

complaint

Mr M complains that The Prudential Assurance Company Limited (“Prudential”) insist he take financial advice before it will accept a transfer of funds from another pension scheme.

background

Mr M wants to transfer funds from his former employer’s scheme to his Prudential plan.

Prudential said Mr M would need to take advice before it accepted the transfer.

Mr M does not agree. He said there is no legal obligation for him to take advice. And the cost of the advice would be more than the value of the transfer.

The adjudicator agreed it was not a legal requirement to take advice. But Prudential was entitled to insist on this. It is a matter for its legitimate commercial judgement.

Prudential also said it would only accept the transfer if Mr M took financial advice because it could not tell if Mr M would lose any guaranteed benefits.

The adjudicator asked Prudential if it would make an exception given Mr M’s particular circumstances. After considering this, Prudential said it was not prepared to make an exception. It had made a commercial decision that its customers must take financial advice in Mr M’s circumstances.

It added that this is to ensure that such decisions by customers were well informed. And that this was to prevent any future complaints against it for having accepted such transfers.

The adjudicator told Mr M that there was very little this service could do. Prudential was acting within its rights.

Mr M did not agree. He said:

Prudential cannot require him to take advice. He does not need it. Advice is optional.

- Prudential have no legal, moral or ethical right to force him to take advice. Forcing him would cause a financial loss.
- The Financial Ombudsman Service cannot agree with Prudential as there is no legal obligation to take advice.
- There are no beneficial losses or legally binding issues in transferring the funds to Prudential. It is wrong to say there are. So advice is not necessary.
- Future liabilities are not relevant. Any such liabilities could only stem from errors by Prudential. Transferring funds is not its decision.
- Prudential has no formal procedure about taking advice. It only has a statement which advises, not compels, customers to take advice.

The adjudicator sent Mr M’s response to Prudential. But it had nothing further to add.

As agreement was not reached, the matter has been referred to me.

my findings

I have carefully considered all the available evidence to reach a fair and reasonable outcome to this complaint.

Prudential says it has made a commercial decision to only accept transfers if advice is taken by the transferring customer. The advice must be from a regulated adviser. It will not accept transfers on an execution only basis.

I understand why Mr M does not agree with this stance. The relatively modest size of the funds he wants to transfer might be less than the cost of taking the advice Prudential has required. So clearly that puts Mr M in a difficult position.

Mr M is correct in saying that there is no legal requirement for him to take advice. As the fund value is less than £30,000, any safeguarded benefits contained within the policy would not need advice to be sought. But nor is there a legal obligation for Prudential (or any provider) to accept transfers such as Mr M proposes.

Prudential is entitled to impose conditions before accepting transfers; I agree that insisting customers take advice is within its legitimate commercial judgement.

I hope Mr M understands this, as it's an important point and may be at odds with information he has got from other sources.

Although I appreciate that there may be no pension guarantees Mr M would be giving up, I cannot require Prudential to accept the transfer without Mr M first taking advice.

I understand Mr M will be disappointed with my decision. But he might be able to transfer to another provider who would be prepared to accept his funds without the need to take advice.

my final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr M to accept or reject my decision before 18 April 2016.

Terry Connor
ombudsman