

## complaint

Mr A, who is being represented by his financial advisor, is unhappy that The Prudential Assurance Company Limited (“Prudential”) has refused to bring his fund value in line with the figure it quoted on 17 September 2010. Prudential has explained that this quotation was produced using incorrect rates, but Mr A believes it should be reinstated.

## background

In 2010, Prudential paid £71,386.46 redress into Mrs A’s fund following a review of his section 32 policy in accordance with the Pension Review guidelines. The augmentation amount was subsequently included in all values from 15 March 2010.

The following sets out the fund valuations produced by Prudential between 2010 and 2014.

Date	Total Fund	Guaranteed Element Value
4 January 2010	£32,733.97	£22,940.84
15 March 2010	£109,590.98	£26,158.14
17 September 2010	£142,846.62	£55,062.24
17 June 2011	£118,521.62	£27,632.98
26 November 2011	£124,450.42	£28,097.17
2 May 2013	£129,910.34	£26,396.98
15 May 2013	£130,000.99	£26,487.63
7 April 2014	£139,876.97	£27,633.35

Mr A called Prudential to query the fund value of 17 September 2010 only after receiving the value for 2 May 2013.

By letter dated 15 May 2013, Prudential explained it made an error in calculating the value of the Guaranteed Element, which caused the fund amount to be “*substantially overstated*”. Fund breakdowns for September 2010 and May 2013 were included to highlight this.

A further valuation was issued in April 2014, which comprised the following split:

Mr A, represented by his financial adviser, subsequently complained to Prudential about the discrepancy in the fund figures he had been provided with.

Prudential upheld Mr A’s complaint, admitting that incorrect annuity rates had been used to work out the value of his fund in 2010. However, it did not agree that the incorrect value should be reinstated.

Dissatisfied with Prudential’s response, Mr A asked the Financial Ombudsman Service for an independent assessment.

As part of its submissions to this service, Prudential stated that:

- The values that were sent to Mr A and his financial adviser would only have shown the total fund value as it did not normally provide a breakdown of the total split.

- The Guaranteed Element is a deferred annuity and is only calculated and applied to the policy for a quote or claim of benefits. So, although various other fund values have been provided over the years, such as annual statements, these would not have shown the value of the Guaranteed Element.
- This was an isolated instance of the incorrect system having been used for the production of the 17 September 2010 letter.
- The systems that were used at the time are no longer available and, for this reason, Prudential was unable to provide us with details of what the correct Guaranteed Element would have been for 17 September 2010.

Our adjudicator concluded that the complaint should not be upheld. She noted:

- In the context of the fund statements that were issued before and after 17 September 2010, the valuation error seemed to be an isolated occurrence and the inflated figure it produced was clearly anomalous.
- The mistake had already been addressed in Prudential's letter in May 2013. Mr A should therefore reasonably have known that the figure of 17 September 2010 could not be relied upon as an accurate illustration of his fund value.
- She was satisfied that the mistake was likely to be genuine and that no financial loss had been caused to Mr A as a result. As such, she said Mr A should not be put in the position mistakenly indicated by Prudential.
- Prudential had addressed the error as soon as this was brought to its attention in May 2013. The adjudicator did not consider it appropriate to recommend an award in the circumstances.

Mr A's financial adviser contested the adjudicator's findings. In summary, he stated in support of his client's case:

- If Prudential made a mistake in calculating the guaranteed element of Mr A's pension, it could only have arrived at this conclusion with reference to the annuity rates used at the date the mistake was made. However, although both he and the adjudicator had requested the annuity rates, Prudential had refused to provide them.
- He said that the adjudicator's presumptions had no factual basis and that she was not qualified to make such assessments of probability. Given the fall in annuity rates and the increase in the price of gilts from 2009, he believed that the cost of providing the guaranteed annuity benefit would have substantially increased.
- Also, he pointed out that he had spent a significant amount of time and effort on this complaint without any remuneration. As he did not intend to charge Mr A for his services, he asked this service to consider a reasonable payment instead.

Prudential said it had no further comments to make.

Having reviewed the available evidence, I have noted the following further details about Mr A's policy:

- On his normal retirement date, Mr A's policy guarantees a minimum pension (GMP) of £3,815.24 per annum and a widow's pension of £1,907.62 per year.
- The Guaranteed Element is a non-unitised, non-profit deferred annuity which is to be used solely to secure part of the GMP.
- Provided that Mr A takes his benefits at his normal retirement date, Prudential will meet the shortfall in his fund to cover cost of the GMP, and the redress amount will

be used to provide benefits in addition to the GMP. However, if benefits are taken before this date, Prudential reserve the right to use some of the redress to secure the cost of the GMP and it will not meet any shortfall.

### **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have reached the same conclusion as the adjudicator and for the same reasons.

Prudential acknowledges that it made an error in its letter in September 2010, although it apparently provided the correct information on all other occasions.

However, I do not see that Mr A has been deprived of any benefit to which he is entitled under his section 32 policy. I note that Prudential has undertaken to meet the cost of providing the GMP without recourse to the redress amount, providing Mr A takes his pension benefits on his normal retirement date. I am satisfied that he has not suffered an actual loss as a result of Prudential's error, but rather a loss of expectation.

Prudential has explained that it is not able to provide us with the rate that would have been used at the time the incorrect valuation was produced, as that system is now obsolete. In such circumstances, the approach of this service is draw a conclusion about what is likely to have happened on the balance of probability, taking account of all the documentary evidence available in this case.

In view of this, like the adjudicator, I consider that the value of the Guaranteed Element stated on 17 September 2010 does seem erroneously high. This is demonstrated by subsequent fund values, which were substantially lower. In my opinion, it would not be fair or reasonable for Mr A to rely on the statement from 2010 as grounds for claiming a greater level of benefits that he is in fact entitled to.

I have noted the representative's request for recompense for his services.

However, this service is a free and informal alternative to the courts. We are therefore directly accessible to all eligible consumers and they may approach us directly without the need for an intermediary. Because of this, we do not normally make awards for costs and I am not persuaded to make an exception in this case. It is the adviser's decision whether or not he wishes to invoice Mr A for work carried out on his behalf.

### **my final decision**

I do not uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr A to accept or reject my decision before 24 March 2015.

Terry Connor  
**ombudsman**