

complaint

Mr C complains that he was mis-sold with-profit annuities by The Prudential Assurance Company Limited.

background

Mr C purchased his annuities in October and December 2000. He met with an adviser earlier in the year to explore various options. I note the fact find states that the adviser provided four different annuity quotes. It also records that Mr C took a very cautious approach to his pension and he wanted his income to be guaranteed, but he also indicated he was prepared to take a small degree of risk. He wanted to have a regular income to replace his salary and to provide protection for his wife. He also asked that the pension start as soon as possible.

Mr C took out four annuities and a fifth was taken out as part of his employer's pension scheme; two were with-profits and three were conventional guaranteed annuities. The purchase price of the former was some £65,000 and the latter was some £175,000. The with-profits annuities have not performed as well as Mr C expected and so he complained to the business. There was a fairly lengthy exchange of correspondence and Prudential has apologised for delays on its part.

Mr C says that it was only in 2015 when the business wrote to him that he became aware that he didn't have the full facts at his disposal in 2000 to make an informed decision. Prudential had explained that the two with-profits annuities each offered a regular bonus and an additional bonus. It added that it had reduced the guaranteed bonuses. The additional bonus depends on the date the annuity begins. When Mr C bought his annuities in 2000 the with-profits fund was lower than in previous years. It said members who took their annuities when the funds weren't performing as well were likely to receive a lower additional bonus, if any.

Mr C said the adviser hadn't made him aware that the with-profits fund wasn't performing as well and that his pension could be affected. Prudential responded that the adviser "*would not have been able to foresee any future bonus rate declarations*" even though his investments were made towards the end of the calendar year. It set out in some detail how the fund worked and how the bonuses were calculated.

Mr C brought his complaint to this service where it was considered by one of our adjudicators. Initially she recommended that it be upheld as the two with-profits annuities didn't match Mr C's attitude to risk. Prudential challenged her conclusion, referring to the conventional annuities Mr C was also receiving which meant his overall pension income matched his attitude to risk. On being made aware of the overall pension income Mr C was receiving a revised view was issued explaining this, not recommending Mr C's complaint should be upheld.

Prudential said that the two annuities were part of wider pension planning and Mr C also took out three conventional guaranteed annuities. This meant only 28% of his investment was exposed to risk and taken together the conventional annuities gave the balanced approach that he had sought in 2000. It added that the original advice was given in July and the issue was given a lot of thought before a decision was made. The adviser had spent a lot of time with Mr C discussing various options. It added that Mr C had been meticulous in making his decision.

Mr C responded to the case put forward by the business to say that the adviser hadn't taken into account his final salary annuity and he had only sought advice on money he had held in a Section 32 policy and his FSAVC. He explained that final salary annuity wasn't discussed or considered by the adviser. By coincidence his former employers had chosen Prudential to arrange the final salary pension. He had only asked for advice on investing some £145,000. This means the 28% figure used by Prudential was a distortion and he recollects the adviser saying his choice of funds would produce a 50/50 split between with-profits and guaranteed annuities.

He also challenged the first year's income reported by Prudential for one of the with-profits annuities. He went on to say that he wanted to income security and was prepared to take a small risk, as set out in the fact find. He then referred to the performance of the with-profits annuities which had been poor and said this wasn't indicative of a small risk annuity.

He also disagreed that he had spent a long time considering his options. Much of the delay had been due to the mechanics of setting up the annuities. He explained that his adult son had been seriously ill and had died in late 2000. He hadn't wished to bring out details of his personal life, but he felt Prudential had been insulting in its remarks about him and he wished to give some balance.

my findings

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

It is clear Mr C is disappointed with the returns he had been getting on his with profits annuities and has made several complaints. I would make it clear that I am only considering his recent complaint, that the annuities were mis-sold.

I note that he has been upset by Prudential's recent letter which he considers contains personal insults and derogatory remarks. I would say that I don't think any insult was intended and I for one didn't read any into the letter. In all honesty I cannot appreciate the personal strain he was under in 2000, but I am sure it was an extremely difficult time and for that he has my sympathies.

Looking at the sale in 2000 the fact find goes into some detail and although some of the manuscript notes are not easy to read I am satisfied that both Mr C and the adviser explored the available options in some depth. It seems to me that the consideration of the investment in annuities went on for some time. I appreciate that Mr C, while financially aware, wasn't an expert on pensions and so he sought advice. That said I get the impression he was careful in his planning and decision making despite his significant personal problems.

He says he wasn't given sufficient information to make an informed decision. I believe the key piece of information to which he is referring was the performance of the fund in 2000. I don't think the adviser was privy to that information at the time he was providing the advice. Prudential has explained that such information is price sensitive and so is not disclosed in advance. The fact find shows he wanted the pension to begin as soon as possible so I don't see that he would have welcomed it being delayed. Nor am I sure that this would have had any benefit.

This leads on to the second issue which is the split of his investment between with-profits and conventional annuities. Mr C says that we should discount the money that came from

his employer which by coincidence was administered by Prudential. If we do that it means that some £67,000 out of a total of £145,000 was placed in the with-profits funds.

Mr C ticked two of the risk boxes, one for 'income security' and the other for 'very cautious'. The latter allows for a small risk with the amount of income which will be paid. Given he was open to a small risk it would have been inappropriate for only conventional guaranteed annuities to have been considered. A rough 50/50 split between with-profits and guaranteed funds seems to have been a suitable recommendation.

Mr C has based his argument that the with-profits funds were unsuitable because they didn't perform well subsequently. While I appreciate why he has taken that line of reasoning I don't think it is right. As I have set out above the adviser had no indication of the future performance of the funds or of the likely bonuses that would be paid. He could only recommend funds that would provide the possibility of a greater return to match Mr C's risk profile. I have seen nothing to show me that at the time the with-profits annuities were not suitable. It is regrettable that they didn't perform as hoped, but that doesn't make the advice unsuitable.

I have every sympathy with Mr C and I appreciate that he will be disappointed with my decision, but I don't consider I can uphold his complaint.

my final decision

My final decision is that I do not uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 21 August 2017.

Ivor Graham
ombudsman