

## **complaint**

This complaint has been brought by Mrs M on behalf of her husband's estate. She says The Prudential Assurance Company Limited ("Prudential") should have given Mr M an enhanced annuity due to his health when he applied for one in 2006. Mrs M has also said Prudential should have arranged an annuity on a joint lives basis, so she would have had an income after Mr M died.

## **background**

Mr M bought an annuity through Prudential in 2006, which was set up to pay a monthly income for the rest of his life. But the annuity wasn't set up to pay anything to his estate after his death or to pay any income to his wife. Mr M sadly died in 2010.

Mrs M, on behalf of her husband's estate, has complained that the annuity wasn't set up the right way. She says her husband had serious medical conditions that meant he should have been given an enhanced annuity – an annuity that paid out more as Mr M's life expectancy was lower than average.

Mrs M has also said her husband would have arranged an annuity that paid her an income for life, so she thinks something must have gone wrong with the way the annuity was set up.

Prudential didn't agree that it had done anything wrong. It accepted it should have done more to assess Mr M's health when he took the annuity. But having considered his medical records, Prudential say Mr M wouldn't have qualified for an enhanced annuity. And it says Mr M was told about various ways he could have taken his pension, but he didn't take any option that continued to pay out after he died.

One of our investigators looked into the complaint, but didn't think it should be upheld. He said he didn't think Prudential needed to offer Mr M an enhanced annuity. And he thought Prudential had provided clear enough information for Mr M to make an informed decision about how to set up his annuity. But Mrs M asked for the complaint to be looked at again by an ombudsman.

## **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 going to uphold this complaint. I know this will come as a disappointment to Mrs M, but I'll explain why.

## **should Mr M have been given clearer information about the annuity he took out?**

Mr M had several pension funds held with different providers including Prudential, but he chose to buy an annuity through Prudential. It didn't offer him any advice about what annuity was right for him, but it did need to give him information that was clear, fair and not misleading to make sure he was able to make his own informed choice about the annuity he took.

Mrs M has said she believes her late husband would have wanted to take an annuity that provided her with some income if he died. And, as that didn't happen, she thinks something

has gone wrong or that Mr M didn't fully understand the documents provided. So I've looked at what information Mr M was given by Prudential and whether he knew what type of annuity he was taking.

In October 2006 Mr M spoke to a representative at Prudential to discuss the options available to him. Unfortunately there isn't a recording of the phone call that took place, so I don't know exactly what was discussed, but there is a note of the quotes that were prepared following the call. The quotes provided to Mr M were for a level annuity – one that paid out the same amount every month – and two others that would increase over time. The quotes were based on an annuity that paid something out every month and that had a five year guaranteed period – so the annuity would continue to pay out to Mr M's estate for up to five years from the date it was taken if he died before then.

Prudential also say it sent Mr M a booklet setting out the key features of the annuity before he agreed to take it out. The booklet sets out that he could apply for an enhanced annuity and that he could take an annuity with a guaranteed period or for joint-lives – an annuity that would have paid out to Mrs M after he died for the rest of her life. The booklet is only 15 pages long and I think makes the options clear. Given the decision Mr M made to take an annuity, I'd have expected him to read this booklet.

And I've seen the actual quote that Mr M ended up accepting. It was for an annuity that paid out monthly in advance, with the possibility of growing over time. The annuity didn't have a guaranteed period or any cover for Mrs M, and I think this was clear on the quote. And I can't see that Mr M questioned how his annuity was set up when Prudential sent out an illustration setting out the details after it started.

Having looked at all of the information that would have been available to Mr M, I think it would have been clear that different options were available. I think he chose to take out an annuity with the options available. It's not possible to say precisely why Mr M chose not to take out any protection for his wife, but any such option would have reduced the monthly annuity income and it's possible by a significant amount. So it may be that Mr M didn't think that was a sensible option at the time. So I'm not going to tell Prudential to look again at the terms of Mr M's annuity.

### **should Prudential have offered Mr M an enhanced annuity?**

When Mr M applied for an annuity he'd suffered from some problems with his health. In particular he had a joint problem and he'd had surgery on a heart valve, but his medical reports appear to show he'd responded well to the treatment. Around the time of him taking out his annuity he was no longer taking any medication in relation to his heart. Unfortunately Mr M's heart condition worsened and he died in 2010.

I've seen details of how Mr M came to apply for his annuity. In October 2006 he called Prudential to talk about the options he had – I can see Prudential sent out a medical questionnaire for him to complete to apply for an enhanced annuity.

Mr M filled in and returned the questionnaire in October 2006. He gave details of his medical history and gave consent to Prudential to get copies of his medical records. He explained he'd previously smoked, but he didn't say he'd suffered from any asthma, bronchitis or chest complaints. Mr M ticked to say he'd had a heart condition and the form said he should give further details of that, but I can't see he said anything more. I can see Mr M gave details about his joint problem and a problem with his eye.

In November 2006 Mr M called Prudential again to question whether he'd be able to get an enhancement and I can see he was told no enhancement was attached to his pension. I can't see Mr M questioned this further or asked whether Prudential had considered his heart condition.

Prudential said it didn't offer an enhanced annuity based on the information Mr M provided. But I think Prudential should have done more in 2006 to check how serious his heart condition was – Mr M had said he had a heart condition and had given Prudential consent to check his medical records, so I think at the least Prudential should have asked him more about this.

To put this right Prudential recently agreed for its underwriters to look at Mr M's medical records and see if he should have been granted an enhanced annuity in 2006. Prudential has given a detailed explanation of why it doesn't think it would have offered Mr M an enhancement and Mrs M is aware of those reasons, so I won't go into the detail in my decision. But Prudential said the medical evidence suggested Mr M had responded well to treatment. I'm satisfied Prudential has now considered Mr M's medical records and I think its explanation is reasonable. So I don't think Prudential should have offered Mr M an enhanced annuity.

I've also seen that in 2001, 2004 and 2006 Prudential told Mr M about the Open Market Option, saying that he might get better pension terms with another provider. I think Mr M was aware of this option as he transferred a pension from one provider to Prudential to take an annuity. So I think Mr M would have been aware he could have gone to another provider to see if they would provide an enhanced annuity.

### **my final decision**

For the reasons set out above, I don't uphold this complaint and I don't direct The Prudential Assurance Company Limited to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M on behalf of her husband's estate to accept or reject my decision before 16 August 2018.

Mark Hutchings  
**ombudsman**