

complaint

Mr R is unhappy that he is unable to exchange his annuity with The Prudential Assurance Company Limited (Prudential) for a cash lump sum.

background

Mr R had a personal pension plan with Prudential. He wanted to take his benefits in 2012. Prudential sent him annuity quotations on 29 June 2012 which were guaranteed until 29 July 2012. Prudential received Mr R's completed application form on 10 July 2012. It wrote to him the same day to say that, based on the medical details he had provided, he didn't qualify for an enhanced annuity.

Prudential asked Mr R to telephone to confirm that he wanted to go ahead with the annuity option he had selected. Mr R did so on 13 July 2012. His tax free cash was paid and his annuity was set up with the first payment made at the end of July 2012.

In 2014 Mr R asked Prudential if his annuity could be converted to a cash lump sum – to allow him to pay off debts and get on with his retirement. But Prudential told Mr R that it was unable to do that.

Mr R remained unhappy. His concerns were treated as a complaint. Prudential sent Mr R a final response letter in August 2014, explaining why it could not pay him a cash lump sum in exchange for his annuity in payment.

Mr R referred the matter to us. It was investigated by one of our adjudicators. He then wrote to Mr R saying that he was unable to recommend that Prudential pay him a cash lump sum. The adjudicator explained that Mr R's pension fund was above the triviality limit set in 2012 of £18,000. As a result Mr R wasn't able to take his entire pension fund as a cash lump sum. The adjudicator also said that, after the annuity had been set up in 2012, the fund no longer existed – it had been used to buy an annuity which would provide Mr R with an income for the rest of his life.

Mr R did not accept the adjudicator's view. He asked us to reconsider. He said:

- when he first wrote to Prudential it was a plea for help, not a complaint – turning the issue into a complaint was a way for Prudential to justify not helping him
- our response was similar to Prudential's – but Mr R thought that we would or could intervene on his behalf
- Prudential and this service had let him down by not taking into account how seriously he and his wife are affected
- he had in effect lost his pension and would be losing £2,000 a year for the rest of his life, which he could ill afford, and he would be in debt when he died
- he was given no choice in 2012 but to sign to accept an annuity – Prudential told him that he would lose the tax free cash if he didn't sign the annuity contract before a certain date.

In a further letter Mr R reiterated that he was seeking help and that he hadn't complained, either to Prudential or to us. He felt that we and Prudential had disregarded what he had said about his personal circumstances.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I've taken into account all Mr R has said. And I understand what he says about not actually having made a complaint. But sometimes, where a business and its customer cannot agree about what should happen, there may be little option but to treat the matter as a complaint.

Prudential did that which meant that Mr R knew what Prudential's final position was. And, if he didn't accept what Prudential said, he was able to refer the matter to this service. I don't think that Prudential acted incorrectly by treating the matter as a complaint.

Looking at Mr R's situation, I can see why a cash payment would assist him and his wife. I sympathise with him – he and his wife have had health issues which meant that they were unable to carry on working and have been left with debts to pay. And I am sorry that he feels let down, both by Prudential and this service.

But what Prudential is able to do is governed by the legislation about pensions. It is only in limited circumstances that all of a pension fund can be taken as a cash lump sum. There are provisions which allow smaller pension funds to be paid out. But, as Prudential and the adjudicator have explained, Mr R's pension fund was bigger than the maximum amount allowed in 2012.

Mr R's difficult financial circumstances do not allow Prudential to treat him differently. Mr R may think that is unfair. But Prudential isn't responsible for the overriding legislation and HMRC rules which govern pensions, including how benefits can be paid.

Nor are we able to intervene – Prudential has to administer Mr R's pension in line with the current legislation. Despite my sympathy for Mr R, I can't ask Prudential to do something which the legislation doesn't permit.

I bear in mind what Mr R says about having had no choice but to accept an annuity. But, given what I have said about it not being open to him to take his entire pension fund as a lump sum, I don't see what else Prudential could have offered him.

Prudential's annuity quotations were guaranteed only for a month. If Mr R wanted to secure his annuity at the rate shown on the illustrations then he needed to accept the quotation within the guarantee period. So there may have been some misunderstanding about the need to accept the quotation by a particular date.

I see that Mr R has contacted the Citizens Advice Bureau. He may also want to try National Debtline (0808 808 4000 or www.nationaldebtline.org.uk). They won't be able to ask Prudential to convert his annuity to a cash payment but may be able to make some suggestions aimed at improving Mr R's financial position, including repaying any debts.

I am sorry that I can't be more helpful but I don't think that Prudential has done anything wrong.

my final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr R to accept or reject my decision before 7 April 2015.

Lesley Stead
ombudsman