DRN-5285396

The complaint

Mr S believes his pension with The Prudential Assurance Company Limited (Prudential) was mis-sold. He's also unhappy with the selected retirement date. He was concerned that this being earlier than he expected could affect his means tested benefits.

What happened

Mr S complained to Prudential about a number of issues, the investigator set these out in his view and for ease of reference I've included this below:

1. He has a personal pension with Prudential which he believes was mis-sold to him in 1985.
2. Mr S has said Prudential originally told him that he could stop paying into the pension and that it would be frozen, however he could restart payments in the future without issue. However, it later came to light that this wasn't possible and he says had they correctly told him this from the beginning, he wouldn't have agreed to start this pension.
3. He requested that his pension be refunded to him with interest as it was mis-sold but Prudential have refused his request.
4. Another concern Mr S has is that his pension should've been ready for him to access his retirement benefits on 14 September 2023 when he turned 65, but instead it reached its retirement date on 1 March 2023. Mr S was concerned that this would impact his means tested benefits.

Prudential said that the first three points had been raised too late. The investigator agreed and issued a jurisdiction view that Mr S accepted, this said only things relating to point four could be considered.

In relation to point 4, the investigator issued his recommendation letter. Within this he said that Prudential had correctly applied the retirement date to Mr S's policy, this was confirmed on the policy schedule. But benefits could be taken at any date subject to being over the minimum allowed age.

There had been some confusion about the answers given about his means tested benefits. But ultimately it isn't reasonable to expect Prudential to be experts in this area. And it was the investigator's understanding that Mr S hadn't suffered any detriment in any event.

Mr S was unhappy with the investigator's findings, he said he'd missed a number of points that he'd raised. Mr S seemed to be referring to the allegations of mis-selling which the investigator explained couldn't be considered as they had been raised too late.

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.

What we can consider

I agree with the investigator that the first three points of Mr S's complaint have been made too late. Mr S complained about the mis-selling of his pension and not being able to make payments in 1999. He received a response but Prudential no longer has the full record of this. However, Mr S complained again in 2022 and as part of this response Prudential answered these points again and said it had looked into this in 1999. It gave Mr S six months from the date of that letter to complain to this service but Mr S didn't complain within that time.

So under our rules the first three points are all out of time as they were answered in 2022. Our rules say:

'DISP 2.8.2 R 30/06/2016

The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:
(1)
more than six months after the date on which the respondent sent the complainant its final response, redress determination or summary resolution communication;'

Mr S referred his complaint more than six months after the final response letter. Since that final response letter, Mr S continued to complain to Prudential and it issued more final responses but said the date to complain by remained as six months from the first time they'd issued a final response for the particular points. However, regarding the retirement date issue and any effect to Mr S's benefits Prudential said it would extend the referral rights and wouldn't look to time bar this issue.

Therefore I agree with the investigator that we can look at what Mr S was told about his retirement date and whether this makes a difference. And the information Mr S was given about the effect this may have on any benefits he is currently in receipt of.

Mr S's retirement date and the information he was given about his benefits – did Prudential do anything wrong?

Mr S says he wanted his retirement date to be on his 65th birthday in September 2023 but instead Prudential had set the retirement date to 1 March 2023 which I understand relates to the date the policy was taken out. Mr S is concerned that this may affect his benefits as the payment was due earlier than he'd thought – and whether he took his pension benefits or not, it could impact his means-tested benefits. He was concerned this could leave him liable to legal action for potentially claiming benefits he shouldn't have – and was unhappy with the information Prudential gave him regarding his benefits.

Firstly, Mr S has told us he is now in receipt of his pension from the policy in question and hasn't (as yet) suffered any detriment in terms of his benefits. Therefore, it appears that there is no loss suffered by Mr S even if I felt Prudential had done something wrong.

Looking at the retirement date set, I can see that the date of 1 March 2023 was included as the retirement date on the policy schedule when the policy was set up. There is no mention of it being payable on his 65th birthday. I do accept the wording of this is very much contractual and not in layman's terms. Prudential also explained that these policies had to be written across whole years, so the retirement date had to be the date exactly X amount of years later from the start date. The retirement date was also confirmed on every annual statement. Mr S had another policy with Prudential that was set to his 65th birthday so perhaps this is where some of the confusion has come from. But I don't think Prudential did anything wrong here.

Mr S has said that he'd have never taken out the policy had he known about this. But it seems Mr S' unhappiness relates to potential issues with his benefits but at the time of sale this couldn't have been foreseen. So I don't think it can be said the policy was mis-sold in relation to the retirement date selected.

It seems much of Mr S' unhappiness has come from any potential complications between his pension income and his benefits. I can see that as Mr S was getting closer to his retirement age he spoke to Prudential seeking information about how the pension could affect his benefits. And he was told his pension (before payment) wouldn't affect means tested benefits. However, the call handler clarified that when Mr S came to take his benefits this may have an effect.

Mr S was unhappy with the information given to him by Prudential and felt it should have qualified people to give guidance on matters of benefits. However, I don't think this is a reasonable expectation of a pension provider, it is not best placed to provide this information. Whether Mr S's pension benefits are to be used towards his means tested benefits is for the relevant authorities to confirm and not Prudential. I note Prudential did give information on the retirement options form that said:

'"Things to consider when you access your pension…

You could lose some or all of your means-tested benefits. If you claim any benefits that are based on your income or savings, such as Housing Benefit or Income Support, you might lose some or all of these by taking your pension."

However, I understand Mr S was also trying to find out whether by having a retirement date of 1 March 2023 but not taking his pension benefits then, whether the pension would still count towards his means tested benefits. Mr S alleges he was given incorrect information regarding this – and was told it was only when he received payments it would count. However, he is now aware of notional income (income that could be claimed but hasn't yet been) counting towards the means benefit test. But as the investigator explained and as I said before, I don't think it is reasonable to expect Prudential to be experts on the benefit system and in particular an individual's benefits and how they will be affected by pension payments. The actual benefit department in question is the place to get that information from and Prudential can't be held responsible if that department was unable to give clear answers.

As Prudential had set the retirement date correctly for the policy and were administering the policy correctly, I cannot say it has done anything wrong. It isn't responsible for working out Mr S's benefits situation, its call handlers did try to help but as I've said it isn't reasonable to expect them to be experts in this field. And if as it seems, that notional income counted towards Mr S's means tested benefits, nothing could be done to avoid this in any event. I appreciate Mr S didn't want to fall foul of the law, but I think as long as he kept the benefit department up to date with his income (and potential income) then nobody could say he had done anything incorrectly.

In conclusion, thankfully it seems that Mr S's concerns haven't come to fruition and his benefits haven't been altered by his pension income. But in any event in relation to the points I can look at here, Prudential didn't do anything wrong. It set the policy to the correct retirement age and informed Mr S that this was the case. And I don't think it was reasonable to expect them to be experts on Mr S's benefits, it may not have given Mr S all the correct information when trying to help but it is for the department dealing with his means tested benefits to answer these questions and not Prudential.

My final decision

For the reasons explained I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 3 July 2025.

Simon Hollingshead
Ombudsman