DRN-4569571

The complaint

Mr G has complained about the delays by The Prudential Assurance Company Limited (Prudential) in transferring his personal pension to a Qualifying Recognised Overseas Pension Scheme (QROPS) in Australia, where Mr G resides. He has also complained about the level of customer service he has received during this process.

What happened

Mr G requested the transfer of his pension from Prudential to the QROPS in May 2022. This was shortly before his 55th birthday.

In processing the transfer Prudential said it applied the guidance included in the Combating Pension Scams: A Code of Good Practice (CPS Guide), along with applying The Pension Schemes Act 2021 pertaining to transfers. And specifically, in line with Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021, Prudential needed more information before it could satisfy itself that Mr G wasn't at risk of a pension scam before it could authorise the transfer. So it wrote to Mr G to ask for this.

Rather than using its secure messaging service Prudential posted its letter to Mr G in Australia. And this appears to be the start in a long line of delays Mr G suffered.

I don't intend to detail every delay that occurred as each party is fully aware of what took place. And Prudential has accepted that it hasn't provided a good level of customer service and had unnecessarily delayed the transfer so there is no need for me to set out the full details of all the delays.

But generally speaking, the delays were not only due to Prudential mailing important documents to Mr G, they seem to have also been caused by Prudential missing some of the information that Mr G had provided, Prudential requesting the same information numerous times even though it had already been provided and Prudential missing messages from Mr G through the secure service.

Prudential accepted its failings in its final response letter (FRL) dated 4 August 2022. It provided the details of the information it needed from Mr G to proceed with the transfer process and it offered Mr G £225 in recognition of the poor customer service.

In response to this Mr G remained unhappy as there was no indication from Prudential whether the transfer was still being considered.

Following this, Prudential issued another seven FRL's (up to September 2023) explaining what had gone wrong and why the transfer still hadn't proceeded. Prudential also continued to ask for more information and award more and more amounts in recognition of the distress and inconvenience it had caused.

Prudential also stated that because of the delays once the transfer was completed it would conduct a loss assessment to ascertain whether Mr G had suffered a financial loss by his transfer not taking place within a reasonable length of time.

Mr G referred his complaint to this Service because he was unhappy with the offer from Prudential and because he was frustrated that the transfer had still not gone through at that point in time.

The complaint was assessed by one of our investigators. While Prudential had failed to provide key information (despite it being requested) the investigator was satisfied that Prudential had unnecessarily delayed the processing of the transfer and that if the transfer proceeded a loss assessment would have to be carried out upon completion. He also asked for clear details of what information remained outstanding that was holding up the transfer in an attempt to progress the matter.

In response to this Prudential wrote to Mr G to explain that he needed to attend an appointment with Money Helper as a requirement under the legislation above. I have seen a letter dated 21 August 2023 where Mr G is informed of this but Prudential has stated this was first communicated to Mr G in January 2023. However, it hasn't provided any evidence to support this. Therefore, I can only conclude that the Money Helper request from Prudential happened in August 2023.

After some reluctance Mr G complied with this request and had the appointment with Money Helper. Confirmation of this was sent to Prudential via this Service in September 2023

Prudential agreed to authorise the transfer on 7 November 2023, so the investigator conducted a second assessment. In this one he focused on the delays caused and poor service experienced since the initial transfer request was made. He felt that in the period between 17 May 2022 and August 2023 Prudential hadn't demonstrated that it had carried out any meaningful due diligence nor had it shown that it was waiting for specific information to warrant the time taken to agree the transfer. Whereas he felt Mr G had shown he had been in continuous contact with Prudential trying to resolve the matter. He also found that Prudential had continued to request information from Mr G that he had previously provided on multiple occasions.

He felt that as Mr G had last provided the information Prudential needed in November 2022 and that Prudential hadn't requested anything after that date that this was the time frame the transfer should have been completed. So he reasoned the transfer would have taken place at the latest November 2022. Therefore, he reasoned this was the period from when the loss calculation should take place. He also recommended that Prudential pay Mr G £950 in recognition of the delays and the overall poor customer service from Prudential.

Prudential didn't agree with the assessment. It disagreed with the date the investigator proposed the transfer would have been completed, and it disagreed with the amount of distress and inconvenience compensation the investigator had suggested.

Eventually the transfer was completed was received into Mr G's nominated scheme account on 28 November 2023.

The date that should be used in the loss calculation remains a point of contention. So as no agreement could be reached the complaint has been passed to me to decide.

What I've decided – and why

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

Firstly I must clarify that it isn't for me to decide whether the transfer should have been authorised by Prudential. I can't tell a business to do this however what I must decide is whether Prudential followed the relevant guidance and legislation for transfers and whether it took the correct steps to ensure that its due diligence and actions were in line with the relevant guidance.

Having said that, as the transfer is now complete it is agreed that but for the delays, the transfer would always have been authorised, just earlier than it actually was.

Before I continue, I think it's important to note that Prudential still haven't provided the information our Service requested in July 2023, so I've relied on the information received to date.

Prudential is correct when it says it had to follow the guidance and legislation noted above. So in that respect Prudential acted reasonably in carrying out its due diligence before making a decision. In my view Prudential was not wrong in requesting the information that it did from Mr G. Nor was it wrong to ask for Mr G to attend a Money Helper appointment. This is because under the regulation it needed to satisfy itself that the transfer wasn't putting Mr G at risk of being scammed. So in line with the regulations Prudential had to find out more information because the transfer didn't fall into the first part of the guidance – 'is the receiving scheme a public service pensions scheme, an authorised master trust or a collective defined contribution scheme that has obtained authorisation.'

It is disappointing that some information was provided by Mr G several times and this wasn't picked up by Prudential. I have also seen, as the investigator did, that Prudential asked for the same information multiple times. As already noted instead of sending letters to Mr G by post Prudential should have used its secure messaging service to avoid unnecessary delays. I have also identified that there were problems with the secure messaging service leaving many of Mr G's questions unanswered causing further delays. Prudential also didn't reply to Mr G's messages via the online service in a timely manner.

Prudential also seems to have requested some unnecessary information from Mr G. Given the circumstances of the transfer Prudential had to establish whether there was an employment link or overseas residency and this would dictate if any red or amber flags were present in this transfer. Prudential asked Mr G for this information, but it asked him to provide both employment link and residency confirmation. However, in line with the guidance, as the transfer was to a QROPS, evidence from the member had to be provided to prove *either* his overseas residency *or* an employment link. So in asking for information that wasn't actually needed Prudential caused further delays.

Essentially it seems that from the point Mr G had provided the information above Prudential was in a position to make a decision about the transfer. Yet this didn't happen until November 2023 around 18 months after the transfer was initially requested.

It's important to note the regulations already mentioned require any business, Prudential in this case, to either complete the transfer or refuse the transfer (providing full reasons why if this was the case) within six months from the date of transfer. Therefore, given how long this transfer took to complete there can be no doubt it took far too long without any justification. Prudential has accepted it caused unnecessary delays and has agreed to carry out a loss calculation. But the point of contention remains what date it is likely the transfer would have completed had there been no delays.

I have reviewed the timeline of events and considered the regulations under which Prudential had to conduct its business in relation to this transfer.

It’s clear the transfer would not have been completed within the same time as a UK to UK transfer.

However I see no reason why a decision about the transfer shouldn’t have been made within the allotted six months.

Having considered the timeline of events provided by Prudential, which is littered with facts about the delays caused and the mistakes Prudential made, my conclusion is that it doesn’t seem that Mr G delayed in providing any information Prudential had required of him.

If there was information outstanding more than six months from the date of the transfer this wasn’t due to anything Mr G did or didn’t do. Rather, I am satisfied that Mr G provided all the information when it was requested of him – the problem is the information requests were either made in a very tardy fashion or were made unnecessarily because Prudential already had the information.

I know Mr G did initially resist the Money Helper appointment, but I think this was because of how long the matter had gone on for and Mr G was frustrated with the matter, and possibly didn’t clearly understand why the appointment was required. However, I think the real issue here is that Prudential should have identified the need for this appointment much sooner than it did. And while Prudential has stated that it first asked Mr G to attend this in January 2023 despite several requests it hasn’t provided us with any evidence of this. So all I can see is that the first request for Money Helper came in August 2023 which was more than 12 months since the transfer had first been requested.

So from the information I have looked at it appears that the delays were in Prudential’s processes and overall it strikes me that Prudential should have acted more efficiently to ensure a decision was made about the transfer within the allotted six month period.
As I have said, if Prudential was to authorise the transfer (which we know it now has) this should have happened within six months of the date of the request, at the latest, and Prudential should have made best efforts to ensure this happened. However I can’t see that Prudential did all it could to enable this.

Overall I am of the view that Prudential failed to handle Mr G’s transfer request efficiently nor did it progress the transfer request within the timelines set out in the guidance. Whilst Prudential did have to conduct full due diligence checks in line with the guidance above I think it delayed unnecessarily and requested some information that it didn’t have to.
So I think the fairest way is to set the date the transfer should have taken place as 13 November 2022. Which is exactly six months from the original date of request.

I am satisfied Mr G didn’t delay in providing Prudential with the information it requested and when it requested it. And as above, while I appreciate Mr G initially objected to seeing Money Helper he did have the appointment in the end and in any event this should have been identified by Prudential much earlier than it actually did – certainly within the six months allotted time period.

So in summary, but for the unnecessary delays by Prudential I think Mr G would have transferred into the QROPS on 13 November 2022. Therefore, Prudential must carry out a loss calculation to determine whether by actually transferring into the QROPS in November 2023 Mr G has lost out financially.

I also think that poor customer service and the poor overall handling of the transfer request must be recognised. So I agree with the award the investigator suggested of £950.

Putting things right

To compensate Mr G fairly, Prudential must:

Pay Mr G a total of £950 for the distress and the inconvenience its delays and poor customer service have caused him.

As I am satisfied the transfer should have completed on 13 November 2022 Prudential must carry out a loss calculation to ascertain whether Mr G lost out financially by being transferred into his chosen scheme 12 months too late.

Prudential should also add any interest to any loss identified. This must be calculated using the interest that Mr G's pension would have accrued within his chosen QROPS.

Prudential should pay into Mr G's pension plan to increase its value by the total amount of the compensation and any interest. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.

If Prudential is unable to pay the total amount into Mr G's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore, the total amount should be reduced to *notionally* allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr G won't be able to reclaim any of the reduction after compensation is paid.

The *notional* allowance should be calculated using Mr G's actual or expected marginal rate of tax at his selected retirement age.

If no loss has been identified, then Prudential need not do anything further but pay the D&I.

Prudential should provide details of its calculation to Mr G in a clear, simple format.

My final decision

I uphold the complaint. My decision is that The Prudential Assurance Company Limited should pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 22 March 2024.

Ayshea Khan
Ombudsman