

The complaint

Mr J complains that The Prudential Assurance Company Limited failed to provide him with sufficient information about the value of his pension savings. As a result he continued to make contributions to his pension plan, and now finds that the value of the plan exceeds the pensions Lifetime Allowance (“LTA”).

What happened

Mr J has been making regular and ad-hoc contributions to a pension plan held with Prudential since 1984. He says that he also holds pension savings with other firms. Mr J has been sent annual information by Prudential about the potential income he might receive from his pension plan when he reached retirement.

Mr J’s pension plan is a deferred annuity contract. So the contributions that Mr J has made over the years would entitle him to receive an annuity when he retires. Those annuity amounts would be supplemented by bonuses that might be added each year. So Mr J’s pension benefits would be generally expressed as a future annuity amount rather than as a fund transfer value that could be compared against the LTA.

In 2016, Mr J was aware that the LTA was to be reduced by the government. He says that he sought information from Prudential about the value of his pension savings. But the request that Prudential recorded on its systems was for an illustration of the pension benefits Mr J might receive when he reached 60 years of age. It was that information that Prudential sent to Mr J at that time.

In October 2020 Prudential wrote to Mr J to remind him that he was approaching his selected retirement date of March 2021. At that time Prudential was required to provide Mr J with sufficient information to make his choice about how to use his retirement savings. One of the choices open to Mr J was to transfer his pension savings to another provider. So as part of the information it provided Prudential calculated the equivalent transfer value of Mr J’s pension savings. That information showed him, for the first time, that the value of his pension savings had exceeded the LTA.

Mr J complains that Prudential should have provided him with information about the equivalent transfer value of his pension savings when it sent him its annual reports. Or, at the very least, he says that Prudential should have made it clear that information was available on request.

Mr J’s complaint has been assessed by one of our investigators. He thought that the information Prudential had sent to Mr J was sufficient for it to meet its regulatory obligations. And he thought that, had Mr J specifically asked for information about the transfer value of his pension savings, that information would have been provided. Overall he didn’t think Prudential had done anything wrong, or that the complaint should be upheld.

Mr J didn’t agree with that assessment. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr J and by Prudential. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

From the conversations he has had with our investigator, and the requests for information that he has made to Prudential, it is clear to me that Mr J has a good understanding of the importance of the LTA and the impacts of exceeding it. He has explained how he used his pension savings to manage his income tax liabilities. And how, if he hadn't been able to use his pension savings in that way, he would have made alternative investments with his surplus income.

But it is equally clear that the information Prudential routinely provided to Mr J didn't give him the level of detail that he needed to understand the transfer value of his pension savings with the firm. I think an approximate transfer value could have been derived from the information, on the basis that 25% of the fund value could be taken as a pension commencement lump sum ("PCLS" – otherwise known as tax free cash). But that would have required experience and understanding that is reasonably beyond most consumers. So I entirely accept that the information Prudential provided didn't make Mr J aware that his pension savings were approaching, and then past, the LTA limits.

But what I need to decide here is whether that is information that Prudential should, or was required to, provide routinely to Mr J. I will deal with his request in 2016 in a little more detail later in this decision, but in general I am persuaded that the annual statements Prudential sent to its policy holders, including Mr J, were not required to set out each time the transfer value of the fund.

As I explained earlier, Mr J's pension savings entitled him to receive a specified annuity when he reached retirement. That annuity payment comprised amounts that were derived from the contributions (both regular and ad-hoc) that Mr J made, together with guaranteed bonuses added from time to time at the discretion of Prudential. But, in order to assess his compliance with the LTA limits, Mr J needed to understand the value of those benefits as a cash transfer sum.

In order to place a transfer value of Mr J's pension benefits, Prudential would need to rely on calculations performed by its actuary. In simple terms Prudential would need to determine the likely cost at a specified time of purchasing an annuity of an agreed value, at a future date. That isn't a simple calculation, and would likely be prohibitively expensive to perform for all its policy holders on a routine basis. So I accept that it would be unreasonable to expect Prudential to include that information on each annual statement.

But the value of the pension savings was clearly information that Prudential could establish. And so I think it is right that information was provided to consumers if they requested it. Mr J says that is what he did in 2016, but the response from Prudential led him to conclude that the information wasn't, in fact, available.

Mr J made his request to Prudential in 2016 during a telephone call. Given the time that has passed no recording of that call is available. And I must be mindful that, over such a prolonged period of time, even the most careful of memories can, and do, fade. So I think it is reasonable to rely on the contemporaneous evidence that I have from the time – Prudential's notes of Mr J's request, and the response it sent to him.

Prudential's notes from the call say that Mr J asked for an illustration of his pension benefits at his 60th birthday. And it appears that is exactly the information that he was sent in reply. Prudential issued an illustration of the pension benefits it might pay to Mr J around nine months later when he reached 60 years of age.

But the information Prudential sent didn't provide any specific details of the transfer value of Mr J's plan, and so allow him to compare its value to the LTA. Prudential has said that wasn't something Mr J asked for at the time. Whereas Mr J says that Prudential's failure to provide that information led him to conclude that it wasn't available.

I think it is disappointing, and a little surprising, that Mr J reached that conclusion without asking any further questions of Prudential. Had he done so I am satisfied that it is most likely Prudential would have provided the information to him on his request. I don't think that Mr J would have needed to use specific technical terms such as transfer value to effect that request. I think him simply telling Prudential that he was concerned that he might be affected by the LTA would have been sufficient for the information to be provided.

Mr J has asked whether it would be reasonable to expect Prudential to monitor his proximity to the LTA, and warn him when he was approaching that limit. He says that, had it done so, he could have stopped paying the additional pension contributions he made, and diverted his surplus income to another more tax efficient savings method.

I think that expecting Prudential to take steps of that nature would be fraught with difficulties. As I explained earlier, it isn't a simple, or cheap, approach for Prudential to calculate the transfer value for pension savings of this nature. And over the years it has been possible for consumers to take protection when LTA limits changed. So some consumers could benefit from LTA limits more than 50% higher than those which applied to Mr J. And Mr J also holds pension savings with other firms. Those wouldn't be something that Prudential would have details of, and so couldn't factor into any warnings it provided.

Ultimately I think it falls to Mr J to monitor his own proximity to the LTA that was relevant to him at any time. I appreciate that this was something the says he attempted to do in 2016. But I think it was incumbent upon him to seek further information from Prudential when there appears to have been some disconnect between the information Mr J says he asked for, and the information Prudential provided.

I appreciate how disappointing my decision will be for Mr J. It does appear that he was aware of the importance of the LTA calculations. But I don't think Prudential was responsible for managing that process for him. The information Mr J was routinely given on the annual statements was insufficient for him to complete his LTA calculations. But I'm persuaded it is most likely that the necessary information would have been provided to him, had he specifically requested it from Prudential. So I don't think Prudential has done anything wrong here, and so the complaint shouldn't be upheld.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against The Prudential Assurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 9 November 2022.

Paul Reilly
Ombudsman