complaint

Ms C complains that errors made by The Prudential Assurance Company Limited (Prudential) meant that she missed out on a higher annuity rate and has a shortfall of income going forward.

background

I issued a provisional decision on 20 April 2018. In it I set out the background leading up to Ms C's complaint. I've repeated it here.

Ms C intended to start taking her pension in 2015. She'd decided to buy an annuity with Prudential. Although she was using an independent financial adviser (IFA) to assist her with that she hadn't had advice about her decision.

Prudential had been asked to provide Ms C with a number of annuity quotations based on a purchase price of just over £80,000. At the time she had an Executive Pension Plan (EPP) and a much smaller personal pension plan. Neither plan was with Prudential. Ms C intended to use part of the EPP to purchase an annuity with the existing provider and transfer the remainder of the fund and the whole of the personal pension to purchase the annuity with Prudential. Ms C didn't intend to take any tax free cash.

Prudential provided Ms C and her IFA with an annuity quotation dated 4 November 2015 based on a purchase price of just over £80,000. The income she would receive meant the annuity rate applicable was 7.42%. The quote was valid until 16 December 2015. That meant the money to be used to purchase the annuity had to be received by that date.

The quotation said: 'If you are looking to use a number of different pension funds to purchase an annuity and use your Open Market Option, rather than a transfer to our Immediate Vesting Personal Pension, each fund will be applied to a separate policy and you should obtain a different quote for each fund.'

In order to go ahead with the application Ms C needed to complete a form. This form allowed for the transfer of both of Ms C's pensions. The form noted under an open market option her existing pension provider would pay the tax free cash whilst with a transfer the tax free cash would be paid by Prudential. With the latter it would be possible to combine more than one transferred pension into an annuity but each open market option would result in a separate annuity.

In the section for Ms C's personal pension and, in answer to the question 'is the full value of the existing pension being used to provide tax free cash and income', the reply was 'yes'. And 'no' to 'is a tax free cash sum to be paid'.

In the section for the EPP it was noted the full fund wouldn't be used for the provision of benefits: part of the fund would remain with the original provider. It also said no tax free cash would be taken.

This form was sent to Prudential by Ms C's IFA on 19 November 2015. Prudential says it got the form back on 20 November 2015.

Once Ms C had returned the form Prudential wrote to her with a risk warnings declaration for her to complete. That was dated 24 November 2015. A handwritten note on a copy of the *document says it was signed and posted on 30 November 2015. Prudential says it received the form on 3 December 2015.*

Prudential then contacted Ms C's IFA on 7 December 2015 for more details about the plans she was transferring from. Prudential said that if the plans had separate Pension Scheme Tax References (PSTRs) then two annuities would need to be set up. When that was confirmed, on 8 December 2015, Prudential told the IFA new illustrations for two annuities would need to be issued.

When the new illustrations were provided they showed overall a reduction in income and the annuity rates weren't the same.

The day after, on 9 December 2015, Prudential requested Ms C's pension provider to transfer the funds. But Prudential also asked that the available tax free cash should be paid directly to Ms C. That happened shortly before the end of December 2015. Ms C returned the payment to her pension provider allowing the transfer of this fund to go ahead.

The pension provider released the funds to Prudential on 16 December 2015. Prudential received the initial transfer payment on 18 December 2015 and after the tax free cash was repaid another sum was received in January 2016.

Ms C was notified her annuities would be paid from January 2016 and of the amounts being offered. Unhappy with the difference in income it appears she initially considered cancelling the annuities. We have a copy of a note of a call between Prudential and Ms C's IFA from January 2016, which says Prudential were waiting to find out if Ms C wanted to cancel the annuities and reverse the payments (if the previous provider would accept them).

Ms C then decided to make her complaint to Prudential. The annuities weren't cancelled.

Our adjudicator initially upheld the complaint in part. We thought Prudential shouldn't have requested the tax free cash. But it had correctly issued revised quotations once it knew that there were two different pensions being transferred. So we didn't think Prudential was responsible for the loss of income resulted from the change in the annuity rate. But it should pay compensation (£200) for the distress and inconvenience it had caused.

Prudential said the application form had asked whether the whole (smaller) plan was to be used to provide tax free cash and income. The reply was yes. Only a negative response would have required further investigation – as happened with the larger plan.

We then rejected the complaint. Ms C was unhappy with that. She provided substantial comments from herself and her representative. We also got some further information from Prudential, including a recording of a telephone call on 8 December 2015 made by Ms C's IFA's office to Prudential.

My provisional findings were as follows:

'Ms C is unhappy that she wasn't able to secure Prudential's annuity quotation dated 4 November 2015. But that quotation was based on Prudential receiving one amount of just over £80,000 from one source. That wasn't Ms C's position – she was looking to use funds from two different arrangements to buy the annuity. The quotation said in that case a different quote for each fund would be needed. So from the outset the quotation wasn't on the right basis. It wasn't open to Ms C to accept it because it wasn't valid in her

circumstances.

I don't think that was Prudential's fault. It wouldn't have known what was to be transferred and from where before it received Ms C's completed application form. Once Prudential got that it knew it couldn't proceed on the basis of the quotation which Ms C wanted to accept. Prudential then contacted her Ms C's IFA and said that new quotes would need to be issued.

There was then some confusion about the tax free cash and who was paying it. Prudential asked Ms C's existing provider to pay it. Prudential says that was authorised by Ms C's IFA. I'm not sure that's quite right. During the telephone call Ms C's IFA did say that it looked like the tax free cash was to be paid by the existing provider. But that was based on the caller's reading of the form. She was clearly hesitant and had initially said she didn't know. So I don't think the position was as definite as Prudential suggests. I think Prudential should have made further enquiries and not relied on that telephone call.

But, even if Prudential hadn't requested the money and had waited for Ms C to accept the revised offer, there's no certainty what would have happened and if Ms C would have been better off. She's said she wouldn't have taken out the annuity. But it isn't clear if she could have got a better rate elsewhere. And the process would have been delayed further – so her income payments would have been delayed too.

I'd also point out that Prudential's quotation was issued on 4 November 2015. It was guaranteed until 16 December 2015. Prudential received the money from the ceding provider on 18 December 2015. That was two days after the guarantee had expired. But the application form hadn't been returned to Prudential until 19 November 2015. Even if it had been open to Ms C to accept that quotation it would be difficult to say Prudential was responsible for the deadline being missed when two weeks of the guarantee period was lost because of delay on Ms C's or her IFA's part.

To sum up, I don't think Prudential is responsible for the fact that Ms C's annuity is less than the amount shown on the quotation dated 4 November 2015.'

Prudential accepted my provisional decision and didn't want to comment further.

Ms C didn't. Her representative referred to a report he'd submitted earlier.

my findings

I've considered again all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

But my views (which I reached taking into account the points made by Ms C and her representative) haven't changed.

I agree the complaint centres on whether, because of confusion and/or maladministration on Prudential's part, Ms C lost out on the annuity she could have had based on the original quotation dated 4 November 2015.

That quotation set Ms C's expectations. It showed a starting income of £6,111.24 a year. So, understandably, Ms C was always likely to be disappointed if her actual income was less.

My provisional decision centred on the fact that the quotation was on the wrong basis. Regardless of any confusion about the tax free cash, it wasn't going to be possible for Ms C to accept the quotation. A new quotation, on the basis that Ms C was using funds from two different pension arrangements (although with the same provider) to buy her annuity, was always going to be required.

So much of the debate – about whether the application form was correctly completed and if there was any ambiguity about whether Ms C was taking tax free cash – falls away.

I noted that Prudential didn't receive the completed application form until 20 November 2015. The quotation (dated 4 November 2015) was only valid until 16 December 2015 (provided the purchase monies were received by then). So time was always going to be tight. But that's not really relevant because, as I've said, a new quotation(s) on the correct basis was always going to be needed.

New quotations were issued on 9 December 2015. Ms C's representative notes that the original quotation was still in time. But, as I've said, it was on the wrong basis so the new quotations were required.

They'd been issued after Prudential had spoken to Ms C's IFA on 7 and 8 December 2015 and obtained more details about the plans that Ms C was using to buy her annuity with Prudential.

It seems Prudential then tried, reasonably I think, to avoid further delays by requesting the money from the two ceding schemes. Unfortunately there was then some confusion about the tax free cash. But it isn't clear that Ms C would have acted differently if Prudential had issued correct quotations earlier, or that she'd have been better off as a result.

I've also thought about if Prudential should have realised earlier that new quotations were required. Ms C's application form (which Prudential received on 20 November 2015) showed that she was transferring funds from two different pension arrangements - a personal pension plan and an executive pension plan.

It looks like Prudential only made further enquiries about the transferring schemes once it had received (on 3 December 2015) Ms C's completed risk warnings declaration. But, even if Prudential had confirmed separate schemes were involved and issued new quotation earlier, it still isn't clear that Ms C would have been better off. And it may have delayed matters, and Ms C's starting income, further.

So my view remains that Ms C's complaint – that her annuity is less than the quotation issued on 4 November 2015 – can't be upheld.

my final decision

I don't uphold Ms C's complaint and so I'm not making any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 22 June 2018.

Lesley Stead
ombudsman