

complaint

Mr M complains about how The Prudential Assurance Company Limited assessed the transfer of his pension benefits. He's unhappy with their decision that it wasn't in his best interests to transfer one of the scheme benefits, the amount of time it took to carry out the analysis and the service that they provided.

background

I attach my provisional decision of 24 January 2019, which forms part of this decision. In my provisional decision I set out why I intended to uphold Mr M's complaint. I invited both parties to provide any further evidence or arguments that they wanted me to consider before I made my final decision.

Prudential accepted the outcome that I reached in my provisional decision. They explained however that the redress methodology I proposed directed them to increase Mr M's Retirement Account in the event a loss was found. But as this may be considered as an unauthorised payment, and therefore subject to a tax charge, any loss identified would be paid directly to Mr M.

Mr M accepted the provisional decision and confirmed that he was a basic rate taxpayer.

I explained to both parties that I intended to direct Prudential to pay any loss identified to Mr M as a lump sum after making a notional deduction to allow for income tax that would otherwise have been paid. 25% of the loss would be tax-free and 75% would have been taxed according to Mr M's income tax rate confirmed as 20%. So making a notional deduction of 15% overall from the loss adequately reflects this.

my findings

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

Neither Mr M nor Prudential have objected to my provisional decision or to the change of redress methodology that I've since set out. I therefore find no reason to depart from my earlier conclusions.

my final decision

My final decision is that I uphold this complaint.

To put things right, I order The Prudential Assurance Company Limited to do the following:

- Contact the scheme B provider and obtain a CETV with a statement date of 18 August 2017.
- Use the 28 March 2018 as the date Mr M would've received the funds in his account.
- Deduct £35,000 to reflect the tax free cash taken by Mr M.
- Deduct the same monthly income payments that Mr M has taken.
- Compare this value against the current value of Mr M's account – assuming the funds were invested on the same basis.
- If a loss is identified then The Prudential Assurance Company Limited should pay this directly to Mr M as a lump sum after making a notional deduction to allow for income tax that would otherwise have been paid. 25% of the loss would be tax-free and 75% would have been taxed according to Mr M's income tax rate confirmed as 20%. So making a notional deduction of 15% overall from the loss adequately reflects this. If there is no loss found then no action needs to be taken.
- Pay £400 compensation to Mr M for the trouble and upset this matter has caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 April 2019.

Daniel O'Dell
ombudsman

Copy of provisional decision

complaint

Mr M complains about how The Prudential Assurance Company Limited assessed the transfer of his pension benefits. He's unhappy with their decision that it wasn't in his best interests to transfer one of the scheme benefits, the amount of time it took to carry out the analysis and the service that they provided.

background

Mr M held pension benefits in two schemes that he'd accrued from a former employer. He met with a Prudential adviser on 17 July 2017 to discuss the transfer of these benefits. It was recorded that Mr M had chosen to retire early when he was made redundant about 18 months prior to this meeting, at the age of 63, rather than seek re-employment. To cover his expenditure costs of about £10,000 per year during these 18 months he used redundancy money and savings. But he wanted to use benefits from the two pension schemes to fund his retirement going forward.

At the time of the meeting, the Cash Equivalent Transfer Value (CETV) for one of the schemes had already expired and the other was due to expire at the end of August. This meant new CETVs had to be requested. Prudential's records show they first contacted the schemes to request new CETVs on 20 September 2017.

An updated CETV of £192,400 was sent to Prudential from one of the pension schemes ('scheme A') on 5 October 2017. This was guaranteed until 3 January 2018.

The second scheme ('scheme B') sent an updated CETV of £163,110.46 on 27 October 2017. This was guaranteed until 24 April 2018 – six months from the statement date of 24 October 2017.

A transfer analysis was carried out by Prudential for the scheme A benefits on 16 November 2017. This explained that to replace the benefits provided by the former scheme, an annual investment return of 64.3% was required up to retirement. It also said that in the event the former scheme was underfunded and ultimately became insolvent, a lower level of benefits may be provided by the Pension Protection Fund (PPF). And that an annual investment return of 38.8% up to retirement would be required to match the benefits that would be provided by the PPF.

Prudential then ran scheme A through their retirement modeller on 12 December 2017. And on 18 December 2017 they called Mr M informing him of their decision for him to retain his pension benefits in the scheme.

A transfer analysis was carried out by Prudential for the scheme B benefits on 12 February 2018. This explained that to replace the benefits provided by the former scheme, an annual investment return of 31.7% was required up to retirement. It also said that in the event the former scheme was underfunded and ultimately became insolvent, a lower level of benefits may be provided by the Pension Protection Fund (PPF). And that an annual investment return of 0% up to retirement would be required to match the benefits that would be provided by the PPF.

Prudential then also ran scheme A through their retirement modeller on 12 February 2018.

A suitability report was completed by Prudential on 28 February 2018 which recommended the transfer of Mr M's pension benefits with scheme B to a Prudential Retirement Account. Mr M subsequently met with the Prudential adviser on 12 March 2018 and the necessary paperwork was signed and forwarded to the scheme a couple days later. Scheme B transferred the funds to Mr M's Prudential Retirement Account on 30 April 2018 and they were received on 3 May 2018. Mr M took £35,000 of his pension fund as tax free cash and a monthly income of £833.33 since.

Prudential sent Mr M a letter on 16 March 2018 confirming that they didn't think it was in his interests to transfer scheme A pension benefits at that time.

Mr M complained to Prudential about their decision not to transfer his scheme A benefits. He was unhappy that the two schemes hadn't been evaluated as one transfer, with the amount of time this analysis was taking and also with the service they provided – particularly in respect of the lack of communication.

Prudential acknowledged his dissatisfaction and that his dealings with them had not been as smooth as they should've been. They explained that it initially seemed that the transfers would be viable and so this is why the team would've been enthusiastic about pursuing it for him. But there were delays along the way such as having to obtain new CETVs from the two pension schemes. And although there were a few weeks left on the CETV(s) the process usually takes a minimum of three months.

They went on to explain that after receiving the updated CETVs they passed them to their pension transfer specialist. And unfortunately in Mr M's case they came to the decision that the transfer of scheme A wasn't something they could recommend, although there was a different outcome for scheme B. They said it was their belief that there was more financial danger in transferring than in not doing so, and they couldn't see any way they could grant an exception. They did however accept that Mr M should've been informed of their decision sooner along with the reasoning for it. So they offered £400 in recognition of this.

Mr M brought his complaint to our service. Our adjudicator looked in to it but he didn't think Prudential had to do anything further. He thought their decision to advise against the transfer of scheme A benefits was reasonable and that the £400 they'd offered for the delays was sufficient.

Mr M disagreed and so the matter has been passed to me to review.

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 understand Mr M is unhappy that Prudential assessed the suitability of transferring the two schemes separately. And that he's also questioned why the drawdown sum he required of £10,000 per year was assessed against the CETV of scheme A, rather than the combined CETV of both schemes. Although I appreciate Mr M's views on this, I think it would be helpful to explain that the schemes had to be looked at separately as they provided different benefits that he would be giving up as result of transferring. Prudential therefore had to carry out their analysis to determine whether or not the CETV that was offered by each scheme was enough to justify doing so.

The critical yield figures, which provide an indication as to whether a transfer would be worthwhile, were based on a number of factors including - amongst others – the CETV offered, the benefits provided by the existing scheme and reasonable assumptions of future investment growth if transferred. I appreciate Mr M thinks the drawdown sum of £10,000 ought to have been adjusted to reflect the CETV of each scheme. But this doesn't change the critical yields that were calculated to determine the level of growth required for each scheme to be able to provide the same level of benefits that would be given up if transferred. I therefore don't think Prudential acted wrongly by looking at the transfer of the two schemes separately, or that the analysis of whether it was in Mr M's best interests to transfer was carried out inappropriately.

I have however looked at how long it took Prudential to carry out their analysis of the transfer of the two schemes. Having done so, I think Prudential ought to have contacted the pension schemes to request new CETVs sooner. I'm not aware of any reason to explain why Prudential took until 20 September 2017, about two months after Mr M's meeting with the adviser, to do this. I think this was an unnecessary delay that could've been avoided. I've therefore considered the impact this delay had

on assessing the suitability of transferring the two schemes. I've looked at the scheme benefits separately.

scheme A

Pension scheme A sent an updated CETV to Prudential on 5 October 2017. A transfer analysis was then completed by Prudential on 16 November 2017 and ran through their retirement modeller on 12 December 2017. Prudential then spoke with Mr M on 18 December 2017 to explain that their decision was that it was in his best interests to retain his scheme A benefits.

Although I realise Mr M's dissatisfaction with how long this took, I don't think it was an unreasonable amount of time. Assessing the suitability of transferring pension benefits is a complex matter and it can take several months. So I don't think a period of about two and a half months is unusually long. And given Prudential's decision was to retain the scheme benefits, I don't think the delay in requesting a new CETV adversely impacted Mr M. This is because the process of assessing the suitability of transferring the pension benefits was always going to take some time. And the CETV was only guaranteed until 3 January 2018 – about three months. So following Prudential's decision to retain the scheme benefits, it was always likely that Mr M was going to have to obtain a further CETV if he still wanted his benefits transferred through seeking advice elsewhere.

I've also looked at Prudential's decision that it was in Mr M's best interest to retain his scheme A benefits. While I know he may be unhappy with the decision, I don't think it was unreasonable based on the critical yields that were obtained as part of the transfer analysis. I say this as in Mr M's case the critical yields were extremely high – even in the event the scheme became underfunded or insolvent – so I don't think Prudential's recommendation to retain the scheme benefits was inappropriate.

It follows that I don't think Prudential needs to do anything further in respect of Mr M's scheme A benefits.

scheme B

Pension scheme B sent an updated CETV to Prudential on 27 October. Prudential completed a transfer analysis, as well as running it through their retirement modeller, on 12 February 2018. A suitability report was subsequently completed at the end of February and Mr M met with the adviser on 12 March 2018 to complete the necessary paperwork. The scheme benefits were transferred at the end of April and the funds were received in Mr M's Prudential Retirement Account on 3 May 2018. The entire transfer process, from receipt of the updated CETV, took about six months.

I understand Mr M says he was told the process usually takes less than three months and so his expectations therefore were that the transfer of his benefits would've happened much sooner. That said, and as I've previously explained, assessing the suitability of transferring pension benefits is a complex matter. So although I think it could've been done quicker, I again don't think the overall time it took, from receipt of the updated CETV, was necessarily too long. Prudential took about four months to carry out their transfer analysis and complete the suitability report for Mr M. Following this, the transfer of Mr M's scheme benefits was also reliant on the scheme provider – and so it wasn't entirely in Prudential's control. Overall, I'm not persuaded Prudential caused any undue delay during this period.

It follows that I don't think Prudential caused any further significant delay other than not requesting the CETV sooner. But, given the decision was to transfer the scheme B benefits, the delay in not requesting the CETV sooner has potentially caused Mr M to suffer a financial loss due to possibly missing out on a higher CETV as well as the opportunity of investment growth. I therefore think Prudential needs to carry out a comparison, based on benefits being transferred earlier, to see if Mr M has suffered a loss.

To do this I think Prudential should contact the scheme B provider to find out what the CETV of Mr M's benefits would've been with a statement date of 18 August 2017. I've chosen this date on the basis Prudential requested the CETV at the time of the initial meeting, rather than on 20 September 2017, and that it would've still taken the scheme provider the same 24 working days to calculate. I realise this isn't necessarily the statement date that would've been provided had it been requested sooner, but I think it's reasonable to use in the circumstances.

On the assumption the subsequent process of transferring the scheme benefits would've taken the same amount of time, Prudential should look at the difference of what the value of Mr M's Prudential Retirement Account would be had the funds, from the CETV of 18 August 2017, likewise been received 24 working days earlier – so on 28 March 2018. Prudential should assume the funds would've been invested in the same way.

I've also considered whether, as part of the loss comparison, Prudential ought to take in to account that Mr M could've taken additional income had it been transferred earlier. But, having done so, I'm not persuaded that this delay severely impacted Mr M in this respect or that Prudential need to this in to account. I'll explain why.

Mr M didn't take the full 25% tax free cash available to him and I'm aware that it was recorded at the time of the meeting that he wanted £35,000 tax free cash. So I don't he would've taken any more tax free cash even if the CETV was higher. On balance I think it's most likely he would've taken the same amount.

If the transfer went through earlier Mr M could've received additional monthly payment(s). But this would've reduced the value of his pension fund. So Mr M still has that money available to him and he could've taken more than the £833.33 monthly income if he required it. So I don't think he's been significantly disadvantaged as a result of this. I therefore believe it would be fair, and simpler, for Prudential to carry out the comparison based on Mr M having taken the same amount of tax free cash as well as the same monthly income payments.

If the comparison shows Mr M's Prudential Retirement Account would be greater had the earlier CETV been obtained and transferred sooner, than Prudential should increase Mr M's account to reflect this.

I've also considered the £400 Prudential has offered Mr M. I know Mr M feels very strongly that this isn't sufficient but taking everything in to consideration, I think it is a reasonable amount to recognise the trouble and upset this matter has caused him. I'm therefore not intending to increase it further.

my provisional decision

My provisional decision is that I uphold this complaint.

To put things right, I intend to order The Prudential Assurance Company Limited to do the following:

- Contact the scheme B provider and obtain a CETV with a statement date of 18 August 2017.
- Use the 28 March 2018 as the date Mr M would've received the funds in his account.
- Deduct £35,000 to reflect the tax free cash taken by Mr M.
- Deduct the same monthly income payments that Mr M has taken.
- Compare this value against the current value of Mr M's account – assuming the funds were invested on the same basis.
- If a loss is identified then The Prudential Assurance Company Limited should increase Mr M's Prudential Retirement Account to reflect this. If there is no loss found then no action needs to be taken.
- Pay £400 compensation to Mr M for the trouble and upset this matter has caused.

Daniel O'Dell
ombudsman