

complaint

Mr A has complained that he was misled by the illustrations he was given when he took out his pension policies with Scottish Amicable (subsequently taken over by Prudential Assurance Company Limited and referred to from now on as Prudential).

Mr A is unhappy with the investment performance of the policies and feels that they have been mis-managed after the transfer of business to Prudential.

Background

Mr A was disappointed with the amounts that his pension policies produced on his 65th birthday in November 2013. Mr A considers that the policies have been mis-managed after the transfer of business to Prudential. He is also unhappy with the administration that he has received since 1997 when the policies were administered from overseas.

The adjudicator did not uphold it because in her view:

- The contributions were affordable and the funds selected were in line with Mr A's attitude to risk.
- Investment returns were expected to be higher than they have been in practice.
- The funds have the same structure as when the policies started.
- There was no evidence that the lower returns were a result of the transfer of business.
- The funds have been managed in accordance with the same objective.

Mr A then argued that:

- His points were being ignored and that this Service was not impartial.
- He expected Prudential to be near the top of the annuity rate tables. He had hired a financial consultant to investigate this.
- He did not understand or accept why Prudential did not have some guaranteed annuity rates in the policy to match the business that is now paying the annuity.
- A higher return would have been achieved if Scottish Amicable had stayed in business as a company without shareholders.

The adjudicator responded to the new points Mr A had raised and explained:

- Our role means that we are required to reach a conclusion that is fair and reasonable.
- This service is impartial.
- We cannot penalise Prudential for not having the best annuity rates.
- The setting of annuity rates is a commercial decision and this service cannot investigate the annuity rates that a business offers.
- We have not seen anything to suggest that any guarantees had been given.
- There is no guarantee that if Scottish Amicable had remained independent that the yields would have been higher.

The business made no further comments and the case has been referred to me for a decision.

my findings

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

The illustrations that Mr A received in 1991 when the policies started were based on assumptions that were set down by the regulator. These projections were not guaranteed.

It is clearly disappointing that the investment returns achieved on the funds have been lower than was anticipated. It is this, combined with the fact that annuity rates are now much lower than was expected, that has meant that the benefits being paid are much lower than expected at the time of advice.

It is important to note that Prudential has an independent With Profits Committee (WPC) whose role is to protect the interests of with-profits policyholders.

An ombudsman has to operate under the Dispute Resolution (DISP) rules that are set down by the regulator. DISP 3.3.4(13) states that:

The Ombudsman may dismiss a complaint without considering its merits if he considers that

(13) it is a complaint about investment performance

I therefore dismiss the complaints about investment performance.

Mr A has stated that his policies did not have guaranteed annuity rates and that he had to transfer elsewhere when he retired to get the best rates. It was the responsibility of the business that sold the policies to make sure that they were suitable for Mr A. Prudential's role as the plan administrator is to make sure that the policy is managed in line with the policy terms and conditions. I have seen nothing to suggest that this is not the case.

The level of annuity rates that Prudential offers is a commercial decision. Mr A had the right to choose an alternative annuity provider if he was not satisfied with the rates offered. Under DISP 3.3.4 (11)

The Ombudsman may dismiss a complaint without considering its merits if he considers that

(11) it is a complaint about the legitimate exercise of a respondent's commercial judgment

I am afraid that I cannot, investigate the transfer of business that took place when Scottish Amicable was taken over by Prudential. This transaction was approved by the policyholders of Scottish Amicable and then by the Courts. The policyholders as the owners of Scottish Amicable received additional benefits in respect of the loss of ownership. I note that these were reported as averaging approximately £1,400.

my final decision

I do not uphold Mr A's complaint against The Prudential Assurance Company Limited and I make no award.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr A to accept or reject my decision before 18 May 2015.

Adrian Hudson
Ombudsman