

complaint

Mr K's complaint is that The Prudential Assurance Company Limited ("Prudential") sold him a personal pension when he understood that it was arranging a savings plan. Prudential will not release his pension as a lump sum, and he considers that the plan was mis-sold.

background

One of our adjudicators investigated the complaint but did not recommend that it should succeed. In summary, she considered that the information provided to Mr K at the time that the plan was arranged made it clear that it was a pension. She also did not consider that the firm was obliged to pay the fund as a lump sum as it did not meet the relevant criteria set out by Her Majesty's Revenue and Customs (HMRC) – which the firm was required to follow.

Mr K did not accept the adjudicator's findings. He explained that his wife was in extremely poor health and his personal and financial circumstances were very difficult. He said that he had opened a savings account and Prudential should allow them to take the benefits from it, less tax and other charges. Mr K said that there must be clauses in Prudential's financial policy where "*...this type of humanitarian gestures can be found.*"

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 come to the same conclusions as the adjudicator, and for broadly the same reasons.

I have reviewed copies of the documentation provided to Mr K both during and after the policy's sale, and I am satisfied that these adequately explain the nature of the policy and ought to reasonably have alerted Mr K that the policy was a pension. The application form referred to a pension, and the front page of the member's booklet refers to the policy as, 'The Prudential Personal Pension Scheme.' Furthermore, the content of this booklet makes several references to this being a pension policy, for example by making points on retirement age and pension benefits.

I also note that Mr K signed another application form a few years later in 1995 to re-start payments to the policy having stopped contributions at some point before. This form was headed, 'Personal Pension – Add/Increase to existing benefits'. Even if I were to accept that Mr K may have been rushed during the advice process as he had to get back to work and so did not give due consideration to the documents presented, he would have had time to consider the documents at a later date and those subsequently sent to him by Prudential.

If the policy was not what was required I think he would likely have raised the matter at the time

Prudential is required to follow HMRC rules about the payment of pensions and there are strict criteria as to when it is allowed to pay the entire pension as a lump sum. As noted by the adjudicator, Mr K's pension and circumstances do not meet these criteria.

Clearly, I am sympathetic to Mr K's very difficult situation and I understand how the release of the pension fund as a lump sum would help alleviate those difficulties. However, in order to uphold a complaint against a firm, I would need to be persuaded that it did something wrong. On the evidence, I do not consider that the adviser mis-sold the pension. And HMRC

rules do not allow Prudential to pay the entire fund as a lump sum. Accordingly, I have seen no reasonable grounds on which Mr K's complaint should succeed.

my final decision

For the reasons outlined above, my final decision is that I do not uphold Mr K's complaint.

David Ashley
ombudsman