

## **The complaint**

Mr L's complaint is about his pursuit to draw from his personal pension with The Prudential Assurance Company Limited ('the Pru'). He is unhappy that the Pru has required him to obtain independent financial advice in order to do so. He says he does not need such advice and that the Pru has no contractual or regulatory basis to set this condition.

## **What happened**

Mr L's position is that he has a professional financial background that means he is capable of making his own informed decision about drawing from the pension, without the need for financial advice. He also says that it will be cost inefficient for him, given the relatively small value of the pension (around £25,000), to have to pay for such advice. He offered to sign a waiver in the matter, if the Pru wished him to.

The Pru's position is that the requirement is a part of its operational practice/policy, based on the notion that a pension drawdown is a matter that should be approached with financial advice (advice on its benefits and risks) and given the potential impact of a drawdown upon the policyholder's overall financial position. It does not consider that a drawdown plan should happen on a non-advised basis.

One of our investigators considered the complaint, agreed with the Pru and concluded that the complaint should not be upheld.

He said he understood Mr L's arguments but noted that the Pru's position is not uncommon amongst pension providers. He said income drawdowns from pensions carry more risk than using a pension to purchase an annuity, given that the former potentially results in depleting the pension whereas the latter provides an income for the rest of the policyholder's life. He was persuaded that the Pru was entitled to determine how it provides its service and that the rationale behind its requirement for financial advice in Mr L's case – and as it does not provide such advice – was reasonable.

Mr L disagreed with this outcome. He repeated his position and considered that, in the absence of regulation or contractual provisions supporting the Pru's stance, he is being subjected to an unfair form of blackmail (to his potential financial detriment) over his own pension policy. He asked for an ombudsman's decision.

## **What I've decided – and why**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I do not uphold the complaint. I find no fault in Mr L's pursuit. The pension is his and he is entitled to use it as he wishes. He is also entitled to use it without financial advice if, as he says, he does not consider that he needs such advice. I can also understand the cost inefficiency he has described in the matter. However, his is a *qualified* entitlement. Qualified

by the Pru's entitlement, as his pension provider, to operate its service as it reasonably sees fit.

I do not suggest that the Pru was/is free to do anything it wishes and I consider that Mr L makes a reasonable reference to regulations and contractual provisions. The Pru is indeed required to comply with regulations and contractual provisions; its service operations should not be unreasonable or unfair to its customers; and should not conflict with regulations and contractual provisions.

However, the Pru's insistence upon Mr L obtaining financial advice before proceeding with his drawdown plan need not be prescribed in contract or regulations if, as it appears, it is a part of its service provision policy/practice. Contractual terms would not generally extend to addressing every aspect of a firm's operations or service provision – it can retain a reasonable level of discretion in these respects. In Mr L's case, I have not seen evidence that the Pru's stipulation conflicts with relevant regulations or the terms of his policy. As the investigator explained, the stipulation is based on reasonable grounds. It is aimed at promoting the merits of financial advice in the context of the potential seriousness (and risks) of a pension drawdown decision. The regulator, in general, also promotes the merits of financial advice.

I accept that the Pru could have a policy that is flexible enough to allow policyholders to waive the need for advice - instead of its current policy - but I am not persuaded that the absence of such flexibility automatically makes its policy unreasonable. The rationale behind it remains well-intentioned – in the interests of policyholders – and reasonable in the circumstances.

Overall, on balance and for the above reasons I am not persuaded to uphold Mr L's complaint.

### **My final decision**

For the reasons given above, I do not uphold Mr L's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 23 July 2020.

Roy Kuku  
**Ombudsman**