

complaint

Mr M complains that he was mis-sold a personal pension by The Prudential Assurance Company Limited ("Prudential"). He also complains that he can't now cash in his annuity.

background

In 1988 Prudential advised Mr M to take out a personal pension policy.

Mr M is adamant that representatives and managers from Prudential assured him he would be able to cash in his pension pot at any time. Mr M said had he known he wouldn't be able to do this; he wouldn't have taken out the policy. He believes the pension was mis-sold.

Prudential say the pension wasn't mis-sold as it was never an option for Mr M to take the whole pension fund as cash, Mr M did have the option of taking part of the fund as a tax free lump sum and he did so.

Prudential rely upon the product guides and application forms from the time the personal pension was sold in 1998. It also relies upon forms from 2007, in which Mr M selected to buy an annuity. Prudential say Mr M did not take advice from them at this time but did receive clear information about his options. Prudential rely upon the Key Features Document that was provided to Mr M at the time, which explained that once an annuity had been bought, it couldn't be cashed in.

Our investigator considered the complaint and decided not to uphold it. She relied on the application forms and thought there was nothing to show that Mr M had been given an assurance that he could take his entire pension fund as cash. Our investigator also considered the pension selection and authority forms from 2007, which show Mr M chose to take a lump sum tax free payment and bought an annuity. Our investigator explained that under current legislation, Mr M's annuity cannot be altered or surrendered once it had begun.

Mr M disagrees with this view so the matter has come to me for review and a final 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.

Mr M took out this pension around 30 years ago. I've taken into account Mr M's recollection of conversations, but I'm mindful that memories can fade over the years. So I've also looked at the documents from the time the policies were taken out.

Prudential made a recommendation to Mr M. I can see the product guide explained that *part* of the pension benefits could be taken as a tax free cash lump sum along with a reduced pension. There was no option to take the entire amount in cash. When Mr M signed the application form, he also confirmed that he had received a copy of the personal pension product guide which explained this. I think it's likely there was a discussion about taking a tax free cash lump sum at retirement but I think Mr M is mistaken about being told he could take his whole pension fund as cash. And I've taken into account that the pension legislation at the time the pension was sold, didn't allow the whole fund to be taken as cash. So I think it's unlikely that this was said.

In 2007, Mr M purchased an annuity using his pension fund. I can't see that Mr M was given any advice by Prudential at this time, so I've looked to see what information was provided to him.

There's nothing within the forms to show it was an option for Mr M to take his pension entirely as a lump sum. The forms show that Mr M chose to take a cash sum and bought an annuity.

I think its likely Mr M was given a copy of the Key Features Document, which states:

You buy your Guaranteed Pension Annuity with money from your pension scheme. Once you have done this you cannot move the money back again.

If you are entitled to take tax free cash from your pension scheme you must take it when you buy your annuity. You cannot do it afterwards.

A pension annuity is an insurance policy that pays you an income for life. Because of this lifetime promise you cannot cash in your annuity investment once it has started.

*There is no flexibility once you have bought a Guaranteed Pension Annuity. So, before you buy, it is very important to consider your possible future needs, as well as your present ones – because once your income starts you cannot:
Cash your annuity investment*

I think Mr M would've been aware form the Key Features Document that he couldn't cash in his annuity. Mr M selected tax free cash payments at the time and as a result selected reduced annuities. Payment began in early 2008. I think its likely Mr M understood there was no option to take the fund fully in cash. Had he thought otherwise, I'd have expected him to have raised a query at the time. But there's nothing to show that he did and he's not suggested he did. I think the options Mr M selected are consistent with the original pension application and this reinforces my view that the pension wasn't mis-sold.

I understand that Mr M's circumstances mean he'd now like to cash in his annuities, but as our investigator has explained that isn't possible under current legislation. I appreciate this is disappointing.

Having looked at everything, I can't say the pension was mis-sold. So I don't think Prudential has done anything wrong here.

my final decision

For the reasons given, I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 April 2018.

Sarah Tozzi
ombudsman