

The complaint

Mr C complains that The Prudential Assurance Company Limited (“Prudential”) failed to provide him with appropriate advice, or sufficient information, when he purchased an annuity in 2013.

What happened

Mr C has been assisted in making his complaint by a claims management company. But in this decision, for ease, I will generally refer to all communication as having been with, and from, Mr C himself.

Mr C held pension savings with a firm that I will call R. He also had an annuity in payment that had recently been provided by Prudential. In April 2013 Mr C received advice from Prudential about using the pension savings he held with R to purchase an annuity, and take a pension commencement lump sum (“PCLS” – otherwise known as tax free cash). As a result of that advice Mr C purchased a further annuity from Prudential.

Mr C complained to Prudential about what had happened when he purchased the annuity. He said that Prudential had failed to make him sufficiently aware that he could purchase an annuity from another provider by taking what was known as an open market option. And he said that at the time he was badly overweight and drinking heavily so should have been offered an enhanced annuity due to his impaired life expectancy. Prudential didn’t agree with Mr C’s complaint – it said that the advice it had given him had been suitable. So Mr C brought his complaint to us.

Mr C’s complaint has been assessed by one of our investigators. He thought that the information and advice Prudential had given Mr C about the open market options and enhanced annuities had been suitable. So he didn’t think the complaint should be upheld.

Mr C 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 C 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.

As I said earlier, Mr C was already in receipt of an annuity from Prudential. The sale of that annuity doesn't form part of this complaint. So, in this decision, I will only be considering the annuity that Mr C was sold in April 2013, using pension savings that he transferred from R.

The complaint that Mr C has made is that the annuity he was sold was unsuitable for his circumstances, and that Prudential didn't provide him with sufficient information about his purchasing options, such as being able to purchase an annuity from another provider, or perhaps being eligible to receive an enhanced annuity due to some medical conditions.

I think it would be helpful to briefly note the circumstances behind the sale, and some key information about Mr C at that time.

The advice Mr C received, and his decision to purchase an annuity, took place over three meetings. It seems that Mr C's wife was also in attendance at those meetings. Mr C first discussed his situation with Prudential during a phone call in April 2013. That was followed by two face to face meetings in the following weeks, and culminated in an advice report being prepared for Mr C. The advice given to Mr C was that he should transfer his pension savings from R and use them to purchase an annuity with Prudential.

At that time, Mr C was aged 60 and had been unemployed for a couple of years, although he had found some agency work during that time. But he hadn't worked for a number of months, and was facing some increasing financial difficulties, including mortgage arrears. So he explained to Prudential that he had a pressing need to increase his income, and to access a PCLS to help reduce some of his other debts.

The report that Prudential provided to Mr C set out a number of options for the use of his pension savings. But, given he had very little (or no) capacity for loss, taking an immediate annuity would provide Mr C with a safe and stable income for the future. But, by using his pension savings in that way, at age 60 rather than his intended retirement age of 67, the report explained to Mr C that he would reduce the amount of annuity income that he could receive.

The pension savings that were being used by Mr C to purchase this annuity were held with another firm. So, by purchasing an annuity from Prudential, Mr C was exercising an open market option. I acknowledge that the provider of Mr C's pension savings no longer offered annuities itself – and in fact used Prudential to provide annuity quotations for its customers. But that wasn't the basis upon which Mr C was dealing with Prudential. He had approached the firm independently, no doubt following his discussions on the other annuity he'd recently purchased, to discuss using the pension savings he held with R.

So I am satisfied that Mr C was aware that he was able to "shop around" a number of providers to seek the annuity that he wished to purchase. I think it likely that he had previously had a positive experience in purchasing an annuity from Prudential, so made a similar decision here.

There is no recording, or transcript, of the discussions that took place between Mr C and Prudential around ten years ago. And over such a lengthy period of time even the most careful of memories can, and do, fade. So I think that the documentation that was produced at the time provides me with the best indication of what was discussed. I think it likely that,

had the documentation recorded matters that hadn't been discussed, it is something that Mr C would have been likely to question at the time.

The suitability report stated that the advisor from Prudential had explained to Mr and Mrs C that some medical or lifestyle conditions that reduce your lifespan may allow consumers to receive a higher annuity income. But it went on to say that they had discussed the conditions that might give rise to that situation and Mr and Mrs C had confirmed they didn't apply to them.

Different providers set their own criteria for what medical or lifestyle conditions give rise to the payment of enhanced annuities. It seems that the lifestyle conditions Mr C has told us were present at the time (being overweight and drinking heavily) were not something that might have caused him to be offered an enhanced annuity by Prudential.

But I think that the discussions I've referenced above would have been sufficient to make Mr C aware that some medical or lifestyle conditions might allow enhanced annuities to be offered. I don't know whether other providers might have considered his health to be a reason to pay an enhanced annuity. But I think Prudential provided him with sufficient information to make those enquiries had he thought it appropriate.

I appreciate that my decision will be disappointing for Mr C. But I think the advice that Prudential provided to him in 2013 was suitable. And I think that he was sufficiently aware that he could purchase an annuity from other providers, and that some annuities might be enhanced if a consumer's life expectancy was reduced. So I don't think the complaint should 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 C to accept or reject my decision before 22 June 2023.

Paul Reilly
Ombudsman