Mr B was simply trying to ensure that he would receive the correct benefits in line with the 2011 ruling.

The complaint was passed to one of our ombudsmen who agreed the complaint should be dismissed. Mr B then made further submissions which led to the case being re-opened and assigned to me.

### **my provisional findings**

Mr B has made two complaints to this service about his policy previously – one against Prudential and one against his IFA. The complaint against the IFA was not upheld. But, this service did agree that Prudential should redress Mr B. Prudential is to run a calculation at the point Mr B decides to take benefits to establish if he has lost out as a result of its error. If he has been then redress will be payable.

I understand that Mr B disagreed with the decision made by this service not to uphold the complaint against the IFA. He was paid compensation by the IFA. The aim of this service when awarding redress is to put a consumer back into (as closely as possible) the position they would have been had an error not occurred. I'm satisfied that the calculation Prudential will carry out will do this for Mr B.

I appreciate that Mr B is concerned that mistakes by Prudential have led to him losing faith that they will calculate his loss accurately when he retires. But, that will only be established when he is due to take benefits. I don't think it is reasonable to ask Prudential to take extra steps at this point. In my view this would be altering the original redress from 2011. I don't think it's appropriate for me to do so. I have also noted that Prudential have made payments for the distress and inconvenience caused by its errors.

I can make an award for the distress and inconvenience caused by a firm's mistake. These tend to be modest in nature and aren't intended to be punitive. I think that the amounts paid to Mr B by Prudential are in-line with what this service would recommend in similar circumstances.

I don't think it is appropriate for me to say that Prudential should pay for an independent firm to check its calculation. When Prudential calculates the loss it should provide Mr B with a copy of its calculation. It should also explain how the calculation was made.

If Mr B has concerns that the calculation is incorrect when it is carried out he may appoint a firm of specialists to conduct an assessment. If an error is made then it would be at that point that he would have grounds for complaint. I think he would be able to refer that complaint to this service. Our normal approach is that a consumer should pay for those costs. But, if a complaint is referred to us and a mistake is identified we will consider whether to make an award for reasonable costs incurred by the consumer.

There is one final point I should make. The award made in 2011 was to compare the benefits Mr B could have received if he had restarted his existing plan with the benefits he will actually receive. Since then, Mr B has received compensation from the IFA. As I understand it that was to recover the costs of starting the new plan. It seems to me that the payment relates to the pension benefits. This wasn't mentioned in the award made by my colleague. But, I think it could be taken into account by Prudential.

We contacted Prudential to establish whether this payment would be taken into account in its calculations. It said that it wouldn't do so.

### **my provisional decision**

My provisional decision is that I do not uphold this complaint.