

## **complaint**

Mr K's complaint against Prudential Assurance Company Limited ("Prudential") is about his with-profits annuity. He says it is unacceptable that his income has fallen by over half. And that Prudential will not let him protect his future income.

## **background**

Mr K's three with-profits annuities were transferred to Prudential in 2007. Their original terms and conditions were unchanged. Prudential have since managed the with-profits fund. This includes setting bonuses, if any.

Mr K's plan income has significantly reduced over the period. He is worried it may fall further. He complained to Prudential. But it said that his income was in line with his plan rules. It reflected bonuses and the Anticipated Bonus Rate ("ABR") chosen at outset. It said it could not change Mr K's annuity contract or allow a transfer.

Our adjudicator did not uphold the complaint. She said:

- When Mr K arranged his with-profits annuities, interest rates were higher. It was not uncommon to choose an ABR of between 4.0% and 5.0%. But falling interest rates and lower than expected investment returns has reduced bonuses for with-profits funds. In turn, this has reduced his income.
- Prudential set bonuses which not only reflect investment returns but other factors including member mortality.
- All with-profits fund providers must have an independent committee to protect the interests of all investors. And Prudential did not guarantee Mr K that the transfer of his policy to them would prevent his income reducing. It made clear that it would reflect investment returns and the chosen ABR.
- The adjudicator said the contract is being run in line with its terms. Neither Mr K's original provider nor Prudential had guaranteed his income.

Mr K disagreed. He reiterated how unhappy he is with his plan. He said it is absurd that Prudential's only response is that they are bound by the plan terms they inherited. If it wanted to it could change these to stop his income falling.

He said that this situation must apply to many of his former provider's with-profits pensioners. Many "*must be suffering severely*". It was immoral for there to be no hope of reversal. Prudential should let him transfer to a fund giving him a stable income or to let him take his money out.

Prudential made no further comment.

## **my findings**

I have considered all the available evidence to decide a fair and reasonable outcome to this complaint. I have come to the same conclusions as the adjudicator for the same reasons.

I sympathise with Mr K. He thought his plan would give an income which could not fall. But as bonus rates are not (and were not) guaranteed there was, and remains, the risk with this contract that income levels could fall. So Mr K says that Prudential should amend the terms of its contract with him.

Mr K's falling income is *not* due to the takeover of his plan by Prudential. It reflects market conditions. Mr K may have faced the same situation, or worse, if his plan had stayed with his original provider. But whilst disappointing that investment returns have not met expectations, this alone is not a valid cause for complaint.

Prudential is accountable to the Financial Conduct Authority ("FCA") for how it manages its with-profits funds. The FCA monitors with-profits funds. They require providers to appoint a with-profits actuary and an independent committee to ensure that all policyholders are treated fairly. The regulator has said it has no concerns about Prudential's management of its with-profits fund.

Prudential has a section on its website for consumers with plans of the type. Mr K has and which were acquired by Prudential in 2007. It explains how bonuses are arrived at and the principles by which Prudential manages this fund. I note the basis on which Prudential acquired some of the business of Mr K's former provider and how Prudential intended managing that business was court approved.

I understand why Mr K wants Prudential to stop further falls in his income. To direct this would mean I required Prudential to amend its contract with him. But the plan has been operated in line with what was agreed at outset. So it would not be fair or reasonable to make such a direction.

In my view Prudential's refusal to amend Mr K's contract is within its legitimate discretion.

### **my final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr K to accept or reject my decision before 29 December 2015.

Terry Connor  
**ombudsman**