

The complaint

Mr B complains that Prudential Assurance Company Limited didn't treat him fairly when it sold him his annuity in 2007, and he missed out on an enhanced annuity as a result.

What happened

Mr B had a personal pension with Prudential.

In October 2007 Mr B contacted Prudential about taking his pension. So Prudential sent Mr B quotes for taking his pension benefits. He used his personal pension to take a maximum tax-free cash lump sum, and then purchased an annuity from Prudential with the remainder of his pension. He selected a single life annuity, with no yearly increases and no guarantee period.

Mr B complained to Prudential in 2019 because he was concerned that his annuity had been mis-sold. He said he wasn't given any advice on choosing his annuity. And that he wasn't told he had the right to buy his annuity elsewhere. And that he wasn't aware that he might have been eligible for an enhanced annuity because of his health conditions at that time.

Prudential said that the Key Features Document (KFD) that Mr B was sent with his annuity quote provided all the information needed. They said that they didn't provide advice on the annuity sale, but the information in the KFD explained the right to buy an annuity elsewhere and addressed enhanced annuities.

Our investigator looked into Mr B's case and explained his view. Mr B said Prudential could have given him better advice and should have offered him an enhanced annuity. So he asked for the case to be referred for an ombudsman's decision.

I looked into the case and issued a provisional decision to both sides explaining my thoughts. In my provisional decision I was minded to uphold Mr B's complaint. I explained that Prudential weren't providing Mr B with financial advice. But explained that they had to provide information about his options in a clear way so that he could make an informed choice.

I referred to the KFD and accepted that it provided an explanation about the right to shop around for alternative quotes. Which Mr B had accepted from our investigators view.

I didn't think that the information that Prudential provided did enough to explain the availability of enhanced and impaired life annuities. I thought that the references in the KFD we were shown only referred to serious illness. And failed to include the definitions that were recommended by the Association of British Insurers (ABI) or in the Financial Services Authority (FSA) fact sheet "*Your pension – it's your time to choose*". And I was of the opinion that had the KFD included the information that it should have, Mr B would have most likely obtained a quote for an enhanced annuity.

Prudential responded by sending us a copy of their *Income For Life* guide. They said that this would have also been sent to Mr B along with the KFD with his annuity quotes. This

document provided more information about enhanced annuities, including a list of conditions that specifically included diabetes.

I contacted Mr B and shared this information with him. I explained that this new information changed my provisional finding. In my follow up to Mr B I said:

“Prudential have always said that the annuity quote that you were sent was accompanied by the Key Facts Document. And I can see from the application form you signed and returned that it implied that was the case. But it also indicated that the quotes were sent with a retirement brochure. As I said in my provisional decision I thought it was likely that you would have been sent the Key Facts Document. But I explained why I didn’t think it provided you with fair information.

Now that I’ve seen the retirement brochure, that I also think you would have been sent, I’ve had to consider the information in that too. You’ll see that it provides a bit more information about enhanced annuities. But crucially in your case, specifically lists diabetes as a condition that might have qualified you for an enhanced annuity.”

Mr B responded saying that he hadn’t seen the *Income For Life* guide explaining about enhanced annuities. He questioned when the document was published. And he asked why Prudential hadn’t provided this explanation to him when he originally made his complaint.

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 B explains that he didn’t have financial advice when he bought his annuity with Prudential. He says that Prudential sent out information that gave him a list of 6 choices to pick from, and he wasn’t contacted by them to discuss his choices. He didn’t feel informed that he may have been eligible for an enhanced annuity. He raises this because at the time he bought his annuity he suffered from diabetes which was a medical condition that might have applied. I can see that he’s since suffered from deteriorating health because of his condition so understand his concerns.

I’m satisfied from the information provided that this was a non-advised sale. Mr B contacted Prudential asking for quotes for his retirement options. This was ahead of the policy’s normal retirement date, so he hadn’t yet been sent a ‘wake-up’ pack – intended to inform Mr B of the choices he would have. So Prudential weren’t responsible for providing Mr B with advice regarding his annuity options. But there was a responsibility on them to provide clear information so that he could make an informed choice.

One of the things that Prudential needed to let Mr B know when selling him his annuity was that he was entitled to shop around with different providers to see if he could get a better annuity. I explained in my provisional decision why I thought the KFD Prudential provided made that clear. And Mr B hasn’t challenged that point.

Prudential also needed to let Mr B know that enhanced and impaired life annuities were available for certain medical or lifestyle conditions. For the reasons I explained in my provisional decision, I didn’t think the KFD which Prudential showed us made that sufficiently clear. There was clear guidance published by the ABI at the time and the KFD didn’t appear to comply with that. I’d asked Prudential for further information about what Mr B had been sent and none was provided until after I’d issued my provisional decision when they provided their *Income For Life Guide*.

This pension guide has a publication date of 04/2007 on the bottom of the last page. So I accept it's the correct version of this document for the time that Mr B was sold his annuity. I've seen a copy of the annuity quote acceptance that Mr B signed in November 2007. It referred to the paperwork included in that pack. And in the margin of page 1 said "*the retirement brochure and the key facts booklet enclosed with this pack provide important information that will help you understand your quotation and the options available to you.*" So it's more likely than not that Mr B would have received both the *Income For Life* retirement brochure as well as the KFD.

The FSA factsheet explained that enhanced and impaired life annuities paid a higher income depending on health or lifestyle. It explained that some companies pay higher annuities to people who are overweight, have high cholesterol, are smokers or in poor health. Prudential's KFD and retirement brochure only focus on the availability due to serious ill health. Which I still think is insufficient. But I have to consider whether the absence of clear information about the availability for an enhanced annuity for lifestyle factors made a difference in this case. And I appreciate that Mr B is disappointed with my decision but I don't think it would have.

On page 11 of the retirement brochure it explained "*those suffering from, for example, diabetes, high blood pressure, heart disease or cancer could potentially receive a higher pension income.*" Which makes a difference in Mr B's case because he was diagnosed with diabetes at the time of choosing his annuity. I think the information Prudential provided Mr B should have made it clear that he may qualify because of his health. But he didn't apply for an enhanced annuity. So I don't think it's likely that he would have even if the retirement brochure more closely mirrored the information in the FSA fact sheet.

I can understand Mr B's concerns that he may have been eligible for an enhanced annuity. And I share his disappointment that Prudential failed to share a copy of their retirement brochure when he first made his complaint. But I'm now satisfied that the information Mr B was sent with his annuity quotes informed him that the medical condition he had may have made him eligible for an enhanced annuity. So I'm not able to uphold Mr B's complaint.

My final decision

For the reasons I've given I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 26 April 2021.

Gary Lane
Ombudsman