

## complaint

Mr P's complaint arises from an internal exercise conducted by the Prudential Assurance Company Limited (Prudential), in which it closed its Invesco Perpetual Managed Growth (Series A) fund ("the IPMG fund") and moved investors' policies in that fund to its International (Series A) fund ("the International fund"). His complaint is based on seven listed issues, each reflected below. Overall he alleges that the exercise was flawed and that it affected the value of his pension related investment(s). He seeks compensation in this respect.

## background

Available evidence suggests the following chronology:

- During 2017 Prudential appears to have made the commercial decision to phase out the IPMG fund and to replace it with the International fund. It says the decision was made because the former was not providing good value for money and because the latter has a similar investment strategy but a lower annual management charge.
- Prudential set itself an internal target to complete the transition of policies by the end of 2017. It did not meet this target. In Mr P's case, the transition of his policies from the IPMG fund to the International fund was completed on 16 March 2018 and Prudential says this is when the IPMG fund was finally closed.
- Prudential said it reflected on missing its initial completion target and decided to make goodwill payments to reflect this – based on the difference in the performance of both funds between 14 December 2017 (its initial target date) and 16 March 2018 (the date on which the transition was completed). It calculated that the International fund performed 0.43% better than the IPMG fund. It applied this to the value of Mr P's investment. The outcome appears to have been slightly wrong but it was rounded up – beyond the accurate figure – to £175, which Prudential sent to Mr P as a *goodwill* payment to reflect the missed target.

Mr P did not accept the payment. He sought to clarify the circumstances surrounding the matter, then concluded that Prudential's responses were unacceptable and submitted his complaint. The seven issues/grounds of the complaint are:

- A request for "*confirmation of the exact timings of events ...*" beginning from when Prudential decided to conduct the transition exercise and ending with the notice he received in October 2018 about the matter. In addition, Mr P requested an explanation behind each relevant event. [issue 1]
- Mr P suggested that the £175 offer had been misrepresented as a goodwill payment, because around £170 accounted for loss of investment interest and perhaps only the remainder was a goodwill payment. [issue 2]
- Mr P submitted that compensation for loss of growth, upon the investment interest amount and up to his retirement age, remains outstanding from Prudential. [issue 3]
- Mr P also submitted that Prudential's concession that it made an error on his investments as a result of missing its target also remains outstanding. [issue 4]
- Mr P queried whether (or not) other investors had been affected by the matter. [issue 5]
- Mr P requested that Prudential treat the matter and his complaint seriously. [issue 6]
- Mr P said he is due a "*... proper compensation payment, including losses and goodwill.*" [issue 7]

Prudential did not uphold the complaint. Broadly speaking, it maintained that it had done nothing wrong with regards to Mr P's investments and that its goodwill payment offer resulted only from its reflection over having missed its internal target – the implication being that the offer was wholly discretionary and did not indicate the wrongdoing alleged by Mr P. The complaint was referred to this service. One of our adjudicators looked into it and challenged Prudential on the basis of the points that Mr P made. However upon receipt and consideration of its response, explaining the transition exercise, she concluded that Prudential's rounded up goodwill payment offer was fair and should be accepted.

Mr P disagreed with this outcome. In the main, he considered that his specific grounds for complaint – especially those related to the value of his investments – had not been properly addressed and he asked for an ombudsman's 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.

The responsibilities of and powers within this service are not the same as those of the industry regulator – the Financial Conduct Authority (FCA). Our remit, in the context of "investments", is to address eligible complaints about regulated activities (and ancillary activities). Where a firm's business practice is relevant to a complaint it will be considered, however our role is not to audit such practice in a wider sense or to override a firm's reasonable commercial discretion in carrying out its practice. This defines my approach to Mr P's complaint.

The first point to note is that evidence suggests Mr P's pension was not left un-invested at any point during Prudential's transition exercise. It appears that it remained invested in the IPMG fund until the transition to the International fund in March 2019. It is not his complaint that the IPMG fund was unsuitable or that he had given an instruction to Prudential to switch funds which it did not carry out.

I appreciate that Prudential's action in switching the funds and its explanation that, essentially, the International fund was a better product for its investors (including Mr P) carry the seemingly obvious implication that it was indeed a better fund than the IPMG fund. Reference to the International fund's performance being 0.43% better than that of the IPMG's during the period stated above might also be said to lend itself to this conclusion. However, establishing that it was a better fund for Mr P does not automatically mean that the IPMG fund was unsuitable.

Mr P might consider the above comments to be irrelevant to his complaint, but I am persuaded that they more likely (than not) relate to why both parties have disagreed over this matter. In the absence of responsibility for a period in which Mr P's pension was un-invested, in the absence of responsibility for an unsuitable investment and in the absence of investment switching instructions from Mr P that were not carried out, it appears fair and reasonable for Prudential to conclude that it has done nothing wrong with specific regard to Mr P's investments. Any of these responsibilities, or a failure to carry out an instructed investment switch, could create a basis for the point made by Mr P in issue 3 – that is, a basis for the alleged loss of future growth. In their absence and in the circumstances of this complaint no such basis exists. In other words, without establishing that Prudential has caused such harm to Mr P's pension it would not reasonably follow that it should be held responsible for an alleged loss of future growth.

Mr P considers that Prudential has caused harm to his pension by missing its target for the fund switch. Closure of the IPMG fund was not an error, it was intended and planned by Prudential based on what appears to be reasonable commercial reasons. Its closure did not happen before Mr P's pension was switched to the International fund so the pension was not left un-invested for any period of time. No harm to his pension arose in this specific regard.

Based on Prudential's internal target, the fund switch happened around three months late. I appreciate Mr P's point that this constitutes an error or failing, regardless of it being based on Prudential's self-imposed internal target – as opposed to a contractual or regulatory obligation. Nevertheless, Prudential has made an offer that caters for this delay. It appears to have tried to make the offer more meaningful by using the difference in performance between both funds during the delay as its calculation basis. In response to issue 4 and based on its communications to Mr P and to this service, I am persuaded that Prudential has done enough to concede that something went wrong in its pursuit to meet its internal target and that it has offered Mr P a fair amount of compensation in this respect.

I do not consider the dispute in issue 2 – over the expression “goodwill payment” – to be as important as Mr P might say it is. Prudential already asserts (and accepts) that the rounded-up figure of £175 is based on the notion of lost net performance (between the two funds). This shares some common ground with what Mr P says in issue 2. However, Prudential's view – which does not appear to be disputed by evidence – is that it was not “obliged” to switch the funds by a particular deadline, so the decision to make the offer arises mainly from its *goodwill*. On the other hand, Mr P is entitled to conclude that he deserves the offer, at the very least, because Prudential should have completed the switch by December 2017. Either way, the delay has been conceded and compensated for.

Based on available evidence, I do not consider that Prudential did not take Mr P's case seriously – [issue 6] – and it follows from my findings above that Prudential's goodwill offer to Mr P was fair and that it is not responsible for the alleged losses – [issue 7].

Issue 1, at its core, appears to suggest that Prudential's process for and management of the exercise was flawed. I consider that Prudential could have done better in this respect – two prominent examples being its communication of the matter to Mr P in October 2018, seven months after the delayed switch had taken place (in March 2018), and what appears to have been a lack of concurrent communications, at key stages, to investors like Mr P as the exercise began and was ongoing. However, I repeat that it is not within the remit of this service to audit a firm's business practice in a wider sense. With specific regard to Mr P, I am not persuaded that this creates sufficient ground to increase the goodwill offer made to him. My conclusion that Prudential could have done *better* in its communications does not automatically amount to a finding that it mismanaged the exercise or that additional compensation is due. Overall, I consider the offer of £175 is fair.

I do not consider that information arising from issue 5 is likely to add weight to the complaint. It might or might not be the case that other investors were affected by Prudential's delay, but it remains the case that Mr P's complaint is to be – and has been – addressed on its own merits.

### **my decision**

For the reasons given above, I uphold Mr P's complaint but only on the basis that the £175 offered to him by Prudential Assurance Company Limited is fair and reasonable compensation. If Mr P accepts this decision and if the cheque previously sent to him can no longer be cashed (and is

cancelled) I order Prudential Assurance Company Limited to re-issue payment of the £175 compensation to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 19 March 2019.

Roy Kuku  
**ombudsman**