DRN-2023736

The complaint

Mr D complains that The Prudential Assurance Company Limited (Prudential) mis-advised him to transfer his Occupational Pension Scheme (OPS) into a personal pension with it. Mr D recognises he has been compensated for this under the Pension Review but says the compensation has fallen well short of the benefits he would've got within the OPS.

What happened

In 1990 Mr D was advised by Prudential to transfer his OPS to a Personal Pension with Prudential.

In October 1994, the then regulator, the Securities and Investment Board, set up an industrywide review of certain types of advice that was given between 29 April 1988 and 30 June 1994. It was generally known as the "Pension Review". It aimed to address concerns about the possible widespread mis-selling of Personal Pension Plans between these dates. Where mis-selling was identified, the regulator set out the method and assumptions that firms had to use to determine the level of any redress due.

Mr D's pension was included in the pension review and, as a result, he was offered redress which was accepted in full and final settlement. A top up payment of £40,714 was made in 2001 to cover any potential losses.

In 2019, Prudential wrote to Mr D to say they were reviewing its annuity sales practices which was separate issue to the Pension Review. As a result of this review, Mr D was given redress. It was during this that Mr D re-raised the issue of the initial sale as he said he was still much worse off than had he remained in his OPS. He asked Prudential to look at it again but Prudential explained why it would not be doing this.

Our investigator didn't think this complaint should be upheld. He explained that whilst it may be true that Mr D is now worse off, Prudential had carried out the review as a one-off exercise in 2001 and wasn't required to look at it again. He said Prudential had met its regulatory requirements and Mr D had signed to accept the offer in full and final settlement.

Mr D responded to say that whilst he understood he had already been compensated, he still feels he's suffered a substantial loss. And he's said as his complaint stems from mis-selling his might be different.

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 D understands that he has already been compensated for the advice that Prudential gave him. And as the investigator explained, Prudential isn't required to look at the advice it gave him again. The Pension Review was created to look at potential mis-selling, so Mr D's case isn't different, his situation is what the Pension Review was designed for.

Prudential accepted that the advice Mr D received may have been unsuitable and so went straight to calculating whether a loss had occurred. The intention was that the Pension Review would compensate Mr D for the losses he would later experience when he came to retire.

The regulator provided assumptions for firms to use when carrying out the loss calculations. These assumptions attempted to predict future loss by determine things like future investment returns. Unfortunately, the assumptions used in the Pension Review calculations haven't in hindsight turned out as expected. Investment returns were much lower than predicted and annuity rates have fallen.

But I'm afraid this doesn't mean Prudential must redo the calculation. Under the terms of the Pensions Review, it was only required to conduct the review once, using the standards and assumptions the regulator told them to use at the time. This is because the assumptions or predictions they used were considered reasonable at the time to assess the future loss. The regulator intended that the review would draw a line under any pension mis-selling and would put things right at the time. Once a business carried out a pension review on a policy, they weren't required to review it again.

At the time most pension providers got specialist agencies to do much of the review and businesses carrying out the reviews were subject to internal and external quality checks. So, I'm satisfied that the calculations are likely to be correct.

I appreciate Mr D's frustration, that when he came to retire it became clear the Pension Review calculation hadn't worked out for him. Unfortunately, as previously explained the Pension Review was a one-off exercise. To do these review calculations at a much later date, has significant drawbacks, as firms may no longer have existed at that point. And so for the most part, reviews were carried out there and then as instructed by the regulator.

I am sorry to hear that Mr D is worse off even after the redress he was paid but as the transfer has been reviewed as it was required to be by the regulators at the time, I won't be asking Prudential to look at it again.

My final decision

For the reasons explained above, I do not uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 28 October 2020.

Simon Hollingshead
Ombudsman