

complaint

Mr P complains that he was told he could take a lump sum from his pension by The Prudential Assurance Company Limited and it transpires this isn't possible.

background

In 1989 Mr P transferred his pension from his employer's scheme to a private pension with Prudential. He says he was told that he could take a lump sum when he reached pensionable age. He has now reached 65 and wanted to take a lump sum, but he was told this wasn't possible.

Prudential explained that his pension was outside of the new pension freedom rules introduced in 2015. It went on to say his pension plan included a Guaranteed Minimum Pension (GMP) element and as his pension pot wasn't sufficient to cover this Prudential has made up the balance. This is because it is obliged to provide him with an annual pension from his normal retirement date and unfortunately his fund of some £34,872 was significantly less than the £62,318 required to fund his GMP of £2,630 a year. This also covers a widow's pension should he die of 50%.

In 2002 the regulator required Prudential to look at Mr P's pension as part of a wider review into the impact of transfers out of employer pension schemes. The review showed that at that time Mr P was better off with the Prudential pension.

Mr P brought his complaint to this service and sent us an extract from the documentation given to him at the time he took out the pension. This included a reference to a lump sum payment.

The complaint was considered by one of our investigators who didn't recommend it be upheld. He couldn't say what Mr P had been told by the adviser in 1989, but he had reviewed the paperwork from the time. He noted the benefits included the possibility of a lump sum payment, but there was a caveat which stated: "*You can choose the benefits best suited to you. These will, of course, be subject to any limitations imposed by the Inland Revenue and any restrictions in respect of GMP to satisfy contracting-out requirements.*"

Ultimately, the benefits he could take at retirement were dependant on the fund growth achieved over the term of the policy. Unfortunately the fund value of the policy wasn't sufficient to cover the GMP element of the pension plan. Because of this Mr P wasn't able to take a lump sum payment as all the money went towards funding his GMP. Mr P didn't agree with the investigator's opinion and said he had told the adviser he wanted to have lump sum and he wasn't concerned about the GMP.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In effect Mr P entered into a bargain with Prudential under which it guaranteed him an annual pension of £2,630 a year regardless of what happened to his pension fund. If it performed well the pension might be greater, but if it performed poorly Prudential was legally obliged to fund his GMP. As has been explained above the fund didn't perform as well as had been anticipated and so Prudential has to fund the shortfall.

If the fund had performed well then there may have been a large enough sum to allow Mr P to take a lump sum payment. However, as it didn't, it means all the money has to go towards funding his annual pension. The reference to him being able to take a lump sum in the paperwork from 1989 says that this is subject to certain limitations. That includes the ability to pay for the GMP. Prudential is obliged to pay him the GMP and it is entitled to use his entire fund to contribute towards that pension. Regrettably there is nothing left that would allow it to pay him a lump sum.

I also note that his pension was subject to a review some years ago and was found to be in a better position than had he stayed within his employer's pension scheme. Therefore I cannot say that the original advice was unsuitable.

I appreciate Mr P wishes to have access to a lump sum, but I trust it is of some comfort that he will receive a larger pension than he would otherwise have done had there been no GMP element.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 6 July 2018.

Ivor Graham
ombudsman