

complaint

Mr D complains about The Prudential Assurance Company Limited (Prudential). He says one of his annuities hasn't been set up correctly. He considers Prudential to be at fault for this.

background

Following receipt of a completed Notification of Intention to Take Benefits form, Prudential wrote to Mr D on 25 February 2010. Prudential's letter included Quotations, Key Features Documents, a Benefit Instruction Form and a Cancellation Substitute. Copies of these documents were also forwarded to Mr D's financial adviser.

Mr D later chose to take out two annuities with Prudential. Annuity ending 690 was a joint life annuity. And as it originated from the Protected Rights element of Mr D's pension fund it provides a 50% spouse benefit. Annuity ending 680 was a single life annuity.

Further to enquiries made by Mr D in August 2018 Prudential wrote to him and confirmed the basis of annuities he'd selected in 2010 and benefits he was entitled to under them.

Mr D later complained to Prudential saying both of his annuities should've been set up on a joint life basis, not just one.

Prudential considered the complaint and sent its final response to Mr D on 13 September 2018. It said Mr D's annuities had been set up in line with his instructions so it wasn't able to support his complaint.

Unhappy with Prudential's response Mr D referred his complaint to our service. One of our investigators considered the matter and said she didn't think Prudential had done anything wrong.

Mr D disagreed with our investigator and in summary said:

- he'd intended to buy a joint life annuity all along
- if there'd been any confusion about Mr D's choices from the paperwork he'd completed Prudential had a responsibility to query this with him
- Prudential had taken financial advantage of him when he was vulnerable
- Prudential was denying him the opportunity to provide for his younger wife when he passed away

As no agreement could be reached the matter was referred to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm not intending to uphold Mr D's complaint. I'll explain why. But before I do, I should emphasise that while I've taken note of the correspondence, arguments and comments made by both parties, I have limited my response to what I consider to be the issue central to this complaint. That is to say, whether Prudential failed to set up one of Mr D's annuities (annuity ending 680) correctly.

Having carefully considered the matter I haven't seen anything to suggest Prudential has done anything wrong in the way Mr D says it has.

Prudential didn't provide Mr D with any financial advice in 2010 when he made his annuity selections. Indeed Prudential's correspondence to Mr D at the time encouraged him to speak with his financial adviser:

"We recommend that you get in touch with your financial adviser to help you decide on the most appropriate choices for you."

The Key Features document Prudential provided to Mr D also said:

"Talk to an adviser

It's important you understand what options are open to you so you can be sure you have made the right choice. A Financial Adviser can help you decide what to do."

Prudential had the details of Mr D's financial adviser at the time on its records. So copies of the correspondence it sent to Mr D about his annuity options were also sent to Mr D's financial adviser.

It's not clear whether Mr D discussed his annuity options or the choices he intended to make with his financial adviser in 2010. But as Prudential didn't provide Mr D with any financial advice, its only obligations were to provide Mr D with enough information to make an informed decision about how he took his retirement benefits. And to ensure his annuities were set up his annuities in accordance with his wishes. I'm satisfied Prudential fulfilled its responsibilities in this respect.

I've considered the literature and forms Prudential provided to Mr D and I think it was made clear what option Mr D needed to select and the action he needed to take if he wanted his annuity ending 680 to be set up on a joint life basis. But I can't see that Mr D ever requested that his annuity ending 680 be set up on a joint life basis. Indeed the paperwork he completed in 2010 shows otherwise.

On Prudential's Benefit Instruction Form I can see that Mr D was presented with a number of options. Of the seven options available, one of which was taking Tax Free Cash and purchasing a joint life annuity with Prudential, Mr D clearly selected the following option:

"Tax free cash taken and pension bought with Prudential, own life pension."

The Personal Pension Quotation Prudential provided to Mr D also confirmed this selection and said:

"(...) a reduced single life annual pension of £3257.16 along with a maximum tax free cash sum of £16894.00"

Prudential had a duty to ensure that Mr D's annuity ending 680 was set up in accordance with the wishes he'd outlined in the Benefit Instruction Form he completed and signed on 28 February 2010. I haven't seen anything which persuades me that Prudential didn't do this.

I'm also mindful that Mr D was provided with a Cancellation Substitute in 2010. This gave Mr D the option to change his mind (within a specific period) about taking benefits after he'd

returned his Benefit Instruction Form to Prudential. Mr D didn't contact Prudential following the submission of Benefit Instruction Form so I can't say that it did anything wrong in setting up Mr D's annuity ending 680 on the single life basis Mr D had selected on the form he completed.

The Cancellation Substitute also warned:

"After you have used your pension plan to buy a pension, you cannot cancel it."

I've looked at the Notification of Intention to Take Benefits form that Mr D completed prior to making his final annuity choices. The form asked Mr D to provide his wife's name and date of birth if he wanted Prudential to send him a joint life annuity quotation along with other information. I can see that Mr D provided the required details for this.

While this may support Mr D's argument that he had intended for annuity ending 680 to be set up on a joint life basis, I don't think it shows that Prudential has done anything wrong. The Notification of Intention to Take Benefits form Mr D completed wasn't his final instruction to Prudential regarding how he wanted his annuities to be set up. The Benefit Instruction Form was. The Notification of Intention to Take Benefits form served as Mr D's confirmation that he intended to take benefits at age 65 and that he required information about joint life annuities. Not that he required annuity ending 680 to be set up on a joint life basis.

I don't think the fact that Mr D opted for one of his annuities to be on a single life basis, when he originally requested information about joint life annuities would've or should've given Prudential cause to question Mr D's final annuity choices or made it think there was any inconsistency in the paperwork Mr D had completed. I say this because it wouldn't be unusual for a consumer to request quotations for annuities on a number of different bases to establish which the right option for them is. But a request for information or an annuity quotation on a specific basis is not an expression of wish. I think it would've been reasonable for Prudential to assume that despite asking for information on joint life annuities that Mr D had simply changed his mind following receipt of information about these and decided this option wasn't for him when he made his final annuity selections.

Because of this I'm unable to agree with Mr D's assertion that it was obvious from paperwork he completed that the single life annuity he selected was not in keeping with his wishes.

I understand Mr D thinks Prudential has made a mistake and in doing so taken financial advantage of him. But I'd like to reassure him that having carefully considered the matter I haven't found anything to support this. It may be that it was Mr D's intention for his annuity ending 680 to be set up on a joint life basis however Prudential had to rely on the information Mr D provided it with regarding his choices at the time. Mr D requested that annuity ending 680 be set up on a single life basis and in accordance with his wishes this is what Prudential did.

I understand that Mr D is disappointed that his wife won't receive the benefit he says he intended for her to receive under his annuity ending 680. But I can only uphold this complaint if I think Prudential has done something wrong. And from what I've seen I don't think it has.

I know Mr D feels strongly that he would've chosen an annuity that provided for his wife in the event that he passed away. And I certainly don't doubt what Mr B has said about it having always been his intention to provide for his wife. But I must also have regard for what Mr D's documented choices were in 2010. I can't say precisely why Mr D made the choice

he did. But it's worth noting that whilst the choice he made didn't include provision for his wife it did mean that a higher pension was payable for at least 5 years.

Taking into account all the available evidence, while I am sympathetic to Mr D's position, I'm unable to find that Prudential did anything wrong when it set up his annuity ending 680. Prudential fulfilled its obligation regarding the information it provided to Mr D. And I'm satisfied the annuity Prudential set up was the one Mr D chose.

I appreciate this isn't the outcome Mr D is hoping for. But for the reasons outlined above, I don't think I'm in a position to say that Prudential has acted unreasonably or that it should now change the basis on which Mr D's annuity under 680 was originally set up.

my final decision

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 April 2019.

Chillel Williams
ombudsman