

complaint

Mr S complains about The Prudential Assurance Company Limited (Prudential), in particular that:

- The poor performance of the with-profits fund in recent years has had an impact on the level of bonuses awarded.
- There was a fall in the value of his fund over the period Mr S was setting up his annuity.
- Its representative did not bring a medical questionnaire along to the first meeting as promised.
- Its representative did not provide a satisfactory explanation about what would happen if Mr S chose to defer taking his benefits.
- Its representative did not provide Mr S with annuity quotes sooner.
- Mr S was not clearly told why he couldn't get an enhanced annuity; and this decision did not appear to be an official one.
- It failed to send him a cancellation form.

background

Mr S contacted Prudential to arrange a meeting to discuss his retirement options. It was agreed that the representative would bring a medical questionnaire, but failed to do so. An enhanced annuity was discussed and a further meeting was arranged.

At the second meeting, the representative filled out a medical questionnaire on behalf of Mr S. Annuity quotes were discussed and the representative agreed to provide two further quotes at a final meeting.

At the third meeting, the representative told Mr S that he could not get an enhanced annuity with the Prudential. Disappointed about this, Mr S asked the representative what would happen if he were to delay taking his benefits. The representative said that the fund value could go up or down.

Mr S decided to set up his annuity based on one of the quotes provided. He complained to Prudential shortly after taking out this annuity.

Prudential issued its final response and said that:

- Low interest rates had contributed to the poor performance of the with-profits fund and that this has influenced the level of bonuses awarded.
- A medical questionnaire was not brought to the initial meeting because any decision reached based on that questionnaire would have expired before his annuity could have started.
- Annuity quotes are only valid for a month and so could not have been provided sooner.
- The representative said that his fund value could increase or decrease but did not explain any further "*as the concept of a notional value is difficult to explain*".
- Mr S did not qualify for enhancement because the medical underwriters that looked at his application decided Mr S's life expectancy was not significantly reduced by the conditions he had.
- A cancellation form wasn't provided because of Prudential's error.

- Prudential offered to pay Mr S £50 compensation in respect of the errors it had made. Mr S accepted this offer.

One of our adjudicators investigated Mr S's complaint. He thought Prudential's offer of compensation was reasonable, because it was in line with what our service has recommended in similar circumstances. So he did not uphold Mr S's complaint.

Mr S didn't agree. He said, in summary, that bonuses should have been added to his policy and that the delay in providing the medical questionnaire was unacceptable. He said Prudential did not provide a cancellation form on purpose because the representative told him that if he signed the form [to set up an annuity] it could not be cancelled.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have reached the same conclusion as the adjudicator, and for broadly the same reasons.

Fund performance/Bonuses

Whilst I can appreciate that Mr S is disappointed with the performance of the with-profits fund he was invested in, at no point did Prudential guarantee the level of benefits that this fund would provide him with. I can understand Mr S's further disappointment that having made a lump sum contribution to counter the effect of how his fund was performing; this did not have the desired effect. But performance is to some extent dependent on external factors outside of the firm's control, such as falling interest rates.

Prudential is responsible to the regulator, the Financial Conduct Authority ("FCA") for ensuring that its with-profits fund is operated in line with its Principles and Practices of Financial Management document (PPFM). And the regulator monitors the management of it.

The regulator's Handbook which includes the Conduct of Business Sourcebook sets out how such funds should be run:

COBS 20.2.1 states:

(1) With profits business, by virtue of its nature and the extent of discretion applied by firms in its operation, involves numerous potential conflicts of interest that might give rise to the unfair treatment of policyholders.

COBS 20.2.3 states:

A firm must have good reason to believe that its pay-outs on individual with-profits policies are fair.

Over the 3 months or so that Mr S was discussing his retirement options with Prudential it was entirely possible that the value of his fund may go up or down. It must have been disappointing for Mr S to see his go down.

The regulator has not identified any concerns with the way Prudential has managed its with-profit fund. I haven't seen any evidence of mismanagement by Prudential. Or that it has acted unfairly in how it has awarded bonuses on Mr S's policy.

Medical Questionnaire

The Prudential representative promised to bring the medical questionnaire along to the first meeting and didn't. Prudential has apologised for this. But, I can't see that Mr S has lost out as a result of this omission. Any decision reached based on Mr S's answers to those questions would have expired before his annuity could start. So the representative would have had to ask Mr S some follow up questions at a later date in any event.

Mr S said that regardless of whether the decision would have expired or not, he would have liked a decision to have been made sooner so he had the option to look at other annuities offered on the open market. But, Mr S didn't have to wait until he had heard back from Prudential before obtaining these other quotes. He could have done this at the same time.

Deferring taking benefits

The representative told Mr S that his fund could go up or down. The information Prudential gave Mr S was not unclear, or misleading. So I can't see that he has lost out as a result of being told this.

Enhanced Annuity

Mr S feels the decision taken by Prudential, not to give him an enhanced annuity, was not taken or communicated properly.

Prudential said that the decision reached was made by a team of medical underwriters based on its underwriting criteria for an enhanced annuity and the medical information provided. It said Mr S did not qualify for an enhanced annuity because its underwriters did not conclude that "*the medical conditions disclosed will significantly reduce [his] life expectancy*". I think Prudential gave Mr S enough information to explain why he was not eligible for an enhanced annuity. And the terms on which it offers a product is to a large extent a matter for Prudential decide. Prudential's representative told him he was not eligible for an enhanced annuity. I think this an acceptable way of communicating this information.

Annuity Quotes

Mr S believes he should have been provided with annuity quotes sooner, as this would have given him more time to consider all of his options.

Annuity quotes are only valid for a month because annuity rates change regularly. Whilst I understand Mr S felt pressurised into making a decision, Prudential did provide quotes a full month before Mr S's planned retirement date. So, I don't think it acted unreasonably.

Cancellation Form

Prudential accepts a cancellation form was not sent out. Mr S feels that Prudential did this intentionally to stop him from cancelling his policy.

Mr S's Financial Planning Report says:

“You have 30 days from the date the first annuity quotation is produced for you to change your mind and cancel your annuity.

In the meantime, if we have paid any money to you under the annuity, this will need to be repaid in full before we can return your pension fund. We will then return your pension fund based on the value at the date we receive your instruction to cancel”.

Mr S was provided with a copy of this report; and encouraged to contact Prudential as soon as possible if any of the information contained within it was incorrect. The correspondence he received also stated:

“You will also receive the cancellation notice I discussed with you. No action is required with this unless you change your mind and decide not to proceed”.

I am satisfied that even though Mr S wasn't sent a copy of the cancellation form he was given enough information about his cancellation rights be able to cancel his policy if he wanted to.

Prudential has accepted its mistakes. It has apologised to Mr S and paid him £50 compensation. I think this a reasonable response in the circumstances and one which is in line with what this service has recommended in similar circumstances.

my final decision

For these reasons I do not uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 1 September 2015.

Kim Parsons
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