

complaint

Mrs M complains that The Prudential Assurance Company Limited won't cancel the dependant's benefit she receives from her late husband's annuity.

background

In 2008, after speaking with a financial adviser, Mr M used his Protected Rights pension fund to buy an annuity with Prudential. He chose to take a tax-free cash sum of 25% of his fund value, and the remainder would provide him with an income. As Mr M was married when he retired it was a compulsory requirement for the annuity to provide a dependant's income when he passed away, which would be 50% of his protected rights income.

When Mr M sadly died, Mrs M told Prudential that she only wanted to receive the dependant's benefit payment as a lump sum as it was cause her a financial loss through a reduction in her other benefits if she was to receive it an as income. She said Mr M hadn't understood the annuity when he took it out.

Prudential said it wasn't possible for it to cancel Mrs M's annuity payments as it was legally and contractually bound to continue to pay them for the rest of her life. It said the payments were designed to be made as continuous payments to provide a regular income and couldn't be paid as a lump sum. It confirmed Mrs M would receive £8.74 each month initially, and said these were non-taxable payments. It thought it would be exceptional for Mrs M's benefits to be severely impacted by these, and recommended that she speak with the providers of those benefits.

Prudential said the annuity was taken out through a separate financial adviser so they were responsible for the advice Mr M received.

One of our investigators looked at the complaint but didn't think it should be upheld. He said Prudential couldn't be held responsible for the advice Mr M received in 2008, as this was given by a financial adviser from a separate business. He said Prudential had a contractual obligation to pay the options Mr M had chosen when he'd taken the annuity and the dependant's pension was to provide Mrs M with an income for life.

Mrs M didn't accept the investigator's findings and asked for the complaint to be reviewed.

my findings

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

I'm sorry to hear of the concerns Mrs M has had about the impact receiving this payment might have on her other benefits. I can understand that this will have been worrying at an already difficult time for her.

Mr M's annuity contract with Prudential started in 2008 and it included a dependant's benefit which meant that, after he passed away, Prudential would pay an income to his named dependant – Mrs M.

The money used to buy the annuity was made up of a Protected Rights pension fund. This was built up through State Earnings Related Pension Scheme (SERPS) rebates into a personal pension or occupational money purchase scheme that had contracted out of SERPS. At the time the annuity was arranged, it was a compulsory requirement for the annuity bought with this fund to provide a dependant's income after death if the person retiring was married, and this must be 50% of the protected rights income.

I can see why Mrs M has asked to receive the money as a lump sum, or for the income to be donated to a charity, but these aren't options Prudential is able to offer. Although the amount of £8.74 a month is relatively small, the dependant's benefit is intended to provide her with a regular form of income.

I know that Mrs M feels that Mr M didn't properly understand the annuity when he took it out. However, he received advice from a separate business to Prudential, so it isn't responsible for how it was sold to him.

I can only suggest that Mrs M speaks with the relevant government department about her benefits to better understand any affect receiving this monthly payment may have.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 26 August 2019.

Cathy Bovan
ombudsman