

complaint

Mr D complained that he was disadvantaged by the advice from The Prudential Assurance Company Limited to transfer benefits from his previous occupational pension scheme to Prudential, as he is now unable to retire early.

In summary, Mr D has stated the following:

- He would have been able to take benefits early, due to ill health, had he not transferred his benefits to Prudential.
- He accepted the offer from the pension review because he was reassured by the wording that Prudential would make good any shortfall in the policy value.
- He should have been told of the option to transfer benefits from his previous occupational pension scheme to his employer's scheme at the time.

background

Mr D was a member of an occupational pension scheme from 1974 to 1988. He left membership of that scheme with a final salary of approximately £10,600 and a deferred pension payable from 2015 (at age 62). The scheme allowed for early retirement where the trustee is satisfied of a deferred member's incapacity. The pension payable to Mr D, in this situation, would have been approximately £350 a month (£4,200 a year).

In August 1988, Mr D joined an occupational pension scheme with another employer. Prudential advised Mr D in August 1990 to transfer benefits of approximately £7,000 from his previous occupational pension scheme to a Prudential Section 32 Bond. In response to the industry-wide pension review, in 1998 Prudential compensated Mr D for the advice it had given.

Mr D took early retirement on grounds of ill-health, at age 59, in January 2012. He started to receive payment from his employer's pension scheme of approximately £12,000, which increased in April 2013 to approximately £12,500 a year.

The current employer's scheme would have accepted a transfer from Mr D's previous occupational pension scheme. When Mr D took early retirement in 2012, he could have received an additional pension amount of approximately £2,000 a year, had he transferred to his new employer's scheme.

In May 2012, Prudential told Mr D that it could not pay any benefits, even on grounds of ill-health. This was due to the fact that the value of his policy (approximately £76,000) was insufficient to meet the cost of the guaranteed minimum pension (GMP) liability which was payable at age 62 (approximately £94,300).

His previous occupational pension scheme told Prudential that Mr D could have taken early retirement, but the benefits would have been reduced by 6% a year. Prudential wrote to Mr D explaining that its calculation had taken into account the 6% reduction but that the fund value remained insufficient for him to take the benefits from the policy at that time.

Our adjudicator wrote to Mr D with her assessment of the complaint. The background and circumstances to it were set out in that assessment. The adjudicator did not recommend that the complaint should succeed.

The adjudicator explained her view that, when Mr D received advice from Prudential, it was not foreseeable that he would need to take benefits early due to ill-health and that particular benefit was not part of the pension review investigation. The guarantee mentioned in Prudential's pension review offer would still be in force for when Mr D reached age 62, it was stated.

As such, the adjudicator further stated, Prudential would calculate the benefits available from the policy and would match it to the benefits which would have been provided from Mr D's previous occupational pension scheme. However, Prudential was under no obligation to provide early retirement benefits.

It was also the opinion of the adjudicator that, when transferring from one occupational pension scheme to another, it is likely that there would have been no material improvement in the overall package of benefits. The receiving scheme's actuary provided an estimated figure of £2,000 a year which Mr D would have received from February 2012 for the £7,129.49 it received. This contrasts with the £4,200 a year that the previous scheme would have paid Mr D if the trustees had agreed to him taking benefits early due to ill-health.

It was further noted that Mr D had given up 14 years of benefits in the previous scheme, with a further 26 complete years until age 62. As such, the adjudicator stated that the benefits from the previous scheme would have represented only part of his overall pension benefits. Therefore, it would not necessarily have been unreasonable to consider transferring to a Prudential policy in the hope of greater benefits in retirement.

Mr D did not agree with the adjudicator's findings, however. In summary, he expected the guarantee in Prudential's pension review offer to include all the benefits he lost as a result of the transfer. As the trustees of his previous scheme would have paid him benefits early on grounds of ill-health, this should be honoured by Prudential, it was stated. He did not accept that insufficient policy value was a reason not to pay him benefits before his retirement age. He was also not persuaded that the transfer value would have provided an additional pension with his subsequent scheme of about £2,000 a year.

Prudential made no further submissions.

my findings

I have considered all the available evidence and arguments from the outset in order to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have come to the same overall conclusions as the adjudicator, and broadly for the same reasons.

I appreciate that Mr D feels that the trustees of his previous final salary scheme would have paid him a pension early due to ill-health. The trustees have not confirmed that a pension would be paid early as it had not considered his medical information. It only provided the amount that could have been paid if the medical criteria were met.

The criteria used by a current employer for early retirement would not necessarily be the same as those considered sufficient by trustees of a previous scheme. It is for example possible that Mr D's current employer would have been more likely to allow him to take early retirement, whereas the trustees of deferred benefits may be more stringent in considering medical grounds for early retirement. In this instance, having reviewed the correspondence from the ceding scheme, I am not persuaded that the available evidence is indicative that Mr D would necessarily have been able to take his benefits prior to age 62. It would appear

that if this had in fact been granted by the trustees, there would have been a 6% reduction per year, but even factoring this reduction into the GMP calculation would not have enabled it to become payable at the moment.

To reiterate the comments of the adjudicator, it was not foreseeable at the time Mr D was advised to transfer his deferred benefits that he would need to retire early due to ill-health. The pension review criteria for comparing benefits do not include specific consideration for taking benefits early, as the issue is subjective and is entirely dependent upon the trustees' evaluation of medical information.

Mr D had not taken any action to transfer to his new employer's scheme, although he had been a member of that scheme for two years. I am not persuaded that he would have transferred or was stopped from transferring by Prudential's advice.

Under the terms of the pension review, Prudential was required to consider the value of benefits given up assuming retirement at the earliest date when benefits could have been taken without trustees' discretion or the application of any early retirement penalty. Mr D would have required trustees' approval to take his benefits early and I am satisfied that, in this instance, Prudential has applied the pension review guidance correctly.

I note that Mr D has said that the value of his policy should not be a reason for Prudential not to pay him a pension earlier. The GMP has to be paid at a specified age, in this case age 62. If there is insufficient value in the policy to meet the GMP liability, then no other benefit is available from the policy. This means that the policy can only offer other benefits, including early retirement due to ill-health, once the GMP can be provided.

With regard to the figure provided by Mr D's employer for the amount of additional pension he could have expected from a transfer in of prior benefits, I have no reason to believe that this has been incorrectly quoted. It would be up to the receiving scheme to calculate the additional pension which could be provided.

my final decision

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

Philip Miller
ombudsman