

## **The complaint**

Mr J complains that Zurich Assurance Limited didn't take account of his ill health when they arranged an annuity for him. He also said that Zurich didn't make clear that he was able to shop around for a better deal with other providers under the 'open market option'.

Mr J would now like Zurich to recompense him for the lost income he believes he would've been entitled to had they correctly highlighted his options at the time.

Mr J is being represented by a third party. For ease, I'll refer to all submissions that have been made by the third party as having come from Mr J.

## **What happened**

In 2009, Mr J contacted Zurich to understand what income he might be able to receive from his existing Zurich pension plan.

At that time, Zurich undertook a comparison of the income Mr J's pension fund could purchase with an annuity through themselves against a similar annuity provided by Prudential. Zurich determined that they would be able to offer Mr J a higher income compared to Prudential and set out his options which ranged from a level or increasing income, together with the choice of either a tax-free lump sum or a higher income without the lump sum.

After considering his options, Mr J selected a level annuity and took his lump sum – Zurich then set the annuity up with themselves. In February 2023, Mr J decided to formally complain to Zurich. In summary, he said that Zurich hadn't explained to him at the time that he could've shopped around other providers for a better deal. He also said, in summary, that because of the health conditions he had at the time, he most likely would've been entitled to an impaired life annuity. Mr J says Zurich never made that clear to him.

After reviewing Mr J's complaint, Zurich concluded that they were satisfied that they'd done nothing wrong. They also said, in summary, that they had explained to Mr J at the time that they only offered their own and annuities from Prudential. Had he wanted to, they said, he could've shopped around. They went on to explain this was covered in the literature they provided at the time. In addition, Zurich said they didn't offer enhanced or impaired life annuities at that time, so that's something they wouldn't have been able to offer Mr J had he informed them of it.

Mr J was unhappy with Zurich's response, so he referred his complaint to this service. In summary, he repeated the same concerns and explained that Zurich had failed to properly inform him of his wider options. He said, had they done, the income he could've received would've likely been much higher.

The complaint was then considered by one of our Investigators. She concluded that Zurich had treated Mr J fairly. She was satisfied that there was sufficient evidence to show that Mr J had been informed of his options.

Mr J, however, disagreed with our Investigator's findings. In summary, he said that he thought neither Zurich nor Prudential provided him with adequate information at the time the annuity was taken out and as such, they should both be held accountable on a "*joint and several basis*".

Our Investigator was not persuaded to change her view as she didn't believe Mr J had presented any new arguments she'd not already considered or responded to. Mr J then asked the Investigator to pass the case to an Ombudsman to review that outcome.

After considering the complaint, I issued a provisional decision on this case because whilst I explained that I was still planning on declining the complaint, I wanted to clarify the chain of events that occurred and added wider reasoning and context to that of our Investigator.

What I said in my provisional decision:

*I'm very aware that I've summarised this complaint in far less detail than the parties involved and I've done so using my own words. The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by Mr J and Zurich, in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice, but it is for me to decide, based on the available information I've been given, what's more likely than not to have happened. However, I hope neither Mr J or Zurich will take the fact that my findings focus on what I consider to be the central issues, and not in as much detail as they have outlined, as a discourtesy.*

*Whilst I appreciate that this likely isn't the outcome Mr J was hoping for, having carefully considered both sets of submissions, I'm in agreement with our Investigator's view and for largely the same reasons. As such, I won't be upholding Mr J's complaint and I'll explain why below.*

*Before I do, I should note that despite the sale taking place in 2009, Zurich have agreed that the case shouldn't be time barred and as such, this service does have the jurisdiction to look at this complaint. In addition, I think it's also important to be very clear that this complaint is about Zurich and not Prudential. In addition, from what I've seen, it was Zurich who arranged the annuity and provided all of the relevant information to Mr J.*

*The issue at the heart of this complaint is whether Zurich did enough to put Mr J in a fully informed position about his ability to shop around providers before he committed to the annuity. In addition, Mr J says that given his health at the time, Zurich failed to inform him that he might have got a better income by taking out an impaired health annuity. However, I'm of the view that Zurich did highlight Mr J's options to him and I'll explain why.*

*In support of the complaint, Zurich supplied a copy of the outcome letter which they explain was sent to Mr J at the time that the annuity was arranged. It included a number of appendices with various information about the annuity being arranged.*

*In the letter Zurich sent to Mr J in January 2009, there was a section called 'Claims options available to you'. The first section covered taking an annuity. The next section, called 'An annuity from another provider (by using the open market option)' set out Mr J's rights to shop around. It stated,*

- *“you are of course able to select any annuity provider of your choice.... Different annuity providers offer different types of annuities, different annuity rates, charging and pricing structures, which can affect the final value of the income you receive. It may be possible to find an annuity that is more suitable to your personal circumstances with another provider. An option relevant to some may be an enhanced lifetime annuity or impaired lifetime annuity. These types of annuity give a higher than usual income and may be offered to you if the provider considers your lifestyle or state of health has reduced the likely period of payment to below the average life expectancy”.*

*Zurich isn't a financial adviser and as such, wasn't able to provide personalised advice to Mr J at the time. Their records demonstrate that they didn't direct Mr J to take a particular course of action over another. Zurich's role was to provide enough information to Mr J to allow him to make an informed choice. Their literature made it adequately clear that they weren't able to provide annuity options that may have resulted in a higher income for him. I think the wording in Zurich's letter was sufficient to have put Mr J on a path of discovery to at least explore other providers given the health conditions he explained he had at the time. Zurich's letter made it clear that he wasn't obligated to convert his pension with them into an annuity and he was able to shop around to get the best deal should he wish. Zurich's letter also explained that if Mr J wasn't sure which option was best for him, he should contact a financial adviser for guidance.*

*In addition, within the 'Key Facts' document Mr J was provided with at the time of the sale, it states “we can only offer an annuity from Prudential Retirement Income Ltd and in limited circumstance an annuity from Zurich Assurance Ltd”. The same document also went on to state “you will not receive advice or a recommendation from us. We ask some questions to narrow down the selection of products that we will provide the details on. You will then need to make your own choice about how to proceed”.*

*Mr J signed a declaration on 22 January 2009 to say that he had read and understood the section 'detailed information about your annuity income options'. In addition, within section 3 of the 'Pension choice' annuity application Mr J signed, it asked the question: “Do you want to buy the pension from an insurer nominated by you or your adviser?” – Mr J ticked 'no'. So, it seems to me that it was made clear that he had a choice of seeking guidance from an alternative provider but he chose not to do so.*

*So, taking all of the above into account, I've seen nothing to persuade me that Mr J wasn't put in a fully informed position before deciding to proceed with the annuity option he selected. Zurich's literature makes it clear that he can shop around, explains he hasn't been provided with financial advice, that the decision to proceed with the annuity is his alone and highlights if he does have a health condition, he may be able to secure a higher income elsewhere. It therefore follows that I do not uphold Mr J's complaint.*

#### Responses to my provisional decision

After reviewing my provisional decision, Zurich responded explaining they had nothing further to add. However, neither Mr J nor his representative provided any further comment.

#### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As no further comments were provided to my provisional decision, it therefore follows that I have reached the same decision for the same reasons that I've set out above.

### **My final decision**

I'm not upholding Mr J's complaint and as such, I won't be instructing Zurich Assurance Limited to take any action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 26 October 2023.

Simon Fox  
**Ombudsman**