

complaint

Mr B says that The Prudential Assurance Company Limited created delays when dealing with enquiries about his annuity, causing him a loss. Mr B is also unhappy that Prudential declined his request for an enhanced annuity, despite his medical condition being on its list of conditions which may qualify for an enhanced annuity.

Mr B received a quotation of retirement benefits from Prudential dated 18 February 2013. This quotation showed that Mr B's pension had a fund value of approximately £13,253, which was guaranteed (under certain circumstances, it now transpires) until 18 March 2013.

After receiving the quotation Mr B decided to apply for an enhanced annuity rate and he completed the medical questionnaire he had received from Prudential. Prudential says it received the completed medical questionnaire on 6 March 2013.

Mr B called Prudential on 11 and 12 March 2013, chasing a response to his application. He was not able to speak to anyone on 11 March, but was told by the representative during the 12 March call that he was not entitled to an enhanced annuity. He was not however told the reason for this.

Mr B called Prudential again on 13 March 2013 and was told then that he did not qualify for an enhanced annuity, as in order to qualify the value of his pension had to be a minimum of £10,000 after a tax-free cash sum had been taken, and the value of his pension would be below £10,000 if he took 25% tax-free cash. Mr B then asked Prudential to reconsider on the basis that he would take a smaller tax-free cash sum. Prudential said it would contact Mr B with a decision in 5 days.

Prudential told Mr B that he would not be granted an enhanced annuity on 4 April 2013, after he had chased its response a number of times. Mr B then made a complaint about how matters had been handled, and transferred his fund using the open market option. Prudential paid a transfer value of £12,348.

An adjudicator considered Mr B's complaint and concluded that it should be upheld, in part. She said, in summary:

- Prudential was not required to offer an enhanced annuity. Any decision to offer one was a legitimate exercise of its commercial judgment and is not something we can comment on.
- On the balance of probabilities Mr B would have still pursued an enhanced annuity even if he hadn't been given misleading information (a recording of the 13 March 2013 call showed Mr B was told by Prudential's representative not to worry about the value of his fund falling after the guarantee expired).
- Prudential should have paid the tax-free cash sum to Mr B and settled the open market value on 12 April 2013 instead of 26 April 2013. However, the value of the fund was lower on 12 April than it was on 26 April.
- However, the £50 offered by Prudential in acknowledgement of its poor service should be increased to £100 (Prudential had earlier agreed to this).

Mr B did not agree. He said he was misled by Prudential's representative and if he had not been told that his fund value was likely to increase he would have accepted the figure quoted on 18 February 2013 before the guarantee deadline.

I issued a provisional decision in September 2014. My provisional findings were, in summary:

- Like the adjudicator, I considered that the decision whether to offer Mr B an enhanced annuity was a matter for Prudential's legitimate commercial judgement. It was entitled to decide to not offer enhancement.
- However, I did think that Mr B would have taken the guaranteed value had Prudential provided a better level of service and not misled him. I said this because:
 - I considered Prudential could have told Mr B that he did not qualify for an enhanced annuity much sooner than it did.
 - When Mr B was told about the reasons his application had been declined on 13 March 2013 he was given confusing and contradictory information. In particular, when Mr B expressed concern about the fund value guarantee period expiring, he was assured that the value would not fall. Mr B was then not told that his application had again been rejected until after the guarantee period had expired.
 - I thought it was more likely than not that Mr B, given his concern about falling value, had he been told when he enquired (as he ought to have been) that the value could fall significantly, would have taken the guaranteed value rather than risk it falling.
- So I considered that Prudential was responsible for Mr B receiving a lower value than he would, had he given transfer instructions or taken benefits before the guarantee period expired.
- I also thought Prudential had caused Mr B significant trouble. It had repeatedly failed to meet its undertakings, and Mr B had to call it several times to get a response to his questions. Seeing his fund fall in value after he had been assured it would not is also likely to have caused Mr B upset. Prudential has offered £100 compensation in recognition of this, but I did not think that was sufficient. I considered a sum of £300 would be fair and reasonable in the circumstances.
- I therefore considered that Prudential should pay Mr B the difference between the guaranteed sum he would have received had he made his transfer request or taken benefits before 18 March 2013 and the amount he eventually received.

Mr B accepted my provisional findings. The only comment he made was that he had received £50 compensation from Prudential (the other £50 had been offered but not paid). Prudential said that the transfer option did not provide a guaranteed value, and that redress should be based on the fund value that would have been paid at the time Mr B applied to transfer the fund.

my findings

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

Prudential said it was unable to provide a copy of the quote it provided to Mr B dated 18 February 2013. I hence based my provisional findings on the evidence that was available, which suggested that the transfer value (as well as the value on which Prudential would have paid benefits) was guaranteed to 18 March 2013. Prudential has now provided a 'recreation' of what Mr B would have received. This shows that the value was guaranteed if Mr B took his benefits with Prudential or took a repayment of the fund, but not if he transferred the fund elsewhere.

I have not however been persuaded to depart from my provisional findings on the basis of this. I say this because the recording of the 13 March 2013 conversation between Mr B and Prudential shows that Mr B's clear understanding was that the value was guaranteed until 18 March and Prudential did nothing to correct that. Furthermore, it assured Mr B that his fund value would not fall after 18 March 2013. Had Prudential not done this, I think it likely that Mr B would have taken the option which guaranteed the fund value.

Mr B was concerned about his fund value falling. I consider that had he been told – as he ought to have been – during the 13 March 2013 conversation that the fund value was not guaranteed if he took the open market option and might fall significantly if he took that option, or he waited until after 18 March to make his decision, he would have elected to take his benefits with Prudential. He would hence have received the guaranteed value. By the time of the 13 March conversation Mr B had received quotes from other annuity providers, so he would have known the difference between what Prudential was offering and what was available elsewhere was very small. So I think he would not have pursued the open market option had he known that the value of the fund could fall significantly if he did pursue that option.

So the position remains that, had Prudential not made any errors, it is likely Mr B would have received the guaranteed fund value. I appreciate that, by taking his benefits from another provider, Mr B has received a better annuity rate that he would have received from Prudential. But the difference is very small and, given the size of the fund, I think it is reasonable to still base compensation on the difference between the fund value Mr B received and the value he would have received had he taken his benefits with Prudential.

I also remain of the view, for the reasons given in my provisional decision, that Prudential has caused Mr B trouble and upset, and that a sum of £300 is fair and reasonable compensation for this. I understand Prudential has already paid £50 to Mr B - it should therefore now only pay the balance.

my final decision

For the reasons given, I uphold the complaint.

The Prudential Assurance Company Limited should pay Mr B the difference between the guaranteed sum he would have received had he taken benefits before 18 March 2013 and the amount he eventually received. 75% of this should be paid net of Mr B's marginal rate of income tax and 25% gross. Interest should be paid (calculated on the net amount for the 75% gross at a rate of 8% simple per year. This should be paid from 18 March 2013 to the date payment is made. £250 (£300 less the £50 already paid) compensation for trouble and upset caused should also be paid, for the reasons given.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr B to accept or reject my decision before 15 December 2014.

John Pattinson
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