

complaint

Mr B complains about The Prudential Assurance Company Limited (“Prudential”). He’s unhappy Prudential won’t allow him to remove his ex-wife as a beneficiary under his annuity policy. He’s also unhappy he can’t cash in his annuity for a lump sum.

background

Mr B’s annuity policy was set up in 2007 on a joint-life basis. His wife at the time was named as his spouse and made her the beneficiary under his annuity in the event that he passed away before she did.

Mr B and his wife later separated. Following this Mr B contacted Prudential to ask that his ex-wife be removed as a beneficiary under his annuity. He asked for his son to be listed as a beneficiary instead. He also enquired about converting his annuity to a lump sum.

Prudential responded to Mr B and said:

- it didn’t allow any fundamental changes to an annuity agreement after the policy had been arranged and the cancellation rights expired. This included the change or removal of beneficiaries from an annuity
- when it set up Mr B’s annuity and calculated the income he’d receive, it assumed that this income would be paid for life. So his annuity contract didn’t therefore include a provision for the product being cashed in and a lump sum being paid out
- while legislation allowed annuities to be paid as a lump sum in certain circumstances, Prudential didn’t permit annuities to be encashed in this way

Unhappy with Prudential’s response, Mr B referred his complaint to our service.

Our investigator considered the complaint and said:

- the terms and conditions applicable to Mr B’s annuity said that once an individual was listed as a beneficiary on a joint life annuity, the name of this person could only be changed within the cancellation period
- she had empathy for Mr B’s situation but didn’t think Prudential was acting unreasonably or unfairly

Because Mr B disagreed with our investigator the matter has been passed to me for a 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. I’m sorry to say that based on what I’ve seen, and despite my sympathy for Mr B, I’m not intending to uphold this complaint. I’ll explain why.

The terms and conditions applicable to Mr B’s annuity policy say:

“YOUR COMMITMENT (...)

- *Once your annuity starts you are committed to receiving an income from Prudential for the rest of your life. If you buy a joint-life annuity, and die before your dependant,*

they are also committed to receiving an income from Prudential, for the rest of their life

We will pay any joint-life annuity for the rest of the life of your dependant except where (...) special provisions (...) apply.

CAN I CHANGE MY MIND?

Your statutory right to cancel is 30 days, which begins from the date your first quotation is issued (...)

FLEXIBILITY ONCE YOU HAVE BOUGHT

You have only limited flexibility (...) You cannot cash in your annuity investment”.

I haven't seen anything to suggest that there were ever any special provisions agreed to at the outset with Mr B's annuity, such that would allow him to change his beneficiary at a later date. So I'm unable to conclude that Prudential is acting unreasonably paying Mr B's annuity in line with the selections he made and the terms and conditions he agreed to when his annuity began.

I'm also mindful of the fact that Mr B's annuity came with cancellation rights. These provided Mr B with 30 days within which he could change his mind about the type of annuity he'd selected. I appreciate that Mr B could never have known at the time that circumstances with his former wife would change in such an unfortunate way. But I can't fairly ask Prudential to amend his annuity on this basis. Prudential fulfilled its responsibility to make it clear to Mr B at the outset what the key features of his annuity were and provided him with cancellation rights as I would've expected it to.

The main terms of Mr B's annuity were fixed when it was taken out and this gave certainty to both parties. So they can't be altered (by either party) even if the circumstances change. As explained by our investigator, Mr B's joint-life annuity was specifically underwritten to take into account Mr B's ex-wife and therefore to allow a new beneficiary to be added would require Prudential to underwrite the whole policy again. This isn't something Prudential is obliged to do.

I'm aware that in addition to changing the named beneficiary on his annuity policy, Mr B would also like Prudential to pay him a lump sum instead of continuing to pay his annuity. But as has already been explained, Prudential doesn't offer the option to commute annuities to a lump sum once annuities are in payment. This is a decision Prudential is entitled to make. While there were indeed proposals to allow annuity holders the right to sell their annuity contracts, these were never implemented. So there's no provision for Mr B to insist that Prudential allows him to commute his annuity now. I don't think Prudential is treating Mr B unfairly by not agreeing to him surrendering his annuity for a cash payment instead.

Overall I do have sympathy for Mr B's position and I can appreciate his disappointment. I don't doubt that the later change in circumstances mean Mr B now wishes he hadn't previously agreed to a joint-life annuity under which his ex-wife would benefit. But I'm satisfied that for the reasons I've outlined above, Prudential doesn't need to do anything further in the circumstances.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 March 2018.

Chillel Williams
ombudsman