

The complaint

Mr C complains about delays he says The Prudential Assurance Company Limited (Prudential) has caused in him accessing his Personal Pension Plan (PPP) benefits.

What happened

I issued a provisional decision on 17 May 2024. I've recapped the background below:

“Following divorce proceedings, an appeal was made by Mr C’s ex-wife for financial settlement which included benefits under his PPP. Further to this, Mr C’s ex-wife’s solicitor wrote to Prudential in October 2001, enclosing the Court’s draft of an Earmarking Order (“the Order”) it said Mr C had agreed to. It asked Prudential to consider the wording in the Order relating to Mr C’s PPP and highlight any issues before the Order was finalised. The relevant part of the Order said:

“6(i) The Trustees or managers of the Prudential Pension Policy (...) and [Mr C’s then employer’s] Pensions Scheme do pay or cause to be paid to the Petitioner on behalf of the Respondent a lump sum equal to the amount payable in the event of his death in service under the terms of the said pension schemes.”

Prudential responded in November 2001, noting that the proposed Order sought to bind it (the Trustees of Mr C’s then employer’s pension scheme) to pay Mr C’s ex-wife any lump sum death benefit arising from his PPP. But it explained that as lump sum payments were distributed under a discretionary trust, it couldn’t be bound to direct any payments to named individuals. As a workaround Prudential said Mr C could nominate his ex-wife as a beneficiary.

In May 2002, the Order was finalised, and Mr C’s ex-wife’s solicitor sent Prudential a copy, inviting it to contact it if it needed further information. The relevant part of the Order said:

“6(i) The Trustees or managers of the Prudential Personal Pension Scheme numbered (...) do pay or cause to be paid to the Petitioner on behalf of the Respondent a lump sum equal to the lump sum payable in the event of his death prior to drawing the benefits under the terms of the said pension policy.”

In August 2003, Prudential wrote to Mr C, confirming that as he’d left his employer in June 2003, he’d stopped being an active member of its pension scheme and was entitled to a deferred pension payable from his normal retirement date, details of which were enclosed.

In April 2023 Mr C informed Prudential that he was considering transferring to another provider I’ll refer to as “Provider H”. Two months later, Provider H informed Prudential that it had submitted an electronic request for the transfer of Mr C’s PPP. It asked whether the plan had a Court Order attached to it.

A month later, Prudential wrote to Mr C on 5 July 2023, confirming his PPP funds had been transferred to Provider H. Having received notification of the transfer, Mr C’s ex-wife queried

the matter with Prudential. Prudential responded saying the Order which applied to Mr C's PPP would take effect against his transferred benefits. On the same day, it wrote to Provider H confirming that Mr C's funds had been transferred and were subject to an Order, the details of which were enclosed.

Provider H contacted Prudential several days later, advising that as Mr C's PPP was subject to an Order, it couldn't accept the transfer and would be returning the funds. Having been told about the declined transfer attempt, on 19 July 2023, Mr C contacted Prudential, saying he'd been unaware that an Order applied to his PPP. He expressed disappointment that it had taken so long for him to be told about the issue with his transfer and said he was unsure of his options. Prudential responded providing a copy of the Order. It said the Order didn't prevent him from transferring but as Provider H wouldn't accept his funds, his PPP had been reinstated. Prudential later explained that if Mr C wished to transfer to another provider, it should be able to accept his funds with the Order attached to it. However, it recommended that he seek financial advice.

Mr C later complained. Prudential responded two months later, apologising for poor service, and accepting it had caused delays. If Mr C decided to proceed with transferring, it said it would calculate any financial loss caused by it. Prudential also sent Mr C £200 for distress and inconvenience caused.

On 17 October 2023, in response to Mr C's comments about not being aware of the Order, Prudential wrote to him saying it understood he'd been present at Court when the Order was agreed. Prudential said that if this wasn't the case, Mr C would need to apply to the Court to resolve the issue. In the meantime, it had to act in accordance with the Order.

In late November 2023, Prudential received an electronic request for the transfer of Mr C's PPP to a provider I'll refer to as "Provider F". Mr C chased Prudential about the transfer in mid-December. Prudential responded stating it required a response to its 17 October 2023 letter before it could proceed. Mr C responded stating that he didn't want to challenge the Order in Court because of the cost. In its call notes Prudential recorded that Mr C was a vulnerable consumer, and so a request was made for confirmation of whether the transfer could go ahead to be provided to him urgently.

Having received no contact, Mr C chased Prudential again in late December 2023. Prudential said it would investigate the matter but having received no response, Mr C chased it again on 4 January 2024, unhappy he still hadn't been told what the status of his transfer request was or what his options were if it was rejected. Prudential acknowledged Mr C's frustration and upset, saying it was dealing with his request and waiting for Provider F to confirm it would accept the transfer despite the Order attached to it.

Mr C contacted Prudential again on 8 January 2024, saying he was finding the transfer process and Prudential's poor service mentally distressing and extremely frustrating. Prudential made a note for the matter to be escalated and "sorted ASAP".

Mr C emailed Prudential again on the same day, saying he didn't believe the Order applied as it referred to his ex-wife being entitled to a lump sum in the event of his death in service. As he was retired and no longer working, Mr C said he couldn't understand why the Order hadn't been removed. Again, Mr C said the matter was increasing his anxiety and causing continued financial loss.

Prudential later wrote to Mr C saying it would respond to his concerns in eight weeks. Mr C called Prudential, saying this wasn't acceptable. Just over a week later, he contacted Prudential again and was told that issues with the Order and his transfer request had been referred to its legal team. Again, Prudential recorded that Mr C was a vulnerable consumer,

experiencing financial difficulties due to not being able to access his pension. It apologised, acknowledging that its September 2023 response hadn't resolved anything. An "additional needs" marker was added to Mr C's case, flagging him as a vulnerable consumer.

A manager at Prudential called Mr C later that day, advising that its legal had referred matters to its parent company's legal department which had originally interpreted the Order in 2001. Specifically, it said it had asked whether it was still of the view that the Order only related to a death in service benefit. Prudential said it would update Mr C as a matter of urgency when it had a response. However, Mr C expressed his extreme disappointment with no timeframe being given and the ongoing lack of updates. He repeated that the situation was scaring him, causing increased stress, and further financial difficulty. And he said he couldn't understand why it had taken a year to refer his concerns to its legal department, or why this had been necessary in the first place.

Mr C later referred his complaint to our Service and one of our investigators considered the matter. In summary, she said:

- Prudential had to act in line with the Order and only it (and the Court) could determine what the Order meant in practice.*
- As Prudential was still investigating whether the Order continued to apply to Mr C's PPP, the situation remained unresolved, and Mr C couldn't take his benefits.*
- Given the delays and distress and inconvenience Prudential caused through a lack of updates following concerns Mr C had raised, a further £200 compensation (bringing total compensation to £400) should be paid.*
- Prudential should, within a reasonable timescale, provide Mr C with a clear update about what he needed to do to access his benefits. And once Mr C accessed his benefits, Prudential should carry out a loss assessment to determine whether he'd suffered a financial loss due to delays it had caused.*

Mr C and Prudential accepted the investigator's view. Prudential said the issue had been escalated and it would let Mr C know the outcome of its investigations and next steps to claim his benefits once this had been completed. Following this, the case was closed."

Having received no communication from Prudential following the closure of his case, Mr C asked for his case to be reopened and passed to me for a decision. And my provisional findings were as follows:

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

Having done so, I'm intending to uphold Mr C's complaint. I'll explain why. But before I do, I should emphasise that while I've taken note of the arguments made by all the parties involved, I've limited my response to the issues I consider to be central to this complaint. That's to say:

- Prudential's responsibility regarding the Order attached to Mr C's PPP.*
- Whether Prudential's acts or omissions have unreasonably delayed Mr C accessing his PPP.*
- Whether, based on the service it has provided Prudential has taken appropriate steps to put matters right and compensate Mr C.*

Prudential says it's surprised this matter has been referred for a decision because its legal team is still considering its position on the Order attached to Mr C's PPP. But as Prudential will be aware, this issue has been ongoing with limited progress since June 2023. During this

time, Mr C has without success been trying to access his PPP and understand the implications of the Order attached to it. He's repeatedly asked Prudential to explain what the Order means in terms of his ability to take benefits, but it hasn't been able to provide him with the answers and direction he needs to move forward.

Prudential has referred to the complexity of the Order and a need to understand the consequences of it before further action is taken. I agree, but it hasn't provided Mr C or this Service with any indication of when confirmation of its position on the matter can be expected. Indeed, in its most recent submission to this Service, Prudential said that while its legal team was reviewing things, it was still possible that the matter might need to be referred for external counsel's opinion before an answer could be given. I don't think this is reasonable.

Having recognised that Mr C's personal circumstances make him a vulnerable consumer, I'd expect Prudential to understand why matters relating to Mr C accessing his pension cannot be left open ended indefinitely. Mr C has explained that not being able to access his pension and not knowing how and when this might be possible has caused him financial difficulty and mental distress, both of which are exacerbating his long-term health condition. Further uncertainty will only compound what is already a very difficult situation for Mr C, so I think it's understandable that he's requested a formal review of the matter.

Based on what I've seen, there are two versions of the Order relating to Mr C's PPP. One is a draft, while the second is the final version ordered by the Court. The most notable difference between the two is that the draft Order refers to a lump sum being payable to Mr C's ex-wife in the event of his death in service, while the final Order refers to a lump sum being payable in the event of Mr C's death prior to him drawing benefits.

When Prudential confirmed that Mr C's transfer to Provider H had been unsuccessful, it provided him with a copy of the draft Order. And in correspondence exchanged after this, Mr C and Prudential made references to the death in service condition within it. Mr C has argued that the condition shouldn't apply as he's retired and no longer in service with his former employer. This appears to be the issue Prudential referred to its technical department in January 2024 before passing the matter to the legal department of its parent company.

Although Prudential's made references to the Order's ambiguity, a more pressing issue is whether it's been considering the right Order. Currently, I'm not satisfied that it has. Bearing in mind how long Mr C has been trying to access his pension, I think it's vital that Prudential reviews the right Order as a matter of urgency and provides Mr C with a clear explanation of what exactly the Order means for him in terms of his options (and the requirements) for accessing his pension. In my view, the time Prudential has already taken to do this is excessive. And given Mr C's circumstances, I think it's reasonable to expect Prudential to provide this information within, at most, two weeks of it receiving confirmation of Mr C's acceptance of my final decision.

If Prudential determines that the Order no longer applies or should fall away upon Mr C transferring (or taking benefits by other means), it should establish what Mr C's current position would be if Provider H had been given accurate information about his PPP and the Order in June 2023. If Provider H would've accepted Mr C's transfer, Prudential should carry out a loss calculation to determine what financial loss Mr C has suffered due to the transfer not taking place when it could've. If there is a loss, Prudential should pay this.

Turning now to the service Mr C has received from Prudential.

As I understand it, it's Prudential's duty to pay benefits from Mr C's PPP to his ex-wife when specific conditions in the Order are met. Given its responsibility to comply with the Order,

and the potential implications if it makes a mistake, I don't think it's unreasonable that Prudential has sought absolute clarity on the issue. However, I'm mindful that the Order was finalised over twenty years ago. And by the time it was finalised, Prudential had been given the opportunity to comment on its draft wording and raise any queries.

Given the significance of Prudential's role here and what it stressed about the importance of understanding the legal position regarding the Order, I'd expect it to have taken steps when the Order was finalised to ensure it understood the relevant conditions and was satisfied that it could discharge its duty under it effectively when required. I don't think waiting until many years later to do this was reasonable and consider it remiss of Prudential not to do so at the outset. If it had, I think most of the back and forth between Prudential and Mr C to understand the implications of the Order could've been avoided. The remaining issue would then mostly have centred on finding a provider that was prepared to accept Mr C's transfer (and the Order if it still applied).

From what I've seen, Prudential only began considering the terms of the Order on 9 January 2024, when Mr C questioned its relevance. When Prudential responded ten working days later, it merely confirmed that the matter had been referred to its legal team for guidance. More than four months have passed since then and neither Mr C, nor this Service, has been given assurances that Prudential has made any progress in deciding what its position on the Order is. Given the direct impact this has on Mr C's circumstance, I don't think this is fair. And based on Prudential's apparent lack of proactivity and urgency in this case, I think it's caused avoidable delays in Mr C accessing his benefits. I think it's fair that he receives compensation for the distress and inconvenience this has caused.

Prudential's September 2023 final response acknowledged delays and poor service provided. In recognition of this it sent Mr C £200. But four months later, Prudential's records noted that despite its response, Mr C's concerns remained unresolved.

Following Prudential's final response, Mr C asked why he'd never been told that his PPP was subject to an Order. Although a task was set for Prudential to respond to Mr C within 10 working days, this didn't happen until 17 working days later. I haven't seen anything which explains this delay, so I consider it avoidable. Given Mr C's earlier complaint and Prudential's assurances that things would improve, I'd have expected it to do all it could to prevent more delays like this.

Unfortunately, Mr C continued to experience delays. Initially, relating to Provider F's electronic transfer request. Prudential received the request on 30 November 2023 and Mr C chased it for an update 15 working days later. Prudential's replied saying it hadn't progressed the request because it was waiting for Mr C's response to its 17 October 2023 letter. But I've reviewed the letter and there's nothing indicating that a response was required. I'm also conscious that despite saying it was waiting for his response, Prudential made no attempt to chase Mr C for one – not even after it received Provider F's transfer request. I think it should've been proactive here and contacted Mr C. By not doing so, Prudential caused more avoidable delays. Irrespective of whether the transfer could've gone through or not, Prudential's inaction has unnecessarily added to how long Mr C has been waiting for answers about the Order and more importantly, how he can take benefits.

Disappointingly, Prudential's delays continued. And the impact of these was made worse by the poor service it provided despite having identified that Mr C was a vulnerable consumer. Below, I've summarised the delays and failings during this period:

- *On 14 December 2023, Mr C confirmed that he still wanted to transfer to Provider F and explained that he was a vulnerable consumer. Prudential recorded Mr C's vulnerability on its system and because of this noted that a letter should be issued to*

him “urgently” and within two working days (by 18 December 2023), confirming whether the transfer could go ahead, and if not, what his options were.

- Prudential failed to issue the letter within the agreed timescale, so Mr C chased it for an update on 22 December 2023. Prudential said it was still considering the matter and would update Mr C within 5 days. But again, Prudential failed to do so.
- On 3 January 2024, Mr C complained about the service he was receiving, including continued delays, not being told what the status of his transfer request was, and the implications of the Order not being explained. Prudential made a note to respond to Mr C within 5 working days.
- Stressed and frustrated with how long the transfer was taking and the lack of updates, Mr C contacted Prudential again on 4 January 2024. Prudential noted Mr C’s concerns and scheduled a call-back on 8 January 2024 to let him know of any outstanding requirements for the transfer.
- Having received no update by the afternoon of 8 January 2024, Mr C contacted Prudential by phone and email explaining that the situation was causing him mental distress and financial loss. Specifically, he said that not being able to access his PPP meant he was now surviving on state benefits and savings. Prudential made a note for Mr C’s concerns to be escalated and “sorted ASAP.”
- Having received no update from Prudential, Mr C chased it on 11 and 22 January 2024. His call was passed to a manager who confirmed that his queries about his transfer and the Order had been referred to Prudential’s legal team. Mr C repeated that he didn’t understand why the Order still applied. Prudential recorded again that Mr C was a vulnerable consumer in financial difficulty, noting that the situation (particularly the absence of any explanation about what was happening) was increasing his stress and impacting his long-term health condition. Although a note to send an “urgent escalation” to Prudential’s legal team, the response it provided two days later merely said the matter had been forwarded to its parent company. Prudential said it would keep Mr C updated but provided no timescale for doing so. It noted that Mr C remained unhappy and scared by the lack of progress and updates about his transfer.
- Mr C later referred his complaint to our Service.

Based on what I’ve set out above, I think it’s clear that the service Prudential provided fell significantly short of what Mr C should’ve been able to expect in the circumstances. Prudential’s obligations and the standards it’s required to meet when dealing with customers are set out in the Financial Conduct Authority’s (FCA) Handbook under the Principles for Businesses (PRIN). Of relevance in this case is PRIN 2.1.1 which states that a firm must conduct its business with due skill, care and diligence; take reasonable care to organise and control its affairs responsibly and effectively; pay due regard to the interests of its customers and treat them fairly; and pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading.

In this case, the available evidence doesn’t demonstrate that Prudential has had appropriate regard for Mr C’s needs. As I understand it, Mr C has limited experience and understanding of pension matters, so it’s understandable that he’s relied on Prudential (as his provider and the party responsible for complying with the Order) to give him the information he needs to access his benefits. Although the Order attached to Mr C’s PPP has required Prudential to think about the implications of the Order in addition to Mr C’s wish to access his pension, I don’t think this additional consideration is unusual or so onerous that it justifies the service Mr C has received.

I’ve seen little evidence of Prudential being proactive about confirming its position on the Order. Since July 2023, when the Order was raised as an issue, the only ‘progress’ I’ve seen

has been that the matter was passed to Prudential's legal team on 9 January 2024 before it was referred to its parent company's legal department on 22 January 2024.

Mr C has repeatedly been put in a position where he's had to chase Prudential for updates. And despite assurances Prudential has given to Mr C and the deadlines it's set itself to provide a response, it's continually failed to contact Mr C when it said it would, even when it recorded that this should happen as a matter of urgency. Many of Mr C's encounters with Prudential have resulted in little ownership being taken by anyone to effectively progress matters or, at the very least, ensure Mr C understood what was going on.

In the absence of being given meaningful information about his options, it's understandable that Mr C became increasingly concerned and ultimately very distressed about the situation. Mr C's PPP forms a significant part of his retirement provision, and as he's unable to work due to ill health, he intended to use the proceeds of his PPP to pay off his mortgage. Due to the length of time Prudential has taken to decide what its position on the Order is, Mr C's explained that he hasn't been able to pay his mortgage as planned and has had to resort to using credit cards and Universal Credit benefits to meet his needs.

Prudential's records show that Mr C shared details of the impact the situation was having on him but concerningly none of this appears to have been taken seriously enough such that effort was made to act with an appropriate level of care and engage with Mr C in a way that was commensurate with what he was experiencing. It wasn't enough for Prudential to recognise and record that Mr C was a vulnerable consumer, it needed to identify and respond to his needs appropriately.

To be clear, I'm not saying Prudential should've overlooked its duty under the Order and paid Mr B his benefits – it's not the role of this Service to interpret the Order – but I do think it should've prioritised Mr C's case to ensure it reached a decision on the matter as quickly as possible so Mr C could access his pension without avoidable delay and distress. I can't see that this happened.

For the reasons I've set out above, I think it's appropriate that Prudential makes a payment to Mr C to reflect the level of distress and inconvenience its caused due to and poor service, including delays and its failure to respond appropriately to Mr C in a way that took into consideration his circumstances and needs. I think Prudential should pay Mr C an additional £800, as I consider total compensation of £1,000 to be fair and reasonable and better reflect the impact of Prudential's actions and what it could've done better.

Putting things right

I intend to direct Prudential to do the following:

- Prudential should review the final Order as a matter of urgency and provide Mr C with a clear explanation of what the Order means for him in terms of his options (and the requirements) for accessing his pension. This information should be provided to Mr C within two weeks of it receiving confirmation of Mr C's acceptance of my final decision.
- If Prudential determines that the Order no longer applies or should fall away upon Mr C transferring (or taking benefits by other means), it should establish what Mr C's current position would be if Provider H had been given accurate information about his PPP in June 2023. If Provider H would've accepted Mr C's transfer, Prudential should carry out a loss calculation to determine what financial loss Mr C has suffered due to the transfer not taking place when it could've. As part of this I would expect Prudential to request information from Provider H to confirm which product Mr C had

intended to transfer to and how he'd planned to invest, ensuring this is factored into the loss calculation.

Prudential will need to compare the current/actual value of Mr C's PPP funds with what their notional value would've been if they'd been transferred to and remained with Provider H on 4 July 2023 following its request for the funds. If the notional value of Mr C's funds would have been higher, then he's suffered a loss. Any difference should be made up by Prudential, ideally by paying the sum into Mr C's new arrangement once its established. If this isn't possible or Mr C would prefer not to wait for this process to be completed, Prudential should pay it directly to Mr C as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid. If Mr C has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to their likely income tax rate in retirement – presumed to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.

- *Prudential should pay Mr C an additional £800 for distress and inconvenience caused.”*

I invited Prudential and Mr C to respond to my provisional decision. Mr C responded and, in summary, said he didn't feel he could accept or reject it as he still didn't know what the Court Order meant for him in practice.

Before responding to my provisional decision, on 23 May 2024, Prudential sent Mr C a final response to his concerns. In summary, it said:

- To transfer, Mr C would need to find a receiving scheme willing to accept and facilitate the Order.
- Mr C could take benefits, including commuting a lump sum, purchasing an annuity, or transferring if he wished to do so. However, any transfer would always be subject to the Order, and if a death benefit arose under Mr C's pension, it would be payable to his ex-wife.
- To ensure Mr C wasn't financially disadvantaged by how long it had taken to respond to his concerns, it would review his case in 30 days and if he'd decided to go ahead with transferring in this time, it would calculate any financial loss caused by it.
- It apologised for not providing Mr C with the service he should've been able to expect and acknowledged that it should've provided better updates and sent information within the timescales it set.
- It would send Mr C a further £800 for distress and inconvenience caused, along with £25 to cover the cost of extra calls he had to make.

Prudential later confirmed that it accepted my provisional findings, stating that in line with this it had paid Mr C the £800 compensation I'd said I intended to direct it to pay.

Further to this I wrote to the parties, setting out my current thinking. I've recapped this below:

“(...) 1. Up until now, Prudential has referred to the complexity of the Order and a need to understand the consequences of it. Similarly, Mr C has repeatedly asked Prudential to explain what the Order means. Specifically, he's asked why the Order applies when the wording in the Order Prudential sent him states that his ex-wife will only benefit from his pension “in the event of his death in service”.

Although Prudential's FRL confirms that the Order will still apply after Mr C transfers (or

takes benefits via other means), it makes no reference to the wording in the Order that it's relied on. So, Prudential's response doesn't satisfactorily address Mr C's questions about how the Order is being interpreted, or my concern (as set out in my provisional decision (PD)) that Prudential hasn't been considering the correct Order from the outset.

Considering the above, I'd like Prudential to set out its understanding of the Order with reference to the wording, it's basing its interpretation on. And in line with my PD, it should confirm whether it's been considering the correct Order since July 2023. The available evidence indicates that it hasn't.

In the absence of a response from Prudential, I intend to direct it to provide Mr C with a clear explanation of its understanding of the Order, quoting the wording it's relying on within two weeks of it receiving confirmation of Mr C's acceptance of my final decision (FD).

2. I'm satisfied that Prudential has now set out what Mr C's options for taking benefits are. It's also confirmed that Mr C needs to find a receiving scheme which agrees to accept his pension and the Order before he can access benefits. Although Prudential says it made Mr C aware of this requirement in 2023, I've seen no evidence of this.

3. Prudential has offered to carry out a loss calculation to ensure Mr C hasn't been financially disadvantaged by delays it caused, saying it will do this if Mr C transfers within 30 days of its FRL and the transfer is accepted by a receiving scheme. Given Mr C's circumstances and how long he's been waiting for Prudential to address his concerns, I don't think the deadline given for completing the transfer is reasonable.

My current thinking is that Prudential should conduct a loss calculation when, subject to what I've set out below, it receives confirmation that a receiving scheme is prepared to accept Mr C's pension and the Order. This will ensure that Mr C has time to search for an appropriate provider and seek financial advice if it's required.

4. As Prudential has confirmed the Order will apply following a transfer and Hargreaves Lansdown (HL) doesn't accept earmarking Orders, I'm satisfied that transferring to HL was never possible. **This impacts my second point in the "Putting things right" section of my PD, so I'm currently minded to change this to the following:**

If transferring to [Provider F] was possible

As there's no evidence Prudential attempted to process the transfer request it received from [Provider F] on 30 November 2023, it's unclear whether Mr C's funds could've been transferred. So, in the first instance, Prudential should determine whether [Provider F] would've accepted Mr C's transfer and the Order. If it would've, I believe the transfer could've taken place on 4 December 2023 – two working days after [Provider F] requested Mr C's funds. In arriving at this date, I've taken into account the fact that the transfer request was made electronically via Origo (which significantly reduces transfer times) and that Prudential was able to process HL's transfer request within 2 working days. I see no reason why the same couldn't have happened with [Provider F]'s request.

My aim in awarding fair compensation is to put Mr C back into the position he would likely have been in but for Prudential's errors and delays. Prudential should carry out a loss calculation to determine what financial loss Mr C has suffered due to the transfer not taking place when it could've. As part of this I would expect Prudential to request information from [Provider F] to establish which product Mr C intended to transfer to and how he planned to invest, ensuring this is factored into the loss calculation.

Prudential will need to compare the current value of Mr C's PPP with its notional value if it had been transferred to [Provider F] on 4 December 2023 and invested as intended. If the notional value of Mr C's funds would have been higher, then he's suffered a loss.

The compensation amount should if possible be paid into Mr C's new pension once its established. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible, has protection/allowance implications, or Mr C would prefer not to wait for the transfer process to be completed, Prudential should pay it directly to Mr C as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr C has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to their likely income tax rate in retirement – presumed to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.

If transferring to [Provider F] wasn't possible

If [Provider F] confirms that it wouldn't have accepted Mr C's transfer, I think it's fair to assume that if Prudential shared this with Mr C when I believe it could've and confirmed that transferring wasn't possible until a receiving scheme prepared to accept his PPP was found, Mr C would've acted promptly to do so.

I've thought about when Mr C would likely have been able to find a receiving scheme to transfer to. As a starting point, I think Prudential could've told Mr C what he'd need to do to transfer on the same day I've said it could've processed the transfer if it had been possible – on 4 December 2023. Given his financial circumstances, I think it's reasonable to assume Mr C would've found a suitable provider within a month of this, so by 4 January 2024. Assuming that Mr C would've applied to transfer within two working days and the receiving scheme submitted the transfer request to Prudential via Origo two working days later, I think it's reasonable to expect that the transfer could've been completed two working days later, on 8 January 2024.

Again, my aim in awarding fair compensation here is to put Mr C back into the position he would likely have been in but for Prudential's errors and delays. Prudential should carry out a loss calculation to determine what financial loss Mr C has suffered due to the transfer not taking place when I think it could've. As part of this I would expect Prudential to request information from Mr C's new provider (once known) to establish which product Mr C intends to transfer to and how he plans to invest, ensuring this is factored into the loss calculation.

Prudential will need to compare the current value of Mr C's PPP with its notional value if it had been transferred to Mr C's new provider on 8 January 2024 and invested as intended. If the notional value of Mr C's funds would have been higher, then he's suffered a loss.

The compensation amount should if possible be paid into Mr C's new pension once its established. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible, has protection/allowance implications, or Mr C would prefer not to wait for the transfer process to be completed, Prudential should pay it directly to Mr C as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr C has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to their likely income tax rate in retirement – presumed to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.

5. Prudential's FRL offers Mr C the same level of compensation (£800) I said I intended to direct it to pay for distress and inconvenience caused. But it's also offered a further £25 to cover the cost of calls. I think this is fair, so I'm currently minded to increase the compensation award to £825, bringing total compensation to £1025 (...)"

Before responding to this, on 26 June 2024, Prudential wrote to Mr C and, in short, confirmed the following:

- It had taken legal advice on the original Order and the finalised version and considered the differences between the two and the intended consequences of changes that had been made.
- Mr C's ex-wife was entitled to a death benefit payment from Mr C's PPP in the event of his death.
- Mr C was entitled to transfer his PPP however, as it would still be subject to the Order, this depended on another provider accepting the transfer.
- If Mr C required further clarification about the about the terms and/or operation of the Order, he should seek legal advice.
- If Mr C decided to transfer his PPP, it would revisit his complaint and complete a financial loss assessment, following any instructions our Service provided regarding how this should be calculated.

Mr C provided the following final comments:

- He still hadn't seen a copy of the final Order.
- He questioned whether Prudential's parent company could help facilitate his transfer to another provider free of charge.
- He didn't fully understand Prudential's latest letter and wanted things explained in simple terms.
- He wanted to know why Prudential didn't tell him about the Order when it was amended.

Prudential later provided its final comments. In summary, it said:

- It agreed with the redress methodology I'd proposed to compensate Mr C for any financial loss he'd suffered because of its errors and delays.
- It didn't think it was realistic to suggest that it would've transferred Mr C's PPP funds within two working days of a request being received from Provider F.
- It was unclear whether Provider F would accept Mr C's transfer with the Order, so it seemed reasonable to assume Prudential would need "at least one further touch point" in the transfer journey to confirm this.
- An allowance of five working days for Provider F to consider the transfer and respond was more reasonable, so the dates for when the transfer could've been completed in

the scenarios I set out should be extended to 11 December 2023 and 15 January 2024 respectively.

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.

Having done so, I've decided to uphold Mr C's complaint, broadly for the same reasons I've previously given. However, I'll comment on some of the submissions the parties made following my provisional decision and subsequent thoughts.

The Order

I've asked Prudential to confirm that it's been considering the correct version of the Order from the outset, but it's provided no response. So, based on the available evidence, I don't believe it has, especially not since the Order's meaning became relevant when Mr C began trying to take benefits.

Given Prudential's duty to comply with the Order, this was a significant error, exacerbated by its failure to ensure it understood the conditions underpinning the Order when it was finalised. Were it not for Prudential's avoidable mistakes in this respect, I think a lot of the distress and inconvenience Mr C has suffered over the last year regarding this matter could've been avoided.

Mr C has repeatedly asked Prudential to explain what the Order means for him in practice and until recently he hadn't received an adequate response. In my provisional decision, I said that I intended to direct Prudential to set out its understanding of the Order for Mr C, referencing the specific wording its interpretation relied on. Having reviewed Prudential's 26 June 2024 letter to Mr C, I'm satisfied that this has now been done.

I understand that following Prudential's letter, Mr C has said he remains unsure of what the exact position with the Order is. I have sympathy for Mr C but based on what I've seen, I don't think that Prudential could've set this out more clearly than it already has. So, I won't be asking it to do anything further in this respect.

The relevant part of the Order says:

"6(i) The Trustees or managers of the Prudential Personal Pension Scheme numbered (...) do pay or cause to be paid to the Petitioner on behalf of the Respondent a lump sum equal to the lump sum payable in the event of his death prior to drawing the benefits under the terms of the said pension policy."

Put simply, my understanding is that this means Mr C's ex-wife will only receive a lump sum from his PPP when he dies. In the meantime, Mr C is free to access his PPP benefits by transferring to another provider if this is something he still wishes to do. However, it's important to note that the Order will form part of any transfer, and the provider that accepts this will also become responsible for ensuring the Order is complied with. Because of this, and to avoid further delay, I think it's important to establish as early as possible if a provider is prepared to accept Mr C's transfer and the Order.

If, following Mr C's acceptance of my final decision, Prudential informs him that Provider F won't accept his transfer and the Order, he'll need to find a provider which is. If Mr C feels he'd benefit from some assistance with this, he may wish to seek financial advice. Although Mr C has questioned whether Prudential's parent company could provide this advice free of

charge, this isn't something I'd ask Prudential to do given the circumstances. Notwithstanding the errors it's made, I don't consider Prudential responsible for any costs associated with Mr C seeking advice to transfer elsewhere.

Finally, Mr C has asked why Prudential didn't tell him about the Order when it was finalised and became applicable to his PPP in May 2002.

Prudential acknowledges that the service it's provided, including its communication with Mr C about the Order, has been poor. I agree and I think that good customer service should've included Prudential confirming with Mr C that it was aware of the Order which applied to his PPP. It's unclear why this didn't happen, but I think it's possible that as correspondence from the time indicated that Mr C had been present during Court proceedings and consented to the Order, he was already aware of what was happening.

Determining Mr C's financial loss

I've considered Prudential's comments about the dates I said it should use when calculating Mr C's financial loss. But having done so, I won't be departing from the dates I proposed. I'll explain why.

Prudential says that if Provider F would've accepted Mr C's transfer and the Order, it isn't realistic to assume that it could've transferred Mr C's funds two working days after Provider F requested them. It says five working days is more reasonable as this would've allowed time for it to confirm that Provider F would accept the Order attached to Mr C's PPP.

I'm afraid I don't agree. The available evidence doesn't show that this is what would most likely have happened if Prudential had processed Provider F's request when it should've. Having reviewed what Prudential did when processing Provider H's transfer request, I'm conscious that checking that the Order would be accepted by Provider H wasn't a step Prudential took before sending Mr C's funds to it. I've seen nothing to suggest that Prudential would've taken a different approach with Provider F's transfer request, so I think it's reasonable to expect that the steps it took would've been the same as those taken following Provider H's request. In the absence of anything to persuade me otherwise, I consider two working days a reasonable amount of time for Prudential to have transferred Mr C's funds to Provider F.

Putting things right

I'm upholding Mr C's complaint, so he needs to be placed in the position he'd have been in now, or as close to that as reasonably possible, had it not been for Prudential's failings.

Financial loss calculation required

Prudential must conduct a loss calculation when, subject to what I've set out below, it receives confirmation that a pension provider is prepared to accept the proceeds of Mr C's PPP and the Order linked to it.

If transferring to Provider F was possible

As there's no evidence that Prudential attempted to process the transfer request it received from Provider F on 30 November 2023, it's unclear whether Mr C's funds could've been transferred. So, in the first instance, Prudential should determine whether Provider F would've accepted Mr C's transfer and the Order. If it would've, I believe the transfer could've taken place on 4 December 2023 – two working days after Provider F requested Mr C's funds. In arriving at this date, I've taken into account the fact that the transfer

request was made electronically via Origo (which significantly reduces transfer times) and that Prudential was able to process Provider H's transfer request within 2 working days. I see no reason why the same couldn't have happened with Provider F's request.

My aim in awarding fair compensation is to put Mr C back into the position he would likely have been in but for Prudential's errors and delays. Prudential should carry out a loss calculation to determine what financial loss Mr C has suffered due to the transfer not taking place when it could've. As part of this I would expect Prudential to request information from Provider F to establish which product Mr C intended to transfer to and how he planned to invest, ensuring this is factored into the loss calculation.

Prudential will need to compare the current value of Mr C's PPP with its notional value if it had been transferred to Provider F on 4 December 2023 and invested as intended. If the notional value of Mr C's funds would have been higher, then he's suffered a loss.

The compensation amount should if possible be paid into Mr C's new pension once its established. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible, has protection/allowance implications, or Mr C would prefer not to wait for the transfer process to be completed, Prudential should pay it directly to Mr C as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr C has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to their likely income tax rate in retirement – presumed to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.

If transferring to Provider F wasn't possible

If Provider F confirms that it wouldn't have accepted Mr C's transfer, I think it's fair to assume that if Prudential shared this with Mr C when I believe it could've and explained that transferring wasn't possible until a receiving scheme prepared to accept his PPP was found, Mr C would've acted promptly to do so.

I've thought about when Mr C would likely have been able to find a receiving scheme to transfer to. As a starting point, I think Prudential could've told Mr C what he'd need to do to transfer on the same day I've said it could've processed the transfer to Provider F if it had been possible – so, on 4 December 2023.

Given his financial circumstances, I think it's reasonable to assume that Mr C would've found a suitable provider within a month of this, so by 4 January 2024. Assuming that Mr C would've applied to transfer within two working days and the receiving scheme submitted the transfer request to Prudential via Origo two working days later, I think it's reasonable to expect that the transfer could've been completed two working days later, on 8 January 2024.

Again, my aim in awarding fair compensation here is to put Mr C back into the position he would likely have been in but for Prudential's errors and delays. Prudential should carry out a loss calculation to determine what financial loss Mr C has suffered due to the transfer not taking place when I think it could've. As part of this I would expect Prudential to request information from Mr C's new provider (once known) to establish which product Mr C intends to transfer to and how he plans to invest, ensuring this is factored into the loss calculation.

Prudential will need to compare the current value of Mr C's PPP with its notional value if it had been transferred to Mr C's new provider on 8 January 2024 and invested as intended. If the notional value of Mr C's funds would have been higher, then he's suffered a loss.

The compensation amount should if possible be paid into Mr C's new pension once its established. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible, has protection/allowance implications, or Mr C would prefer not to wait for the transfer process to be completed, Prudential should pay it directly to Mr C as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr C has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to their likely income tax rate in retirement – presumed to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.

Distress and inconvenience

For the reasons I've set out above, I think it's appropriate that Prudential makes a payment to Mr C to reflect the level of distress and inconvenience it caused through the poor service it provided, including delays and its failure to communicate with Mr C in a way that was appropriate given his circumstances and needs.

Overall, I think compensation for Mr C totalling £1,025 is fair. As I understand it, Prudential has already paid Mr C £1,000, so it should pay him the remaining £25 to cover the cost of extra calls he had to make.

My final decision

For the reasons I've set out, I uphold Mr C's complaint and direct The Prudential Assurance Company Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 1 August 2024.

Chillel Bailey
Ombudsman