DRN-4510367

The complaint

Mr G complains that the transfer values of his pensions reduced when he had been expecting them to increase.

In February 2023 The Prudential Assurance Company Limited ("Prudential") had communicated to Mr G's adviser - BLP Wealth Management Limited, an appointed representative of M&G Wealth Advice Limited ("M&G") – that whilst not guaranteed, the performance of the with profits fund meant there could be an uplift of around 1.25% to transfer values on legacy pension products if those products were retained until these bonuses were added (typically on or around 1 April).

As such Mr G postponed acting in transferring his pensions until after this date.

However, when updated values were provided in May 2023 the pension transfer value had in fact reduced by around £12,000.

Mr G has stated that this is not what he had expected, with the value of his pension, and the amount of tax-free cash he could take, both being negatively impacted.

Mr G is being assisted and represented in this complaint by his wife – Mrs G. However, for ease of reference I have referred only to Mr G throughout the decision below.

What happened

In November 2022 Mr G sought advice regarding his two Prudential Pensions. Mr G had a T86 personal pension with a value of around £37,300 and a T66 Retirement Annuity Contract with a value of around £150,000.

At the first meeting no advice was given as Mr G wanted to further consider his options, including the cost of advice and whether to consider an annuity.

Mr G arranged a further appointment with the adviser in February 2023. During this meeting a fact-find was carried out so the adviser could get a clear picture of Mr G's financial circumstances, needs and objectives.

On 23 February 2023 Prudential announced to all the appointed representatives of M&G that there was a surplus within the with-profits sub-fund and that it should be anticipated that (whilst not guaranteed) there may be an uplift to the fund / transfer values.

Having been informed of this by his adviser Mr G chose to delay the advice and wait for the potential uplift to transfer values on 1 April 2023.

On 21 April 2023 after further discussions, the option of utilising an enhanced annuity rather than flexible drawdown in retirement was raised again. Mr G provided his medical history so underwriting could commence and enhanced annuity rates could be considered.

Mr G contacted his adviser on 11 May 2023 to confirm that the option of an annuity had been discounted and that the enhanced annuity process should be discontinued. Flexible access drawdown had been decided upon as the best course of action given Mr and Mrs G's desire to access tax-free cash to repay their mortgage, whilst leaving the remaining capital untouched.

A further meeting was held on 19 May 2023 where illustrations for a flexible drawdown solution were discussed. It was at this meeting where it became apparent that the transfer value of the T66 policy had dropped by around £12,000.

The adviser explained that the T66 policy was a policy that promised to pay a set income in retirement, and that the transfer value was based on the expected cost of that income rather than the value of any actual underlying investments. However, Mr G was unhappy with the drop in value, especially given the expected uplift which had been discussed in February 2023. As such a complaint was registered with Prudential.

Prudential issued a response on 4 June 2023. This broadly repeated the adviser's explanation of why the transfer value had fallen, explained that transfer values can rise as well as fall, and that as such the complaint was not being upheld.

Another letter was sent to Mr G on 20 July 2023 providing a further answer as to why the value of the pension had dropped. This letter explained again that the policy did not have an actual fund value, rather this pension promised to pay a set income each year and that the transfer value is calculated based on the cost of providing that income. Prudential confirmed the way this calculation is performed is regularly reviewed. At the time Mr G was looking to transfer rising gilt yields and the associated rising annuity rates had led to a reduction in the cost of providing the income promised by the T66 policy. As such the transfer value had also reduced.

On 3 August 2023 Prudential issued another response to a complaint. This letter did not detail what specific complaint points it related to but accepted that levels of service had not been at their required levels and as such the complaint was being upheld. £125 was offered as compensation for the distress and inconvenience caused.

On 4 August 2023 the transfer of the T86 policy was confirmed with around £37,800 transferred to a Prudential self-invested personal pension ("SIPP")

The T66 pension was transferred on 13 September 2023 with around £144,000 transferred to the new SIPP.

Mr G considered Prudential's offer of £125 insufficient given the reduced fund value and as such referred his complaint to this service.

Whilst the complaint was being investigated by this service Prudential issued another complaint response. This covered Mr G's specific point that Prudential's guidance to defer acting on their pension until after April 2023 had led to financial loss.

Prudential stated that within the February 2023 announcement that there was a fund surplus it was made clear that advisers should also confirm to policy holders that an uplift in value was not guaranteed, and that if policyholders chose to defer taking action on their policies until after April 2023, the transfer value may also be reduced, or a Market Value Reduction ("MVR") may apply.

Having sought confirmation from Mr G's adviser, Prudential stated that the announcement had been discussed in full, with Mr G being made aware that any uplift was not guaranteed before the decision to defer taking any action was made.

Whilst the value of the T66 policy fell be around £12,000 between February 2023 and May 2023 Prudential explained that this was because of the nature of the policy, the fact that it was set up to provide a guaranteed level of income in retirement, and that the transfer value of the policy was based on the cost of this income rather than investment performance.

The calculation for converting this income to a transfer value used several factors, one of these – the annuity interest rate – was changed on 1 April 2023. The increased annuity rate meant it would cost Prudential less to provide the level of income promised by the T66 policy and as such the transfer value was also reduced.

Prudential explained that changes to the underlying factors used in this calculation were confidential and as such no advanced notice of any potential changes could be given to policyholders.

Whilst Prudential accepted that Mr G had been told of the expected uplift, and been given guidance to defer acting, this guidance had also made clear that the uplift was not guaranteed, and transfer values could rise as well as fall.

As such the complaint was not upheld.

Our investigator looked into things and did not think Prudential had acted unfairly.

The investigator considered the announcement made by Prudential regarding the potential uplift and concluded that whilst the adviser had made Mr G aware of the potential benefits, these weren't guaranteed at any time.

Whilst waiting for this uplift, and whilst Mr G still considering both annuity and flexible drawdown options, an additional change was made by Prudential which affected the transfer value of the T66 policy. The investigator explained that the decision made to change annuity interest rate used in calculating the value of the T66 policy was a business decision that Prudential had kept confidential to protect the wider membership of the with-profits fund, with no advanced warning being given to either Mr G's adviser or other policy holders. As a business conduct decision, the investigator stated that this was a matter for the financial services regulator (the Financial Conduct Authority) rather than this service.

The investigator did note that the specific complaint points Mr G had made had not been covered fully by Prudential until referring the complaint to this service prompted the issuance of a further complaint response in November 2023. However, the investigator went on to confirm that they would be making no recommendation in respect of the drop in fund value and considered the £125 offered by Prudential a suitable amount to cover the distress caused by Prudential's blanket response to the complaint.

Mr G did not agree and stated that they remained of the opinion that the transfer to the SIPP would have been actioned sooner were it not for Prudential's advice to "hold fire". In addition, Mr G stated that there had been no real volatility in the stock market and as such the reduction in value remained baffling with an explanation other than "investments can go up and also go down" still required.

The investigator was not persuaded to change their findings and as such the case has been passed to me for a final 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.

Dealing firstly with Prudential's communication around the potential uplift in fund values I can fully appreciate why this would have led to Mr G postponing any decision as to how to utilise his pension funds.

From the chain of events above it is clear that when this announcement was made in February 2023 Mr G was in the process of deciding what to do with his pensions, with consideration being given to using an annuity or drawdown with the funds that had been built up in the T66 and T86 policies.

Whilst this decision was not made until May 2023 it may have been the case that had Prudential not announced the fund surplus, and the potential uplift to fund values, Mr G may have finalised his decision before 1 April 2023 and benefitted from a higher transfer value on the T66 policy. It is however impossible for me to know exactly what would actually have happened had Prudential acted differently.

What I can see however is that the communication of the potential uplift did have the caveat's I would expect to see in such circumstances, with confirmation that the increase was not guaranteed, and that values could fall as well as rise.

I have noted Mr G's comments that his adviser made him aware that if he chose to proceed before 1 April 2023, he would be acting against the guidance which had been provided. However, Mr G did retain the option to transfer prior to 1 April 2023 and had been made aware that the uplift was not guaranteed.

Overall, I do not believe Prudential acted unfairly in making affected customers aware of the potential uplift to their pension values and providing guidance confirming that they should consider retaining the pensions until 1 April 2023 unless transferring was urgently needed.

I have gone on to consider the subsequent reduction in the transfer value of Mr G's T66 policy and Prudential's actions in this regard.

As above, this policy operates differently to the T86 policy in that its primary aim is to provide a guaranteed level of income in retirement.

Whilst the T86 policy transfer value was based on the value and performance of the underlying investments held within the pension, the T66 policy transfer value was not.

This transfer value was based on the calculated cost to Prudential of providing the guaranteed income promised by the policy.

As such, movements in the investment markets did not directly impact the value of the T66 policy. As per Mr G's comments in response to our investigators findings I agree that the reduction in value of around £12,000 in this policy does not correlate with broadly stagnant investment markets at that time.

However, at that time, inflation, interest rates and gilt yields were higher than they had been for several years. This led to higher annuity rates, and these higher annuity rates meant that the cost to Prudential of providing the guaranteed income from the T66 policy had reduced. As such, the transfer value also reduced.

Prudential have confirmed that any changes to their calculation of transfer values for policies such as Mr G's T66 policy were considered confidential, and as per our investigators findings this decision was likely to try and protect investors within the with-profits fund from any undue volatility prior notification of such changes may create. I also agree with the investigators commentary that Prudential's decision to amend the calculation and keep this confidential is a business conduct decision that this service has little jurisdiction over.

It is unfortunate that Mr G's policy transfer value was impacted by the changes to the calculation, and I can especially appreciate his frustration that this occurred after being told that there was a likelihood of an increase in fund value.

However, as above I have concluded that Prudential's decision to notify policyholders of the potential uplift (with appropriate warnings given) was reasonable. In addition, the separate decision to amend their transfer value calculation on the T66 policy without any prior notification to policyholders is also reasonable given its potential consequences to the fund as a whole and the wider customer base.

As such, I do not require any further action of Prudential and am not upholding this complaint.

My final decision

Whilst I sympathise with the chain of events above and the reduction in Mr G's pension value, I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 12 January 2024.

John Rogowski
Ombudsman