

complaint

Mr M has complained about The Prudential Assurance Company Limited. He says that it misled him about the date when his pension would be payable and that this was a factor in his decision to retire early.

background

The background to this complaint is set out in my provisional decision which is attached below and forms part of this decision.

I said that I intended to uphold this complaint and explained why. I said that Prudential should pay Mr M £750.

Prudential accepted the provisional decision and provided a current valuation as requested. Mr M said that he remained unhappy but accepted the 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.

Given there have been no substantive comments on the provisional decision, I see no reason to change my conclusions. I uphold this complaint for the reasons given.

my final decision

I uphold this complaint. Prudential must pay Mr M £750.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 23 May 2020.

Keith Taylor
ombudsman

Extract from provisional decision

complaint

Mr M has complained about The Prudential Assurance Company Limited. He says that it misled him about the date when his pension would be payable and that this was a factor in his decision to retire early.

background

Mr M has a pension plan with Prudential. The pension is a section 32 buy-out bond which was arranged in 1993 when Mr M transferred his pension from his employer. The pension features a guaranteed minimum pension (GMP).

Mr M was 60 in 2019. He was sent annual pension statements which repeatedly said that his retirement date was in 2019.

Mr M took early retirement in 2017 and says that he took that decision in the knowledge that he would have additional income from this pension at 60 (and not 65).

In early 2019 Prudential wrote to him saying that the retirement date should have been stated as 2024 (when he was 65).

Prudential has explained that it can't pay the pension sooner. The pension was arranged to mirror the benefits payable from the employers' scheme and these were payable from 65 (and not 60). It has also explained that the fund value is not sufficient to meet the GMP and so it can't make payments before age 65.

Prudential accepted that the annual statements included the wrong date and offered Mr M £300 for any inconvenience caused.

Mr M didn't agree and referred his complaint to this service where it was considered by an investigator. She didn't think the complaint should be upheld. She was satisfied that the correct retirement date should have been at 65 in 2024. That was the date in the original application. A redress payment had also been made based on retirement at 65. But she didn't think Mr M could be expected to notice the discrepancy when all the statements gave the date as 2019. However, she said that the plan itself didn't allow for early payment as the fund wasn't sufficient to meet the GMP. She wasn't prepared to say that Prudential should make any earlier payment in these circumstances. She felt that its offer to pay £300 for any inconvenience caused was fair.

Mr M didn't agree and so the case has been referred to me for a final decision.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've decided to uphold this complaint and so I've made this provisional decision.

I'm satisfied that this pension plan was arranged with a retirement age of 65. This would have mirrored the original employers' scheme. The redress payment made to the plan in 2001 was also calculated based on a retirement age of 65. So I don't think it would be fair to direct that Prudential should now make any payments to Mr M based on any other retirement age.

However, Mr M was repeatedly sent annual statements which set out a retirement age of 60 which fell in 2019. I can understand that he would have relied upon these documents as being accurate.

So I'm satisfied that Mr M was misled. Where someone has been misled, the appropriate remedy is to place them in the position they would be in if they hadn't been given incorrect information rather than in the position they would be in if the incorrect information were true.

Mr M says that the availability of this pension at 60 was a factor in his decision to retire early. I accept what he says about that and can understand that it would have influenced his financial planning. But what I need to consider is whether he would have acted differently if he had known the true position. Would he have decided not to retire early if he had known that he wasn't likely to receive income from this pension until he was 65?

I can't know the answer to that. But, on balance, I think it's likely that he probably would still have retired early even if he was fully informed and hadn't been misled. The pension statements don't appear to have set out the annual income Mr M could have expected at 60 and he's confirmed that he didn't make any direct enquiry of Prudential before he retired. So I don't think that I can safely conclude that the income from this pension was pivotal in his decision making process. And also, there were other motivations to retire early including the experience of his brother's death at a similar age.

So whilst I can fully accept that Mr M's belief that he would have another income stream at 60 was a factor in his decision making, I'm not satisfied that it was a decisive factor. I don't think he would have made a different decision if fully informed.

However, I don't think that Prudential's offer to pay £300 for distress and inconvenience fully takes into account the impact of its errors. Mr M was misled repeatedly and the fact that the pension is not payable until 65 will obviously impact on him for an extended period, possibly five years. So I'm currently minded to make an award of £750 to reflect the trouble and upset caused.

my provisional decision

I currently intend to uphold this complaint. Prudential should pay Mr M £750.

This is my provisional decision and may change depending on the response I receive.

When responding can Prudential please confirm whether or not the pension fund is now sufficient to make any payment before 31 March 2020.