

The complaint

Mr B is unhappy that The Prudential Assurance Company Limited (Prudential) won't allow him to take his benefits from his policy with them. He believes it hasn't fairly dealt with the mis-sale regarding the transfer of his Rolls Royce Occupational Pension Scheme (OPS). And that Prudential isn't fairly applying the guarantee it made to him.

What happened

Mr B transferred his OPS to a Section 32 pension in 1989 following advice from Prudential. As part of the pension review it was concluded the advice to transfer out of this scheme was unsuitable.

As a result, in October 1998 he was offered a guarantee of redress for any future loss incurred. Since then Mr B has asked to be able to transfer his benefits and then later to take his benefits. But Prudential has denied him this opportunity. It has explained the value of his plan isn't enough to provide the Guaranteed Minimum Pension which it is bound by legislation to pay him at age 65.

Mr B has complained to Prudential about this a number of times and he also brought a complaint to this service in 2010. Our investigator looked into matters but didn't think Prudential had done anything wrong. The complaint section set out what the investigator was considering and it said:

Your complaint relates to the guarantee that Prudential offered following its review of the advice to transfer out of the Rolls Royce pension scheme into a Prudential section 32 plan. You have said that you would have been able to take benefits from the Rolls Royce scheme, however, on your section 32 plan you will only be able to access your pension on your 65th birthday or when the fund is large enough to support the Guaranteed Minimum Pension (GMP). You feel that the guarantee Prudential offered was misleading.

Mr B also complained in 2015 to Prudential about it not allowing him to take his benefits and the inflexibility of the Section 32.

More recently Mr B has complained again to Prudential and asked it to look into the calculations it carried out and the guarantee it made. Prudential looked into matters and ran calculations based on I understand potential earlier retirement and updated assumptions. It also looked into whether Mr B would've been able to take early retirement under ill-health had he remained in the OPS scheme.

But it found the scheme did not offer early retirement due to ill-health. And Mr B remained unhappy with its calculations and its explanation of the guarantee.

Prudential confirmed the pension fund is insufficient to cover the cost of the guaranteed minimum pension (GMP). Mr B believes under his Rolls Royce pension scheme he'd have been able to access his benefits early.

Prudential told us it was happy for us to consider any new points Mr B wished to raise but it didn't give us consent to look at the matters that had previously been considered – and had been subject to the previous case with ourselves.

Our investigator looked into matters and explained it wouldn't be fair for us to consider any matter that related to Mr B's guarantee and the lack of flexibility within the section 32. He said he didn't think Prudential had acted unfairly with regards to not allowing early retirement due to ill health. And he explained that whilst he was unhappy with its offer to pay a cash redress offer early, this had been calculated in-line with the regulator's guidance.

Mr B remained unhappy. He's made a number of points, which I've read but it's not necessary to list them all here as the majority relate to the issues considered previously. Mr B says that what wasn't understood in 2010 is that the mis-sale by Prudential should be seen as separate to the product he was put into that just happened to also be a Prudential Section 32. He said had it been an independent financial adviser the complaint wouldn't be logged with Prudential. He said the Section 32 needs to be taken out of the equation and only the guarantee needs to be considered – and this stands outside the Section 32 terms and conditions. He summarised his complaint by saying Prudential has failed to honour the terms of his guarantee.

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.

And having done so I agree with the conclusions reached by the investigator and for broadly the same reasons.

I'm afraid we cannot look at any issues that were previously raised with this service. Both businesses and customers deserve finality to a complaint – we cannot fairly reinvestigate the same matter, many years later and give a new answer. The rules that govern this service say that a complaint should be dismissed without consideration of its merits if looking into it would seriously impair the effective operation of this service. And reconsidering complaints we've already dealt with falls into this category. However, the investigator was able to give his view on matters that weren't previously raised and so the whole complaint hasn't been dismissed.

Mr B's points in relation to the investigator's view and what he wishes me to consider, essentially all relate back to his unhappiness with the Pension Review outcome, the guarantee made by Prudential and the limitations of his Section 32. These matters have all been considered previously. And so I cannot now fairly make any recommendations in relation to these points. Which means there isn't much I can add that hasn't already been said.

I do sympathise with Mr B's position and I can see why he'd be unhappy with the way the guarantee was explained to him. But the Pension Review wasn't a perfect system and it wasn't designed to be – it was a framework to draw a line under thousands of cases of potential mis-selling across the market. The cases were settled often some twenty years before a customer would reach retirement age, and much would change in that time, so it wasn't always going to give a perfect solution.

Mr B's pension with Rolls Royce included a GMP that came from him contracting-out of the State Earnings Related Pension Scheme (also known as the State Second Pension). The

benefits coming from contracted-out contributions were designed to reflect the State Pension benefits given up. This is why Mr B has limitations with how his benefits can be taken in the Section 32. Benefits commonly can't be taken early under the State Pension either. Mr B says that had he remained within the Rolls Royce scheme he would've been able to take his benefits early. As I've explained we cannot look into this matter again, and so I don't have all the information about the scheme but it's quite possible that Mr B might have faced similar issues within the scheme due to the GMP in any event.

For the avoidance of doubt, and whilst Mr B hasn't focused on these points, I think Prudential has acted fairly when it looked into whether early retirement due to ill-health within could potentially allow it to release funds. Mr B was also unhappy with Prudential's offer of a cash sum for the loss of excess benefits, Mr B says his IFA had a similar situation and was offered a lot more. However, Prudential explained it's offer was calculated in-line with the regulator's guidance – which is what we'd expect it to do. And it also offered to look at the IFA's case to explain why there might be a difference. I think this was fair and reasonable. Prudential has admitted it could've dealt with Mr B's complaint in a timelier manner, but it has already paid Mr B compensation for this.

I'm sorry to hear that this issue has caused Mr B such distress, but I am unable to consider this matter again.

My final decision

I do not uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 March 2022.

Simon Hollingshead
Ombudsman