

The complaint

Mr D complains about the advice given by The Prudential Assurance Company Limited ('Prudential') to transfer the benefits from his defined-benefit ('DB') occupational pension scheme to a Bond Section 32 personal pension. He says the advice was unsuitable for him and believes this has caused a financial loss.

What happened

In 1990, Prudential advised Mr D to transfer the deferred benefits in his DB scheme to a Section 32 personal pension plan. The cash equivalent transfer value ('CETV') of Mr D's DB scheme at the time was £1,153.78 which was transferred into the Prudential Section 32 plan on 6 March 1990. Just under half of the amount transferred related to a GMP (Guaranteed Minimum Pension).

In or around 2000, Prudential wrote to Mr D to invite him to participate in the industry wide Pensions Review that had been established by the then regulator to look at the potential mis-selling of pensions between 29 April 1988 and 30 June 1994. Mr D took up Prudential's invitation and a review to see whether he had been correctly advised was undertaken. Prudential sent Mr D the outcome of its review on 14 September 2001 and told him that the review had shown he had been financially disadvantaged by the transfer and that he was being offered redress in accordance with the guidelines set out by the regulator. Prudential calculated that Mr D had suffered a loss of £985 which it offered to pay into his pension plan in order to top it up. It also told him that if he accepted the offer it was making he would do so in full and final settlement of all matters.

On 30 September 2001 Mr D signed a form accepting Prudential's offer in full and final settlement of all claims arising out of the transfer of his DB scheme to the Section 32 pension. On 10 December 2001 Prudential sent Mr D a letter confirming it had made the payment into his plan.

On 25 April 2024 Mr D contacted Prudential to make a complaint. He complained that had he remained in his DB scheme he could have taken his benefits at age 55. So Mr D did not think that he'd been provided with a like-for-like pension arrangement by Prudential.

Prudential looked into Mr D's complaint and issued him with its final response letter on 23 May 2024. It said that Mr D had participated in the Pensions Review in 2001, the intention of which was that there would be a one-off calculation undertaken on a specified date. Prudential said that it had undertaken a calculation approved by the regulator and that the regulator had also monitored the conduct of the review throughout. Further, Prudential said that the normal retirement date (NRD) under Mr D's DB scheme had been age 65, that earlier retirement was not guaranteed and it would only have been possible with the consent of the scheme trustees. It also provided documentary proof to Mr D that his own NRD from the DB scheme had been age 65. Finally, Prudential also explained that it was not possible for Mr D to access the pension benefits provided by his Section 32 plan by way of drawdown because the plan included the safeguarded benefit of a GMP. It said that if Mr D wanted to access his benefits this way he would need to transfer his plan to another provider.

Unhappy with the outcome of Prudential's investigation into his complaint, Mr D complained to the Financial Ombudsman Service in July 2024. He said he had been badly advised to transfer his DB scheme benefits in 1990 and that it had impacted him both financially, in terms of the pension he would receive, as well as in terms of how he could access his benefits. Mr D said he was now approaching age 55 and knew of former colleagues that had remained in the DB scheme who were now able to access their pensions from age 55 so he said he felt he had been disadvantaged as a result of the transfer. Mr D said he wanted a direct comparison carried out comparing what Prudential were offering him and what he would have received had he remained in his DB scheme. Mr D thought any shortfall should be made good and that he should be able to access his benefits at age 55.

One of our Investigators looked at Mr D's complaint but didn't recommend that it was upheld. He said that Prudential had only been required to review the transfer once and that the redress he had received at the time had been considered fair. He also said that Prudential had completed the redress calculation in accordance with the then regulator's guidance.

As Mr D did not agree with our Investigator's findings the complaint was referred 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.

In October 1994, the then financial services regulator, the Securities and Investment Board, established an industry wide review of particular pension business carried out by financial firms between 29 April 1988 and 30 June 1994 – this was generally known as the "Pensions Review". This invited consumers to have the advice they had received reviewed. It included consumers who had transferred from their DB pension schemes to personal pension plans. The then regulator oversaw the Review, approving the documents financial firms had to send to affected consumers. The regulator also set the expectations for financial firms when carrying out the Review.

Mr D's complaint is about the advice he received to transfer his pension in 1990 and the impact it has had on his pension today. The advice Mr D received in 1990 was, however, investigated by Prudential in 2000/2001 under the industry-wide Pensions Review. The review of the advice Mr D received resulted in the discovery that it had led to a financial loss and Prudential was required under the Review to make good that loss. The intention behind the Review was to compensate consumers once and for all and to end any dispute about the advice received. So, having undertaken the Review in 2001/2001, Prudential does not need to revisit it, or its calculations again.

Redress calculations were undertaken in accordance with the regulator's guidance at the time, using the assumptions it set to predict future losses. In some cases, the assumptions used at the time haven't always borne out as intended due to lower investment returns and annuity rates in the period since the Review was carried out. Financial businesses are required to keep records relating to the Pensions Review indefinitely. I've seen a copy of the redress calculation report and I'm satisfied that Prudential carried out Mr D's redress calculation in line with the then regulator's guidelines. And I can see that Mr D accepted the offer he was made in full and final settlement of all claims arising out of the advice to transfer his DB scheme.

I have seen nothing to suggest that Prudential didn't follow the Review guidance or use the correct process. Thus I am satisfied that it did all that was required of it under the Pensions Review and that it doesn't need to do anything further now.

The complaint about accessing benefits

Mr D's original DB scheme was partially funded from National Insurance contributions which would otherwise have been paid into SERPs (state earnings related pension scheme). As part of the redirection of Mr D's National Insurance contributions, his DB scheme had to provide a guaranteed minimum pension (GMP) in retirement. Upon transfer of Mr D's DB scheme to Prudential, responsibility for providing the GMP passed to it accordingly.

So, Prudential is required (by law) to provide Mr D with a GMP equivalent to the additional state pension he would have received had he not been contracted out of it by his former employer. Even if the eventual fund value of Mr D's Prudential pension is insufficient at age 65 to provide the GMP to which he is entitled (recently valued at £2,117.96 per year), Prudential is still obliged to pay Mr D the guaranteed amount. As Prudential recently informed Mr D, the cost of providing his GMP at age 65 is currently £63,640.15. The current value of his pension fund is, however, only £25,649.92. Thus there is a significant shortfall in the amount needed to provide Mr D with his GMP, a funding shortfall that Prudential will have to meet.

If Mr D's fund value exceeds the amount required to provide his valuable GMP then any excess can be used to provide him with other benefits offered under the policy terms. But, as things stand, unfortunately his fund value is not sufficient at present to meet his GMP at age 65 as well as permitting him to draw other benefits to which he may be entitled under the terms of his policy. As I have already said, the cost of providing Mr D's GMP far exceeds the amount within his pension but despite that being the case, he will still receive his full entitlement to his GMP. That's because Prudential is required to make good any difference in the cost of doing so.

So whilst I appreciate that Mr D would like to access his benefits early from age 55, Prudential's obligation is to ensure he receives his GMP and, in order to do so, his entire pension fund will be required. And whilst I understand Mr D's disappointment that some of his former colleagues may have been able to access their pensions at age 55, their circumstances will likely be different to Mr D's. I can only look here at the individual circumstances of Mr D's complaint. And, having done so, I think that Prudential's decision to decline to permit Mr D early access to his pension is reasonable and in line with what I'd expect it to do in the circumstances.

Conclusion

I appreciate that Mr D feels that he wasn't adequately compensated by the Review and that, had he remained a deferred member of his DB scheme, he would have been better off in retirement than he is. But, as I have set out here, Prudential was only required to review the sale once and it did so in 2000/2001. The redress Mr D received then was considered fair and there was no provision made should the assumption not work out.

And, for the reasons I've given above, I don't think Prudential unfairly declined to allow Mr D access to his pension benefits at age 55.

It follows that whilst I appreciate that this is not the outcome that Mr D will have wanted, I am satisfied that Prudential has acted fairly and reasonably in all the circumstances. As such I am not requiring Prudential to take any further action.

My final decision

For the reasons I have set out above, my final decision is not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 20 February 2025.

Claire Woollerson
Ombudsman