

complaint

Mr A is unhappy with the annuity income he is receiving as he believes it does not reflect the advice he was given when he was sold the policy.

background

In 2005, Mr A was advised by his Independent Financial Adviser (“IFA”) to start a ‘*Flexible Lifetime Annuity*’ with the Prudential Assurance Company Limited (“Prudential”).

The crux of Mr A’s complaint is that he was advised that the annuity arrangement with Prudential would enable him to take a progressively higher level of income as he got older, notwithstanding that the residual fund value would progressively decline. Mr A believes that as his life expectancy inevitably reduces as he gets older; an increasing level of income is not inconsistent with a declining fund value.

However, as Prudential calculate the income that Mr A can receive from his annuity using a variety of factors (as do all annuity providers) and not just life expectancy, Mr A’s income has reduced whilst his fund value has increased. Mr A is therefore unhappy with the annuity he is receiving.

Mr A also wanted to know whether he could remove his remaining funds from the annuity arrangement.

The adjudicator, who assessed Mr A’s complaint considered that since Mr A had certain expectations of this policy, which he believes have not been met, this is a complaint concerning the suitability of the policy for Mr A. She concluded that Prudential could not be held responsible for any advice and recommendations Mr A received from his IFA.

In respect of removing his remaining funds from the annuity contract, the adjudicator explained that the terms and conditions for the annuity confirmed that Mr A could not cash-in his annuity. The adjudicator also explained that this was prevented by HM Revenue & Customs (“HMRC”) rules.

For these reasons, the adjudicator rejected the Mr A’s complaint. As Mr A did not agree with the adjudicator’s conclusions his complaint has been referred to me.

Neither Mr A nor Prudential made any further submissions for me to consider before reaching my 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. Having done so, I have come to the same conclusions as the adjudicator and for the same reasons.

I agree with the adjudicator that Mr A’s complaint is about the suitability of the annuity contract.

Mr A has not disputed that he purchased his annuity contract under advice from his Independent Financial Adviser (“IFA”). It was therefore the IFA’s responsibility to ensure that their client, Mr A, understood the terms and conditions of the annuity contract and that it was suitable for his needs.

In considering suitability, Mr A's IFA should have had regard to factors such as Mr A's age and income needs, whether he had any dependents and his investment risk appetite.

Prudential was only responsible for the administration of Mr A's policy; having provided Mr A and his IFA with appropriate and relevant information such that an informed investment decision could be made, Mr A completed the annuity contract application. The application form confirmed that Mr A was proceeding under advice from his IFA.

I have not been persuaded by the evidence I have seen that Mr A's annuity contract is not being administered in accordance with the terms and conditions as set out in the policy documents provided to Mr A and his financial adviser at the time the annuity contract was purchased.

I note that Prudential, in their correspondence with Mr A following receipt of his complaint, have explained the basis on which Mr A's annuity contract operates. In particular, they explain why although his fund value has increased, the income that he can take has reduced.

I am persuaded by the evidence I have seen, including the policy schedule, the key facts document and the explanatory booklet issued to Mr A and his IFA at the time of purchase, that the terms and conditions were clearly set out and that Prudential's explanation of the annuity policy now is consistent with the information provided originally to Mr A and his IFA.

In these circumstances, it would be neither fair nor reasonable to hold Prudential to account for the fact that Mr A now considers his annuity contract to be unsuitable for his needs. This service cannot hold Prudential responsible for any investment advice and recommendations Mr A may have received from his IFA or for making sure the policy was suitable for his needs.

It is not possible to 'cash-in' an annuity once it has been set up. This is stated in the terms and conditions of Mr A's policy. In any event, as the adjudicator explained, HMRC rules prevent Prudential allowing an annuity being exchanged for a cash payment, particularly because the fund used to purchase an annuity has benefited from tax relief.

I understand that Mr A will be disappointed by my decision. However, for the reasons set out above, I have concluded that this complaint should not be upheld.

my final decision

I do not uphold this complaint.

Terry Connor
ombudsman