

## Ombudsman's Determination

Applicant	Mrs E
Scheme	Prudential (Corporate) Personal Pension Scheme ( <b>the Scheme</b> )
Respondent	Prudential

## Outcome

1. I do not uphold Mrs E's complaint and no further action is required by Prudential.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mrs E's complaint is that Prudential misinformed her and her late husband Mr E, about the benefits payable under a ten-year payment guarantee option in a single life annuity policy, that he had purchased from Prudential.

## Background information, including submissions from the parties

4. In May 2005, Mr E transferred three personal pension plans, totalling £49,280, from Zurich to Prudential, and purchased a with-profits, single annuity policy, with a ten-year payment guarantee (**the Annuity**).
5. Prior to this purchase, Mr and Mrs E called Prudential several times to discuss various quotations for an annuity.
6. Prudential has provided notes of these telephone calls, but says it no longer holds the transcripts.
7. Prudential's records show the following:
  - On 27 April 2005, Mr E contacted Prudential and asked for a quotation for an annuity. Prudential also spoke to Mrs E during this call.
  - Prudential then provided two quotations, a with-profits annuity and a guaranteed pension annuity, both with ten-year payment guarantees.

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8. Prudential also issued a key features document (**KFD**) to Mr E, with both quotations. A copy of a standard KFD for a with-profits annuity policy, from 2005, has been provided by Prudential.
9. The KFD explains how the ten-year payment guarantee works, and includes information about joint and single life annuities.
10. On 11 and 14 May 2005, Mr and Mrs E and Prudential discussed aspects of the proposed annuity and Prudential provided further quotations.
11. On 16 May 2005, Mrs E told Prudential that Mr E intended to purchase a single life annuity, paid monthly in arrears.
12. On 19 May 2005, Prudential received an application and income payment form signed by Mr E, dated 16 May 2005, for quotation reference 9327388/3/1.
13. In that form, Mr E applied for membership of the Scheme, accepted annuity quotation 9327388//3/1, and confirmed he had seen the KFD and quotation of his retirement options.
14. On 23 May 2005, Prudential contacted Zurich and the relevant transfer forms were then completed.
15. On 31 May 2005 and 1 June 2005, Zurich sent the funds in Mr E's three plans to Prudential, with a letter also copied to Mr E's independent financial advisor (**IFA**).
16. On 2 June 2005, Prudential received the funds from Zurich.
17. On 9 June 2005, Prudential sent the Annuity documents to Mr E, under quotation reference 9327388/6/1, and group policy reference 644007. The Annuity documents mention the pension and lump sum, but not the ten-year payment guarantee.
18. Annuity payments began in June 2005, and so the ten-year payment guarantee period ended in May 2015.
19. On 19 July 2018, when Mr E was gravely ill, Mrs E contacted Prudential. She was informed that she would not receive any of Mr E's pension if he died. Mrs E then complained that Prudential had misinformed them when Mr E took out the Annuity. They had both expected she would receive his pension payments for a further ten years after he died.
20. Mr E sadly died on 22 July 2018. As the ten-year payment guarantee period had expired in 2015, his pension could not be paid to Mrs E.
21. On 25 July 2018, Prudential rejected Mrs E's complaint. It said it had sold the Annuity to Mr E on a "non-advised basis" and had provided him with information about the ten-year payment guarantee, in the KFD and quotations. It said that Mr E also had an opportunity to ask questions about the Annuity.

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22. On 9 August 2018, Mrs E complained to us. She claimed that both she and Mr E had been misled by Prudential. On her complaint form, she said:
- both she and Mr E were advised about the annuity by an agent affiliated to Prudential, possibly Allied Dunbar;
  - they were both told that if Mr E opted for a ten -year payment guarantee, his pension would be paid for ten years after he died; and
  - she is now suffering financial hardship.
23. On 12 September 2018, Prudential responded to us, saying:
- this was a non-advised sale;
  - none of its agents had advised Mr or Mrs E about the suitability of the Annuity or the ten -year payment guarantee;
  - its only obligation was to provide information about the benefits that the Annuity provided; and
  - the KFD provided this information and Mr E agreed he had seen it.
24. In January 2019, Mrs E told us that after Mr E died, she read page nine of the KFD. Under the heading “What is the payment guarantee option?”, it says:
- “There is another way of providing an income for your dependants after you die. You can normally choose any guarantee period from 1 to 10 years”.
- “If you die before your guarantee option ends we will either pay a lump sum or continue to pay an income until the end of your chosen payment guarantee period.”
25. Mrs E claims that this wording is misleading because it does not state clearly that the ten-year payment guarantee period starts when pension payments begin, not when the member dies.
26. On 17 January 2018, in a response to questions from us about the sale of the Annuity, Prudential said:
- none of the quotations contained a joint life option;
  - normally a joint life option would be offered to married individuals;
  - this fact could only be explained if Mr or Mrs E had said that they did not require a joint life annuity though there is no way of checking this;
  - the options of a joint life annuity or payment guarantee were explained in the KFD, attached to each quotation; and
  - Mr E could have requested a joint life annuity if he had wanted one.

27. On 25 January 2019, Prudential confirmed that it had not retained copies of the quotations issued to Mr E, showing the ten-year payment guarantee. However, it did provide screenshots that show this.
28. In January 2019, Mrs E told us that an IFA had advised Mr E when he transferred his pensions from Allied Dunbar to Zurich, and may also have advised him when he transferred to Prudential.
29. Prudential also pointed out that Zurich had sent letters in May and June 2015, confirming receipt of the transfer funds, that were also copied to an IFA.
30. However, on 7 February 2019, Prudential added that it did not receive any requests for information from any IFA during the transfer process and purchase of the Annuity. Prudential explained that it was not uncommon for individuals to organise their own annuities and rely on information in the KFD and quotations to decide.

### **Adjudicator's Opinion**

31. Mrs E's complaint was considered by one of our Adjudicators who concluded that no further action was required by Prudential. The Adjudicator's findings are summarised below:
  - In the Adjudicator's opinion, Prudential has done nothing wrong.
  - In the Adjudicator's view, information about the payment guarantee option is sufficiently clear in the KFD. It says;

"If you die during an income guarantee period we will continue to pay income until the guarantee ends."
  - While the KFD did not expressly say when the guarantee period started, the KFD did not say or imply that the guarantee payment period would start from the death of the individual. In the Adjudicator's view, this wording only makes sense if the payment guarantee period starts from the date when the first payment of pension is made.
  - The Adjudicator's view was that Prudential could have made this clearer by explaining that, if Mr E died after the end of the guarantee, his pension payments would stop.
  - However, on balance, the Adjudicator considered that the wording in the KFD would be clear to an individual who was considering taking out a ten-year payment guarantee.
  - In addition, Mr E could have asked Prudential to explain this in more detail, but there is no evidence in Prudential's records that he did so.

- There is also no evidence that Prudential or its agents gave Mr or Mrs E advice about the suitability of the Annuity for Mr E, or the ten-year payment guarantee. In the Adjudicator's view, Prudential's claim that this was a non-advised sale can be accepted
- Prudential's records show that Mr and Mrs E called to discuss the various annuity quotations, but not the ten-year payment guarantee. Although Prudential has not retained recordings of its calls, in the Adjudicator's opinion, there is no reason to doubt that its call records are accurate.
- Prudential has not been able to provide copies of the quotations issued to Mr E but, in the Adjudicator's opinion, on balance, it provided sufficient information in the KFD to explain the terms of the Annuity and the ten-year payment guarantee. In the Adjudicator's view, there is no evidence that Mr or Mrs E asked for a joint annuity, rather than a ten-year payment guarantee.
- The Adjudicator considered Mrs E's claims that an IFA had incorrectly advised Mr E about the transfer to Prudential. However, the Adjudicator's view was that, unfortunately, I cannot investigate any claims Mrs E might have against an IFA as this is within the sole jurisdiction of the Financial Ombudsman Service.
- Accordingly, the Adjudicator concluded that there had not been any maladministration by Prudential.

32. Mrs E did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.

33. I agree with the Adjudicator's Opinion, and I will therefore only respond to the key points made by Mrs E for completeness.

### **Ombudsman's decision**

34. Mrs E's complaint is that Prudential misinformed both Mr E and herself about the commencement date of a ten-year payment guarantee period in the Annuity.

35. From a review of the evidence provided by Prudential, I consider that Mr E bought the single life Annuity from Prudential in May 2005, using funds transferred from Zurich, and the Annuity included a ten-year payment guarantee period.

36. It is commonly accepted that an annuity payment guarantee period provides a fixed term in which an annuity will be paid, even if the individual dies during this period. However, if the individual dies after the payment guarantee period has ended, annuity payments will immediately cease. Accordingly, a payment guarantee period must start when annuity payments begin, not when the individual dies.

37. I find that the information about the start of the payment guarantee period in the KFD is sufficiently clear and unambiguous, and Mr and Mrs E should have been able to

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understand this. In fact, Mr E signed the Annuity application form, agreeing that he had seen the KFD.

“I confirm that I have seen the key features document and quotation of my retirement options”.

38. Mr and Mrs E also had an opportunity to discuss the ten-year payment guarantee with Prudential during telephone calls, but Prudential’s records show that that they did not do so. I consider, on balance, there is no reason to doubt the accuracy of these records.
39. Accordingly, I find that Prudential did not provide Mr and Mrs E with misleading information. It gave sufficient detail in the KFD, to accurately inform them about the ten-year payment guarantee.
40. I also find that the payment guarantee period in the Annuity ended in 2015, and Prudential was correct to cease payments when Mr E died in July 2018.
41. I appreciate that my Determination will disappoint Mrs E and I extend my sympathies to her at this difficult time
42. However, I do not uphold Mrs E’s complaint.

**Anthony Arter**

Pensions Ombudsman  
28 February 2019