

The complaint

Mr B complains that he was mis-sold a pension policy, and then not provided enough information when buying his pension annuities, by The Prudential Assurance Company Limited.

What happened

Mr B had five pension plans with Prudential.

Between 2010 to 2013 he used these pension plans to purchase five annuity policies to give him a retirement income.

Mr B was contacted by Prudential in September 2018 informing him that they would be conducting a review of his annuity sales. This was in response to the Financial Conduct Authority (FCA) Thematic Review in 2015 of non-advised annuity sales.

At the conclusion of the review Prudential found that one of his annuities didn't comply with the FCA guidance regarding information that needed to be provided. Given Mr B's medical conditions at the time he took out the annuity, it was considered that he may have been eligible for an enhanced annuity. Prudential adjusted his annuity. That annuity was increased from £385.56 to £388.32 a year. Prudential calculated that a lump sum of £27 was due for the time that the enhancement should have been paid since Mr B had taken this annuity. They added interest of £8 adjusting it for tax.

Mr B complained to Prudential for a number of reasons. He complained that one of his other pension plans was mis-sold by Prudential. He disagreed with the result of the review of his annuities and stated that all his annuities had been mis-sold. He disagreed with the level of enhancement for the annuity that failed the review. He was also disappointed with the delay in conducting the review.

Prudential responded to Mr B's complaints. They didn't consider the pension plan Mr B questioned had been mis-sold in 1988. They didn't uphold the complaints about the reviews of the annuities. They did accept that the review had taken longer than they said it would, and that they hadn't kept Mr B informed. They apologised for the delay and offered £150 compensation for that.

Mr B remained unhappy and brought his complaints to our service. Our investigator looked into the circumstances. She didn't think that Prudential had done anything wrong in the sale of the pension in 1988 or in the result of the reviews of Mr B's annuity sales. She thought that the compensation offered for the delays was fair but questioned why Prudential had delayed making the payment. Prudential subsequently paid the £150 compensation and a further £100 for the confusion that delayed the payment.

Mr B didn't agree with our investigator's view, so this case has been referred for an ombudsman decision.

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.

I can see that Mr B has a number of issues with his pension products with Prudential. I know that Mr B feels strongly about the annuity products that he now has, and I understand the impact that the choices made about those annuities have on his retirement. So I know that Mr B will be disappointed to see my thoughts on his case. To help make my decision clear I've addressed his points under the following headings:

Mis-sale of pension plan

Mr B has said that one of his pension plans was mis-sold. He was self-employed and had taken out five pension plans with Prudential over the course of his working life. The plans were taken out at different times, so the products differed in the way they worked. They also differed in the way they performed over the periods the funds were invested.

The pension that is subject of this complaint was sold in 1988. A complaint about it was addressed by our service in 2013. That complaint was that it hadn't achieved the same performance as Mr B's other pensions. Our service issued a view at the time that didn't uphold Mr B's complaint. I've looked at Mr B's views on this subject and understand his disappointment that it didn't achieve the growth he expected. I haven't seen any significant evidence that I don't think was available in 2013 so I won't revisit the same issues that have already been dealt with. I'll concentrate on the points that Mr B brings now.

Mr B says that, at the point of sale in 1988, he wasn't made aware of differences in this policy to the others he had. He says he doesn't believe his needs were matched to the policy he was sold. He feels that he was not properly advised and so was mis-sold that pension.

At the point of taking out this pension in 1988, Mr B was already a customer of Prudential having existing pensions with them – taken out in 1971, 1976 and 1982. Given what I've seen from Mr B and from Prudential, it seems likely that in 1988 Mr B wanted to increase the provision of his pension in retirement. I haven't seen that Mr B was provided financial advice in more general terms and I'm now not able to know what would have been discussed with Prudential's representative in 1988. Prudential weren't required to keep records of those conversations then.

Prudential have provided us with a copy of the *Prudential Personal Pension Scheme Members Booklet* from 1988 that Mr B was given. It explains the way in which that scheme would operate. Whilst I can't know what Mr B was told by Prudential's advisor, this booklet does indicate that the information Mr B was provided on this scheme was fair and he had the opportunity to consider it.

With the information that I have today, I have to decide if the pension product that Mr B was sold was appropriate for his needs at that time. Mr B was self-employed, so he didn't have the option of a pension with employer contributions. And as an existing customer of Prudential, I think it was likely that Mr B would've known that what he would have been offered was limited to the product options that Prudential offered.

Given his intention to use that product to save towards his retirement, the pension plan offered doesn't seem inappropriate for his needs at that time. Given the fact that he had

three pensions running with Prudential and later took out a fifth I'm not convinced that Mr B would have made a different choice because of any differences in the conditions. The product did provide him with options to use the pension towards his retirement income. The plan was a with-profits policy which was seen as an appropriate investment for most customers at the time, even for more cautious investors.

I understand Mr B's disappointment that this product didn't perform as well as he would've liked, or even in the same way as his other pensions with Prudential did. But this pension didn't offer guaranteed returns. The pension's growth was dependant on the performance of the fund's investments. Because of economic factors they didn't achieve the growth that Mr B expected when taking out the pension. It's failure to perform as expected though, isn't necessarily evidence that the policy was mis-sold or mismanaged.

For the above reasons I'm not upholding Mr B's complaint about the sale of his 1988 pension plan.

Annuities that Prudential said passed their review

I understand that Mr B is concerned that he wasn't treated fairly by Prudential when he bought his annuities from them. In the case of the annuity sales, Mr B was not advised by Prudential about which type of annuity would best suit him. He also did not seek other financial advice.

Mr B was given information by Prudential about the options available to him in using his pension fund. Based on the information he was given, Mr B then chose the annuity product he wanted. Because Mr B received no face to face advice about what was a very important financial decision, it's important that the information he was provided was clear in setting out his options.

Mr B has questioned this now because of the review that Prudential conducted in 2018. The FCA directed what was expected of a business when conducting their review and the means of putting things right where any annuity sales didn't comply with the rules.

I've checked the information that Prudential relied on in their review. They were required to send Mr B a '*wake up letter*' in advance of his pension being payable. This needed to provide Mr B with information about his options in enough time to consider what he wanted to do.

Those wake-up letters explained that Mr B had the option to use another company to buy his annuity. These information packs also said that a better deal might be available elsewhere. So I think that in that regard the information was in line with the FCA requirement.

The information packs also explained about the possibility of a higher income from the annuity due to medical or lifestyle conditions. The information provided in the wake-up packs meant that Prudential complied with the FCA requirement to make customers aware of the availability of enhanced annuities.

The information provided by Prudential with the wake-up letters, was followed by annuity quotes and Key Fact Documents nearer to Mr B's chosen retirement date. Prudential have provided copies of these documents. These documents repeated some of the information in the wake-up packs. They provided further reminders of the availability of enhanced annuities for ill health as well as the option of buying annuities elsewhere.

For the above reasons I think that Prudential dealt with the review of Mr B's annuities in line with the FCA guidance. I can't see any flaw with their findings in relation to the four annuities that they said complied with the guidance.

I understand that choosing the right retirement product can be difficult. But Prudential didn't advise Mr B which choice to make. For the above reasons I'm not upholding Mr B's complaint about these annuity sales.

Annuity sale of 2010

Prudential were unable to demonstrate that they provided Mr B with the information necessary for the annuity he purchased in 2010. Mr B hasn't challenged the finding of this review.

He is however unhappy with the resulting enhancement to his annuity.

The enhancement was based on the FCA directions. It reflected the fact that Mr B may have been entitled to some form of enhancement because of his medical condition at the time. It isn't based on whether he qualified for an enhancement with Prudential but considered the position across the industry. The medical and lifestyle conditions that Mr B declared for the review were such that the difference was only a small percentage change.

Prudential adjusted Mr B's annuity in line with specific FCA guidance which I think is fair and I can't see that this was worked out incorrectly. For the added interest on Mr B's past annuity payments Prudential used the proposed rate by the regulator too. However, in circumstances where consumers have been deprived of funds, our service considers an interest at a rate of 8% simple per year to be fair for most consumers. Due to the annuity amounts being fairly small, the difference in interest only works out as less than £1.56 in this case which I appreciate is a very small sum. I also considered that the amount Mr B was deprived of was relatively small. However, I remain satisfied that 8% interest should be applied.

I can certainly appreciate Mr B's disappointment that the resulting increase in his annuity was so small. But I don't think Prudential treated him unfairly in this respect. So other than asking Prudential to uplift the interest payment, I won't ask Prudential to do anything further.

Service and communication

Mr B has been unhappy with the service he received from Prudential. When he was contacted about the annuity reviews, their letter explained it would be done within six weeks. Mr B pointed out that it took three months before he received an answer and had no contact to let him know what was happening.

Prudential accepted this and apologised for the delay. They offered £150 in compensation for that. I've considered whether Prudential treated Mr B fairly in the way they dealt with this mistake. The impact of this mistake was that Mr B ended up waiting a further six weeks more than he should have to have the answer to his review. Where the review found that his annuity had to be increased, Prudential backdated the adjustment so that Mr B was put back into the financial position he might have been in according to the review. The difference in the amount due was in fact small, so the absence of the additional money for those six weeks was not likely to have had a significant impact on Mr B's financial situation. I think that the apology and £150 compensation was a fair way for Prudential to have dealt with this mistake.

Prudential have also acknowledged that they should have paid Mr B that compensation within two weeks of having told him they would. That didn't happen and it took five weeks to pay him. Prudential have apologised and paid a further £100 for the frustration and inconvenience. For similar reasons to above I think that was a fair way for them to compensate for the impact of the short delay in making the payment. I won't be asking Prudential to do anything further in this regard.

My final decision

For the reasons I've given I uphold Mr B's complaint in part. I request that Prudential pay Mr B an additional £1.56 in interest.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 12 October 2020.

Gary Lane
Ombudsman