

Ombudsman's Determination

Applicant Mr M

Scheme Prudential Personal Pension Plan (the Plan)

Respondent Prudential Assurance Company Ltd (**Prudential**)

Outcome

1. I do not uphold Mr M's complaint and no further action is required by Prudential.

2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

- Mr M complains that Prudential improperly transferred the pension rights available to him from the Plan to the Speed-e-cash RBS (the Scheme) in 2012 without carrying out sufficient due diligence checks on T12 Administration Ltd, the administrators of the Scheme.
- 4. He considers that if Prudential had done this before agreeing to the transfer they would have discovered that:
 - the Financial Conduct Authority (**FCA**) was investigating T12 Administration Ltd around that time for another three schemes which they administered i.e. the Pennines, Mendip and Malvern Retirement Benefits Scheme;
 - the Pensions Regulator (**TPR**) had appointed Dalriada Trustees Ltd on 3 April 2012 as an independent trustee to these three schemes because of concerns that they might have been used as vehicles for pension liberation fraud;
 - two directors of T12 Administration Ltd, Messrs Andrew Meeson and Peter Bradley were arrested in 2010 and appeared in court charged with pension tax fraud in the following year

Background information, including submissions from the parties

- 5. In October 2012, Mr M asked Prudential to send him details of the current transfer value available to him from the Plan.
- 6. Prudential sent Mr M the requested information with their covering letter of 4 October 2012 which said that in order for a transfer to proceed, they required the completion and return of:
 - their claim form by him; and
 - their receiving scheme/policy declaration by the new pension provider

Prudential specified that in order to pay the transfer value by cheque, they would require a copy of the H M Revenue and Customs (**HMRC**) scheme approval letter.

- 7. Prudential received a letter dated 26 November 2012 from T12 Administration Ltd informing them that Mr M had requested a transfer of his pension rights from the Plan to the Scheme. T12 Administration Ltd enclosed with their letter the completed Prudential member claim form (signed 22 November 2012) and receiving scheme/policy declaration, a letter from HMRC confirming that the Scheme had become a Registered Pension Scheme in August 2012, a letter of authority (signed 22 November 2012) and a "pension scheme CV" for the Scheme showing that:
 - the Scheme provider was Speed-e-cash.com Ltd based in Essex;
 - the Scheme administrator was T12 Administration based in Derby; and
 - the Scheme trustees were Ms Christina Andrea and Mr Robert Alan Davis

T12 Administration Ltd requested that the transfer value be paid by direct credit into the Scheme's bank account held with HSBC which had an account number 83329852 and a sort code 20-95-61. At the bottom of this letter the full name of T12 Administration Ltd was shown.

- 8. The letter of authority showed that Mr M's pension rights in the Plan should be transferred directly into the Scheme's bank account held with Barclays and not HSBC. The account number and sort code provided for the account were identical to those shown in the letter of 26 November 2012.
- 9. Mr M says that he does not recall signing this letter of authority and his signature on it has been forged.
- 10. By signing the claim form, Mr M declared to Prudential that he consented to the transfer and authorised Prudential to make a transfer payment to the trustees/administrators of the Scheme in full discharge of any obligation Prudential had to pay the pension benefits available to him from the Plan.
- 11. Prudential paid by cheque the transfer value available to Mr M from the Plan of £26,929 into the Scheme in December 2012.

Adjudicator's Opinion

- 12. Mr M's complaint was considered by one of our Adjudicators who concluded that no further action was required by Prudential. The Adjudicator's findings are summarised briefly below:
 - TPR issued guidance to providers about pension liberation and the danger of pension scams in February 2013 (which led to the "Scorpion" leaflets warning members about the risks to their pensions);
 - that date could be regarded as a point of change in good industry practice in terms of due diligence expected;
 - Mr M's transfer predated TPR's guidance in February 2013 which led to enhanced due diligence on transfers;
 - that is not to say that pension liberation was not on the radar before then it was in the Pensions Act 2004;
 - but Mr M had a statutory right to a transfer so the extent to which Prudential could delay or refuse a transfer of his pension rights in the Plan to a pension arrangement which had met HMRC requirements such as the Scheme was limited;
 - there were no reasons why Prudential should have refused the transfer application and deny Mr M the exercise of his statutory transfer rights; and
 - Prudential's level of due diligence was in line with the expectations prior to the implementation of the Regulator's guidance.
- 13. Mr M did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr M provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mr M for completeness.

Ombudsman's decision

- 14. Mr M considers that the inconsistent use by T12 Administration Ltd of its name in correspondence with Prudential, i.e. sometimes without "Ltd" at the end and the alleged fake letter of authority showing a different bank holding the Scheme's bank account were warning signs suggesting pension liberation fraud was occurring which Prudential should reasonably have noticed.
- 15. I do not agree. It is common practice for companies not to always use the full name when referring to themselves in their written correspondence. Indeed Mr M received similar letters from Prudential where they have referred to themselves as Prudential which is their trading name and only shown their full name, Prudential Assurance Company at the bottom of these letters.

- 16. It was also Prudential's policy at the time to pay Mr M's transfer value by cheque and not by bank transfer. Prudential were entitled to choose the payment method and under no obligation to comply with how T12 Administration Ltd wanted the transfer payment made. In this respect, I consider it was reasonable for Prudential not to have queried the discrepancy about which bank held the account that could easily have been a typing error, particularly when its number and sort code were the same.
- 17. Mr M contends that the letter of authority was faked by T12 Administration Ltd but I have seen no evidence to corroborate his assertion. In any case, Prudential did not ask for this letter of authority as part of their requirements in order for the transfer to proceed. The authority on which they proceeded was their own clam form, which was signed and dated by Mr M. I can see nothing on the face of the documents which should have caused Prudential to doubt the validity of the instruction they received. They also carried out standard background checks to make sure it was genuine.
- 18. TPR's 2013 guidance set a new standard of diligence. I cannot, however, apply current levels of knowledge and understanding of pension liberation/scams or present standards of practice to a past situation.
- 19. I have to consider the situation as it presented itself to Prudential in November 2012. In this case, the transfer paperwork was in order, the receiving scheme was registered with HMRC and confirmed that it was willing to accept the transfer and provide benefits to Mr M. I have seen no evidence that Prudential was aware or should have been aware of a reason to withhold the transfer which Mr M requested. I have also seen no evidence to suggest that it was legally able to withhold the transfer.
- 20. Mr M considers that even by the standards of the day, Prudential should have been aware of issues with this particular transaction. His says that Prudential had effective notice that the directors of T12 Administration Ltd were being prosecuted for tax fraud since 2010 and that on 3 April 2012 TPR had appointed alternative trustees to schemes in which they were involved. Mr M considers that this knowledge required Prudential to block the transfer.
- 21. With the benefit of hindsight, it is apparent that involvement of the individuals who became the directors of T12 Administration was significant. However, at the time Prudential were faced with a request to transfer to a particular scheme run by trustees who were not the subject of action by TPR. I can see why Mr M wishes Prudential had done more to prevent him transferring, but by the standards of the day, I do not consider that Prudential did anything wrong in complying with his instructions to them. They were not on notice of a problem with the receiving scheme and reasonably believed they were required to comply with his instructions.

22. I have sympathy for the position Mr M now finds himself in, but I do not consider that there was an administrative failure by Prudential in complying with his transfer request. I therefore do not uphold his complaint against them.

Karen Johnston

Deputy Pensions Ombudsman 3 March 2017