

The complaint

Mr G is unhappy with the outcome of Prudential Assurance Company Limited's review of his annuity and other related matters.

What happened

Mr G had his pension savings with Prudential held in four policies. When he came to take his benefits his plans were amalgamated, he elected to take the maximum (25%) tax-free cash (TFC) and used the balance to purchase an annuity with Prudential. In August 2012 he received TFC of just under £57,417 and a monthly income of £874.21.

In 2019 Mr G was contacted by Prudential as it had been asked by the Financial Conduct Authority (FCA) to review certain non-advised annuity sales from 1 July 2008. Prudential carried out a review of Mr G's annuity and awarded him a one-off lump sum payment of £5,699 for his loss, plus they increased his annual income by about £671 going forward. Mr G believes the redress calculation of 6.4% must be incorrect and doesn't reflect the true amount of his loss. He's unhappy he wasn't awarded an enhanced annuity from the outset, it was alarming to be told he'd lose his guaranteed annuity rate (GAR) if he shopped around, and the recalculation should have been based on the gross amount prior to the deduction of the TFC. He was unhappy with how Prudential dealt with his complaint and didn't think they'd treated him fairly.

Prudential didn't uphold Mr G's substantive complaint about the review or the initial sale of his annuity in 2012 and said the redress calculations had been carried out in line with the FCA's guidance. As Mr G had elected to take 25% of the fund as tax-free cash the remaining 75% was the sum available with which to purchase the annuity so the redress calculation was based on that figure. They'd taken into account the health and lifestyle information Mr G had supplied, so he'd received the amount he was entitled to. But they acknowledged some customer service issues and paid him £100 to say sorry.

Mr G complained to this service asking for compensation for the stress the situation had caused him from the outset and the poor way he felt Prudential had responded to his complaint. Our investigator reviewed everything but didn't think Prudential needed to do more. He'd seen nothing to show Prudential's calculations were wrong and he explained we couldn't look into complaints about complaint handling.

As agreement couldn't be reached it's been passed to me to make a 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.

Having done so, I'm not going to uphold it for broadly the same reasons as the investigator. I'm sorry to hear of Mr G's poor health and the challenges of caring for his wife. I'm aware he feels strongly he's been badly treated by Prudential, so I'll aim to answer all his points.

As well as his concerns about the review redress calculation, Mr G is unhappy about the following:

- being told he'd lose his GAR if he shopped around;
- not being given an enhanced annuity in 2012 despite completing the medical questionnaire,
- being given the wrong figures undervaluing his annual income by about £2,000;
- Poor complaint handling, failing to call him back, and taking him through security again when he was transferred to other people;

Loss of GAR

Mr G had four policies with Prudential, three of which came with GARs which provide guaranteed benefits regardless of investment performance. GARs were generally much higher years ago when Mr G's policies started, so provide a higher rate of income than would now be the case. The GAR would be lost if the pension was transferred or if an annuity is purchased from another provider on the open market, as that provider would use its own rates and wouldn't be bound by the GAR. So it's important for Mr G (or his advisor if he used one) to understand that he might lose a valuable benefit if he exercised the open market option. So I don't think it was wrong of Prudential to have explained this to Mr G.

Enhanced annuity in 2012

Mr G thinks his health entitled him to an enhanced or impaired life annuity in 2012. When he opted to take his benefits he completed a medical questionnaire disclosing information about his health and lifestyle to see if he'd be entitled to an enhancement. Because his policies came with guarantees, Prudential says it would have compared the annuity income Mr G could receive under the guarantees against an enhanced / impaired annuity based on the standard non-guaranteed rates, and offered the higher annuity of the two. In other words, the enhancement isn't in addition to the GAR so if the uplift due to his health wouldn't give him a higher annuity than he'd already be entitled to with the guarantees he wouldn't be better off with an enhanced annuity. This seems fair to me.

The calculation error

When Mr G initially took his benefits in August 2012 he accepted a quote and sent the forms back, but Prudential then requoted the figures but without taking the GAR into consideration. The initial offer was for TFC of £57,416.06 plus annual income of £10,490.52 whereas the requoted amount was for slightly higher TFC of £57,779.85 but annual income of only £8,556.96, which shows the difference a GAR can make. Mr G brought this to Prudential's attention on 14 August which was before the annuity was due to be paid on 20 August, so it was corrected before the first payment was due. While I understand it was upsetting, the matter was quickly put right. Mr G suffered no financial loss as a result, so Prudential doesn't need to do anything else.

The review redress

In May 2019 Prudential wrote to Mr G to explain the FCA required it to review his annuity sale and asked him for some information about his circumstances in 2012. Although Mr G's advisor had done some research on annuities available from other providers via the OMO, and Prudential had sent the advisor some quotes, Mr G approached Prudential himself and made the decision about his annuity, rather than arranging it through an advisor. So it was considered a non-advised sale.

The letter explained they were reviewing certain non-advised annuity sales from 1 July 2008 to ensure people had been given enough information to make an informed choice. In particular, whether they'd been made aware they could shop around on the open market, and that certain health and lifestyle conditions may have made them eligible for an enhanced annuity. Mr G had been aware in 2012 of the OMO as he'd looked into other options with the help of an advisor. And he was aware his health and lifestyle conditions may have meant he was eligible for an enhanced annuity. He'd completed a questionnaire disclosing information about a respiratory condition diagnosis, and his weight, alcohol and smoking habits. But he says he was dissuaded from pursuing the OMO due to the loss of guaranteed benefits, so he decided to stay with Prudential.

The review outcome letter dated 20 December 2019 explained how the review was conducted by following the FCA guidance. It grouped together the types of health conditions which may give rise to an enhancement due to their likely impact on life expectancy. It explained that only one specific medical condition in each group is considered, and where more than one condition is disclosed, the one providing the highest uplift is used. The review had taken into consideration Mr G's diagnosis of COPD which is one of the conditions in the "respiratory" group, plus his height and weight (used to calculate body mass index) and his smoker status. Mr G also disclosed other medical conditions such as asthma and that he may have been exposed to asbestos through his work, but these are also in the respiratory group so wouldn't result in a further uplift. The letter set out the compensation calculation in table format showing the back payment for the annuity income from 2012, plus interest, net of basic rate tax, giving a total of £5,543.40. And another table showed the increased annual annuity income Mr G would receive going forward of £11,161.54, an uplift of 6.4%.

Mr G is aware of the FCA report into Prudential's annuity sales practices. As well as imposing a fine, the FCA provided the methodology for Prudential to carry out its redress calculations, and they took a close interest in the review requiring it to be overseen by properly qualified people. I've seen no evidence to show Mr G's redress calculation might be wrong, so I won't ask for it to be redone. The FCA only required Prudential to review their calculation and pay redress if this identified a loss, they aren't required to add additional payments for distress and inconvenience, or for not offering an enhanced annuity at the outset as Mr G would like. Mr G said he didn't want to accept Prudential's redress, hoping to negotiate a better offer. But the offer wasn't open to negotiation as Prudential was required to follow the redress methodology as set out by the FCA and not enter into individual negotiations with annuitants.

I'm not sure why Mr G thinks the review should have been carried out on the whole of his pension pot rather than the net amount after the 25% TFC was released. It doesn't appear to be in dispute that Mr G received the tax-free lump sum in 2012, and the review wouldn't have affected the value of his pension savings, only the annuity he purchased with the balance. So I'm satisfied Prudential was correct to carry out the redress based on the net figure.

Complaint handling and customer service

Mr G has been in extensive correspondence with Prudential about his annuity including several phone calls which I understand he finds difficult due to a hearing impairment. I appreciate it can be frustrating dealing with a large organisation and having to explain something to different people. But as our investigator explained we can't look into complaints about the way a business dealt with a complaint. I understand Prudential paid Mr G £100 in January 2020 for the customer service issues, which I think is fair.

Overall, while I understand Mr G remains unhappy and I'm sorry to hear how upsetting and stressful he's found all this, I've seen nothing to make me think Prudential hasn't conducted the review of his annuity correctly so I'm not going to ask it to do anything else.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 6 October 2021.

Sarah Milne
Ombudsman