

## **complaint**

Mr C complains that The Prudential Assurance Company Limited (“Prudential”) mis-sold his pension as it has not performed as well as he was led to believe it would. He is also unhappy with the customer service he has received from Prudential.

## **background**

Mr C took out a with-profits pension with Prudential in 1991, acting on advice from an Independent Financial Adviser (“IFA”).

In 2014, Mr C complained to Prudential about the sale of his policy and its performance. He also said he had tried to get information about the performance of the plan from Prudential over previous years, but Prudential had been unhelpful.

Prudential did not uphold Mr C’s complaint. It said:

- Mr C’s pension was invested in the with profit fund, a pooled investment which aimed to provide smoothed performance;
- The illustrations given to Mr C when he took out the policy were based on the percentages Prudential had to use at that time. Subsequent changes in the economic climate caused the return made on the investment to fall;
- Prudential was required to pay Mr C a guaranteed minimum pension (GMP) in 2028, and this amount was guaranteed despite the performance of the fund;
- It had not been able to find details of any telephone calls Mr C said he had made over the previous years.

The adjudicator did not recommend that the complaint should be upheld. He concluded that the policy was not mis-sold and that although it had performed poorly this was due to market conditions.

Mr C does not agree with the adjudicator’s conclusions and has asked for his complaint to be reviewed by an ombudsman. He says in particular that Prudential has told him that he cannot transfer his pension.

## **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 note that Mr C believes he was mis-sold this policy. And I appreciate that it is disappointing to be shown projections of performance in sales literature and then have the fund achieve nowhere near what is promised. However, these projections were approved by the regulators at the time and based on past performance. Past performance does not guarantee future performance. And I am not persuaded that the poor performance of the fund is something that could have been reasonably foreseen at the time of the sale. So I do not agree that Mr C was mis-sold the pension by Prudential, especially since he was advised by an IFA. If Mr C has concerns about the advice given to him by the IFA then he should raise that with the IFA.

Mr C is unhappy with the way in which Prudential operates the with profits fund. But this is a matter for the FCA, the industry regulator, rather than this service. And I am not aware of the

FCA having any concerns about the operation of this fund. So I have not considered this aspect of Mr C's complaint any further.

Mr C says that Prudential told him that he cannot transfer his pension. But Prudential says, and I accept, that it cannot transfer the pension because the transfer value is less than the value of the GMP. This is set out in legislation. So I do not agree that Prudential has made an error by not allowing Mr C to take a transfer.

Mr C is also unhappy that Prudential have not been able to find details of telephone calls he has made. But Prudential is not required to keep such details indefinitely, so I do not find it fair and reasonable to require it to do anything further.

**my final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr C to accept or reject my decision before 10 September 2015.

Alison Cribbs  
**ombudsman**