

complaint

Mr C complains about arrangements for his annuity with The Prudential Assurance Company Limited.

background

Mr C is unhappy his flexible lifetime annuity (FLA) was converted to a guaranteed income stream ('GIS'). He'd understood this would happen when he was 90. He was also unhappy the quotes for conversion to a GIS had reduced so his pension was lower than first indicated. He'd queried whether he had to convert to a GIS. He said he would consider it but didn't confirm his agreement before the conversion. Despite not agreeing he was told the conversion to a GIS had gone ahead and at a level lower than the previous quote he'd seen. He complained but no one came back to him and his income had fluctuated over the last few months. He referred to a document from the Prudential in 2004 which said his compulsory conversion date was his 90th birthday which he hadn't reached. In late 2017 he'd reconfirmed his current investments and felt this showed he didn't want to convert to a GIS.

Prudential said it set up a FLA for Mr C in early 2004. This meant he'd bought an annuity at the outset. The recent change moved it from an FLA to a GIS. This meant the flexibility of fund choice and income between certain limits were removed. It said the plan terms said this would happen on the plan anniversary after his 89th birthday. The result of the conversion was that his income increased slightly but was now fixed. It said it wrote to Mr C (copying his financial adviser) three months in advance of the conversion day. It said it had acted in accordance with its terms and referred to the member booklet.

my provisional decision

I issued a provisional decision in this case. I said Prudential wrote to Mr C in autumn 2017 saying his investment would be switched in January 2018 unless he notified them by December 2017. Mr C opted to remain self managed and the Prudential confirmed this.

In a letter of 15 January 2018 it said that on the plan anniversary following his 89th birthday it would convert the plan to a guaranteed income stream (GIS). Over a period of weeks it sent several letters with illustrations of annuity income until in late February 2018 it wrote to confirm the conversion had taken place and enclosed a final illustration and confirmed payment would start in mid March 2018.

Mr C raised a number of issues:-

1. When his conversion date was and why his annuity converted to a GIS before his 90th birthday.
2. Why the annuity quotes fell in value
3. Why his income level varied over the last few months before the conversion.

I considered each in turn.

Firstly I considered the actual conversion date. I'd seen the terms and conditions that would've been issued at the outset and the letter to Mr C of early January 2018 which says the conversion is the plan anniversary date after his 89th birthday. I'd also seen a 2004 illustration.

The 2004 illustration provided by Mr C referred to a compulsory conversion date being the date of his 90th birthday. However the notes for the illustrations refer to the last annuity anniversary before your 90th birthday which is consistent with the position in the terms. On balance I agreed the conversion was the first anniversary after his 89th birthday and there didn't seem to be a choice as to whether this would happen. So it didn't make any difference that Mr C didn't give his agreement to the conversion nor that he'd confirmed his self managed investment choice in the last few months before the conversion.

However it is clear that there had been confusing information about the conversion date. Given this I could understand that Mr C could've thought the conversion wouldn't take place until 2019. The position wasn't helped by Prudential's failure to make clear that he had no choice about this when he asked in early 2018.

I also thought the timing of the autumn 2017 correspondence about investment choice didn't help. Prudential said the request for investment instructions in late 2017 was to allow changes prior to the conversion to the GIS. This was important as it says the investment at the time of conversion affected the annuity.

I read the letter. It refers to Mr C's approaching 89th birthday but doesn't explain the significance of this for conversion. It says his investments will be changed to the standard lifetime investment strategy in early January 2018 unless he directs otherwise. The letter does not make reference to the conversion from an FLA to a GIS nor remind him that this is coming soon. So I don't think the letter was clear that this election was important as it would affect the future annuity on the conversion. I had also seen the letter from Prudential in October 2017 confirming receipt of the instruction. It said it will make contact again next year to confirm this remains the favoured option. So again there is no suggestion the option will become irrelevant in the near future due to conversion to a GIS in early 2018.

I needed to consider what impact this has had given that there was never any choice about whether the conversion would take place but there was the option to change investments.

Mr C decided to continue the self managed investment strategy. I asked Mr C if he might've made a different investment decision in late 2017 had he realised he would be subject to a compulsory conversion in early 2018. He said his original decision was based on the expectation that a Brexit deal would be achieved and the market would rise, thus improving his income.

Based on that it is clear the compulsory switch is something that he would've taken into account as he didn't have the benefit of the time up to early 2019 to see the outcome of the Brexit negotiations. However it is less clear what difference that might've made. He says he would've given consideration to the annuity illustrations that were sent to him. But I have reviewed these and the notes say they are for illustration only. So he couldn't have accepted the quotes. So it doesn't seem that it would've made a difference had he known about the compulsory conversion.

Thirdly I have considered the fall in annuity income in the run up to the conversion. The income values in the illustrations are linked to the underlying investments. In the period from mid January to February 2018 the value fell by around £6,000 and the projected income fell. Prudential said this was because he had taken further monthly income from the fund and also the underlying investments had dropped. I think the correspondence is clear that the annuity rate applicable will be the one at the time of conversion and the quotes are for illustration only. So I don't think Prudential did anything wrong and the annuity income was

fixed by reference to the fund value on the plan anniversary in early 2018.

Finally I considered the explanation provided as to the variation in Mr C's monthly income from late 2017 to early 2018. Prudential said this was because the payments from November 2017 to February 2018 were from the FLA and thereafter from the GIS. The first GIS payment had a different tax code to that made in the following months. I think the explanation seems reasonable and I have not seen any evidence of any error.

I think the papers sent to Mr C weren't as clear as they could've been and this has resulted in confusion as to the date of conversion from the FLA to a GIS. I think this caused confusion at the time of the conversion and it wasn't clear to Mr C that there wasn't any choice about the conversion. I think this caused some distress and inconvenience.

I also think that the investment choice papers sent in late 2017 didn't make clear this was the last time Mr C had the option to switch investments before he was converted to a GIS in 2018. However based on what Mr C has said it doesn't seem it would've made a difference to the investment choice he made in late 2017.

I thought the level of impact of these issues was moderate and an award of £250 for distress and inconvenience would be fair and reasonable in all the circumstances.

I proposed to uphold this complaint in part and direct that The Prudential Assurance Company Limited should pay Mr C £250 for distress and inconvenience.

The Prudential had nothing to add.

Mr C said that his 89th birthday was in January so why did Prudential use a date in February and a lower annuity quote. The figures provided in January and early February were higher. He wanted the Prudential to increase his annuity to the highest of the three quotes provided.

my findings

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

I have considered what Mr C says about the annuity quotes. But as I have said these were indicative and not capable of acceptance. They were also affected by income taken from his fund up until the annuity was fixed. The terms and conditions said that this would be on the plan anniversary after his 89th birthday. So Prudential have acted in accordance with the terms of the policy and I cannot direct it to use any of the earlier and higher illustrations.

my final decision

I uphold this complaint in part and direct that The Prudential Assurance Company Limited should pay Mr C £250 for distress and inconvenience.

The Prudential Assurance Company Limited must pay the compensation within 28 days of the date on which we tell it Mr C accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

If The Prudential Assurance Company Limited considers that it's required by HM Revenue

& Customs to withhold income tax from that interest, it should tell Mr C how much it's taken off. It should also give Mr C a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 20 January 2019.

Colette Bewley
ombudsman