

complaint

Mrs S is unhappy with the information given by The Prudential Assurance Company Limited (Prudential) regarding the withdrawal of funds from her pension.

Mrs S is also unhappy with the service provided by Prudential throughout the course of her complaint.

background

Mrs S contacted Prudential on 21 March 2016 with a view to drawing funds from her pension. She asked about the timescales for doing so as she was aware the tax year was coming to an end on 5 April 2016. She had other plans in place for the following tax year and so it was important that she be able to withdraw the funds in time.

Prudential told Mrs S that as long as it received the paperwork by 5 April 2016 she would be able to claim the tax benefits in the 2015/2016 tax year.

Mrs S' financial advisor contacted Prudential the next day, 22 March 2016, to request the relevant paperwork.

Mr S then spoke with Prudential on 4 April 2016 on Mrs S' behalf. This was to confirm she wanted to go ahead with the withdrawal of funds and that the forms would be sent soon. In this call Mr S was told it would take 48 hours for Prudential to scan the relevant documents. It would then be a further eight working days for the payment to be processed.

Prudential told Mr S this meant the funds couldn't be applied to the 2015/2016 tax year. It said payment would have to be processed before 5 April 2016 passed to qualify and it was too late for that to happen.

This was different to what Mrs S had been told before and so a complaint was raised. Mrs S feels that she has lost out on the tax benefits as a result of the incorrect information she was given.

Mrs S is also unhappy that Prudential wouldn't use its special concessions process to prioritise her payment. She feels let down by how Prudential have handled the complaint and her requests for information, such as call transcripts.

Mrs S wants Prudential to pay her the amount of the tax benefits she missed out on through not being able to take her pension funds when she wanted to.

Prudential offered £50 to resolve the complaint. It recognised it had given incorrect information but didn't think it had to cover the losses claimed by Mrs S.

Mrs S was not prepared to accept that offer and so brought her complaint to us. One of our investigators looked at all that had happened and recommended the complaint be upheld in part.

He felt that the offer of compensation wasn't enough given what Mrs S had been through and the disappointment caused by the incorrect information. He suggested Prudential pay a total of £150 in compensation.

He didn't believe Prudential should cover the loss of tax benefits. He felt that although the information given was wrong, there would not have been enough time – between 21 March and 5 April 2016 – for a payment to be made before the end of the tax year.

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 believe the outcome reached by the investigator is fair and reasonable in the circumstances. I'll explain why.

There is no dispute over whether Prudential gave Mrs S incorrect information. All parties are agreed on that and I've seen it confirmed in Prudential's system notes. Mrs S was clearly told she'd be able to apply the funds to the 2015/2016 tax year if she got her paperwork to Prudential by 5 April 2016. But that was wrong as the payment needed to have been processed before the new tax year began.

When incorrect information is given the remedy is not to put someone in the position they would have been in had the information been true. That is to say, it wouldn't be right for Prudential to pay Mrs S for the loss of tax benefits because it gave her incorrect timescales. Instead, Mrs S must be put back in the position she would have been in had the error not occurred.

Mrs S first contacted Prudential about withdrawing pension funds on 21 March 2016, the same day she was given the incorrect timescales. What I need to consider is how that impacted on Mrs S' ability to make the withdrawal she wanted.

I don't see that there was enough time for the process to have been completed before the end of the tax year. I accept that Mrs S might have looked to get her request to Prudential sooner than she otherwise did. But I don't believe there were enough working days for payment to be made before 6 April 2016.

Prudential told Mr S it would take 48 hours to process any paperwork and then a further eight working days for the payment to complete. It has told us it would likely take a total of 18 working days for the complete process to take place. That would include the sending of documents back and forth and the same eight working days to process the payment. That's in line with what I'd expect to see with withdrawals of this nature. I may even expect it to take longer given the increased workload for businesses like this at the end of the tax year.

The payment processing time of eight working days would have made it very difficult for Mrs S to receive her funds in time. There would then have been the time taken to complete, send back and process the forms to factor in. The difficulties are further increased when we consider when all this was happening. It was the Easter weekend over 25 to 28 March 2016 and so two working days were lost.

I don't believe there was enough time for Mrs S to receive her pension funds even if she had been given the correct timescales on 21 March 2016.

Mr and Mrs S believe that Prudential could have still helped by using its concessions process to push the payment through more quickly. But given what I've said about there not actually being enough time from the outset I don't believe it's an action Prudential should

have taken. And even if it had tried, I don't believe the payment would have completed by the end of the tax year anyway. The incorrect information was only discovered on 4 April 2016, allowing little over a working day for paperwork to be received, processed and payment made.

I can see why this situation would have been frustrating and distressing for Mrs S and her family. I imagine it came as a huge disappointment to find out that the pension funds couldn't actually be accessed when wanted. And I can see that Mr and Mrs S had numerous conversations with Prudential after discovering what had gone wrong. Our investigator recognised that and recommended compensation of £150 which I believe to be fair and reasonable in the situation.

There will always be a degree of inconvenience in raising a complaint with a business. That in itself isn't a reason for compensation to be awarded. Mr S has referred to the amount of time that's been spent in trying to get this problem resolved and to an hourly rate during a phone call with the investigator. But that isn't really how we determine the amount of compensation.

Prudential might have handled some of Mr and Mrs S' queries better. For instance, explaining exactly what it would be sending and why. I'm particularly thinking about the call recordings and transcripts here, but looking at everything as a whole. And in considering those points, along with the disappointment caused by the wrong information, I believe that £150 is a fair and reasonable award to make.

my final decision

My final decision is that I uphold this complaint and direct The Prudential Assurance Company Limited to pay Mrs S £150 in compensation.

The Prudential Assurance Company Limited must pay the compensation within 28 days of the date on which we tell it Mrs S accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 23 February 2017.

Ben Murray
ombudsman