

The complaint

Mr K complains he wasn't told about the availability of enhanced annuities or the open market option when he took out his annuity with The Prudential Assurance Company Limited

What happened

Mr K complains he wasn't told about various options when he took an annuity from the Prudential in 2012. In 2018 he was contacted by the Prudential to ensure he'd been provided with enough information about enhanced annuities. Its review concluded that he had not lost out financially as he wouldn't have been eligible for an enhanced annuity as he confirmed he didn't have any health conditions at the time. Mr K said he didn't agree because he wasn't told he might've got a higher income from another provider. He wasn't aware that was an option at the time.

The Prudential didn't uphold his complaint. It said papers issued at the time stated he could buy an annuity with another provider using the open market option. It thought he was fully aware of his options.

The investigator didn't think the Prudential had acted unfairly. It didn't seem Mr K was eligible for an enhanced annuity at the time his annuity was taken out. He was also provided with the information to highlight his choices when deciding to take an annuity including the open market option. The papers also suggested he might wish to consult a financial adviser before proceeding.

Mr K didn't agree and asked for copies of all correspondence reviewed by the investigator. He confirmed he'd received some but not all of the documents. He received the key feature document, a letter of early June 2012 and member's policy document. He didn't have a record of receiving a letter in early April 2012. In none of those documents was there any reference to getting a higher income or shopping around. If the documents were so important he said they should've been sent recorded delivery.

The investigator issued a second view. He said the correspondence could've been lost in the post and it wouldn't be fair or reasonable to hold Prudential liable for this and it wasn't reasonable to expect them to send it recorded delivery. The documents enclosed were listed on the cover letter so if Mr K hadn't received them he could've raised a concern at the time. As Prudential was able to provide copies of what was sent he couldn't conclude the items were not sent out. He also said two other documents sent to Mr K, "a guide to choosing your income for life" and "getting ready to take your pension income" covered enhanced annuities and the open market option. He remained of the view Mr K had been given enough information to be informed of his choices. Mr K still didn't agree.

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.

Mr K says he didn't have any health issues at the time he took his annuity so I don't need to consider whether he was informed about the enhanced annuity option as it wouldn't have made any difference.

With respect to his complaint that he wasn't aware of the open market option, I have reviewed the correspondence and in particular a letter dated December 2011. This enclosed a "getting ready to take your pension income booklet". This included a section on enhanced annuities and one headed "shopping around" and explaining how the open market option worked and also pointed to financial advice if you are considering this.

A letter of early April 2012 enclosed a "guide to choosing your income for life". The guide sets out the option to buy an annuity from another provider and calls it the Open Market Option. It says that he "may be able to get a higher income elsewhere". The cover letter also had a section headed open market option which informed him he could buy an annuity from another provider and could approach them direct. It also suggested that for this option or any of the others he may wish to contact a financial adviser.

Mr K says he doesn't have a record of receiving either letter nor have a copy in his records.

The Prudential said

'the letters issued in December 2011 and April 2012 were part of the wake up process. Mr K was nearing his selected retirement date of 28 May 2018 and these letters were issued automatically. I have been unable to find any contact from Mr K until he called us on the 18 May 2012. These letters were sent to the same address as the quotes issued in May 2012 and we have nothing to suggest that they were returned as undelivered'

I have seen a copy of a letter of 10 May 2012 to Mr K. It enclosed a "key features of the Prudential Guaranteed Annuity Booklet" and quotation, cancellation notice and application and income payment form. The booklet didn't refer to the open market option or enhanced annuities but that isn't surprising as it was documentation to set up the contractual terms of his annuity.

Based on what I have seen the information Prudential prepared would in my view have been sufficient to explain the open market option.

However the issue is whether or not they were issued and received.

In a situation where one party says they were sent and another denies receiving them I need to decide what is fair based on the balance of the evidence available.

Mr K says he doesn't have a record of receiving them nor have a copy in his records. This doesn't mean they weren't sent.

The Prudential has been able to provide copies of the letters that it says are automatically generated. They appear correctly addressed to the same address that the quote documentation was successfully issued and received by Mr K.

I note that the Prudential says Mr K didn't make contact until May 2012. However I note the letters it says it sent in December and April were for information and didn't require Mr K to contact them, so that is not surprising and doesn't indicate the letters weren't sent or received. The fact he made contact in May 2012 does however show that post was successfully reaching Mr K at that address.

Given the evidence I think it is reasonable to accept that on balance the letters were created and issued, the copies show they were correctly addressed and there is no evidence of these being returned undelivered, it seems most likely to me that they were sent. However that does not mean they were received. Letters do get lost in the post. However that is

outside the control of Prudential and it wouldn't be fair for me to hold it responsible for that loss. So I think the evidence shows the Prudential sent Mr K what I'd reasonably expect to advise Mr K of the availability of the open market option.

I don't think Prudential was required to ensure the letters were received. Mr K says that the letters should've been sent by registered post if they were important. However that is a business decision for Prudential and I cannot direct it to change its business practices to do that.

So while I am sorry to disappoint Mr K I don't think I can hold Prudential responsible for the fact he doesn't recall or have a record of receiving these letters. I don't think Prudential acted unfairly as it did what I would reasonably expect and had no reason to believe the letters weren't received as they were not returned undelivered.

I don't uphold this complaint.

My final decision

I don't uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 31 July 2020.

Colette Bewley
Ombudsman