

## **The complaint**

X complains that The Prudential Assurance Company Limited pressurised him into joining the Teachers Additional Voluntary Contribution Scheme (TAVC). He says he didn't need to top up his pension and so this was an unsuitable and unnecessary product for him, in his circumstances.

## **What happened**

In December 1996, X was working in the teaching profession and already a member of the Teachers' Pension Scheme (TPS). He met with a Prudential adviser, who advised him to set up a TAVC to top up his pension.

X signed an application form, dated 11 December 1996, to take out the TAVC. On 6 January 1997, Prudential sent X a letter confirming it had received his application and would be informing his employer to deduct 4.5% per month from his salary to pay into his TAVC. These contributions were then taken from X's salary each month and paid across to his TAVC fund.

In June 1998, a further application form was completed to increase X's monthly contributions from 4.5% to 9%. On 6 July 1998, Prudential sent confirmation of this change to X, by letter, and advised him it would take effect from his August 1998 payroll. The amendment application form was signed by X in August 1998.

In 2007, X left the teaching profession on medical grounds. He purchased an annuity using the funds from his TAVC. This annuity provides him with an annual income in retirement.

X complained to Prudential that it had mis-sold him the TAVC, both when he first took it out, and when the amount of his contribution was increased. Prudential didn't uphold his complaint and so he referred it to our service.

Our investigator looked into X's complaint and recommended that it was not upheld.

X didn't accept our investigator's recommendation and asked for his complaint to be considered by an ombudsman. He said, in summary:

- this was a pressurised sale and the TAVC pension was unsuitable for his needs;
- he was deceived into signing up for the TAVC;
- no financial review was carried out in 1996 or 1997 to work out objectively if the TAVC was suitable for his needs. The box was ticked by the adviser and not him to say that there was no requirement for a financial review. There was no mention of a financial review in 1997;
- he didn't need to join the TAVC scheme as he and his wife were earning good salaries and had savings;
- Prudential failed to provide him with clear, pertinent and relevant information on the TAVC; and
- The adviser pressurised him into taking the TAVC for commercial reasons.

X's complaint comes to me for a decision.

## **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.

Where some of the evidence is either incomplete or contradictory, I have to make a decision about what I think is most likely to have happened – based on what's available.

I am not going to uphold X's complaint. I'll explain why. My reasons for not upholding this complaint are largely the same as our investigator's.

In 1989, Prudential was contracted by the Department of Education (DofE) to offer teachers the chance to 'top up' their pension funds. The TAVC was linked to the TPS. Prudential's contract with the DofE was continuously renewed and reviewed. Generally, the TAVC was seen as a lower cost option for topping up pension provision for teachers, given the link to the TPS.

### *pressurised sale*

As part of their contract with DofE, Prudential had to make teachers aware of the pensions options available to them. So, like our investigator said, I can't see that Prudential did anything wrong when it made contact with X, a member of the teaching profession, to discuss his pensions options.

X said he felt pressurised into joining the TAVC, because of the conduct of the Prudential adviser. He said, amongst other things, the forms were completed by the adviser. He pointed out a discrepancy in the date of signing the 1998 amendment form. X was concerned that there were no minutes of the meetings between him and the adviser, to evidence what was discussed.

I can't know exactly what was discussed at these meetings. Even if minutes were taken, businesses often only keep records for six years, and these events happened much longer ago than that. So, I can't reasonably hold it against Prudential that there's not more information available now.

So, as well as taking into account what X remembers from the time of sale, I've also looked at the paperwork from the time to decide what more likely than not happened. I am conscious that memories can fade over time about events which occurred many years ago. I don't doubt that X is trying to accurately provide his recount of events from the time. However, I note for example, that X thought originally that the TAVC had been sold to him a number of years earlier than it was. And he couldn't recall asking for the amendment in 1998, or signing the amendment application form.

Looking at the form X signed in 1996, I can see that he was earning an annual salary in the region of £28,000. Prudential said its adviser would've used a 'ready reckoner' to assess the level of contribution to advise the potential policy holder to contribute towards a TAVC. In X's case, Prudential said that X would've been recommended to contribute 9% per annum based on the 'ready reckoner'. The application form said that his monthly contribution was going to be 4.5%. The form also said that this level of contribution was below the 'ready reckoner' amount. So, I think it likely that there was probably some discussion at the time about the amount of contribution, and X made a conscious decision to pay a lower monthly amount than was being recommended.

This suggests to me that X felt able to make a conscious decision about what was best for him, in his particular circumstances, when he first joined the TAVC. And I've not seen anything else that persuades me that X was pressurised into taking out the policy in 1996.

Some time later, X increased his contributions. He couldn't originally recall doing that. I think had X felt pressurised into increasing his contributions in 1998, likely he would've recalled this discussion with the adviser.

So, overall, I have insufficient evidence to conclude that X was pressurised into taking out the TAVC or pressurised into later increasing his contributions.

#### *The adviser deceived him into signing the forms*

I can see that X likely signed both applications forms, to join the TAVC, and to increase his monthly contribution. X didn't recall signing the 1998 form, but I think it more likely he did, as the signatures appear to match. The form was signed in August 1998, after the letter from Prudential telling him that his payments were going to increase from his August payroll. But, I don't think this is particularly significant, as X went on to sign the form to say he wanted to increase his contributions. If anything, this tends to suggest that X told Prudential on two separate dates in 1998, that he wanted to increase his contributions.

I don't place any weight on the fact that the application forms were completed, seemingly, by two different Prudential advisers, prior to X signing the forms. This is not an uncommon practice and doesn't lead me to the conclusion that Prudential deceived X by its actions in completing the forms for him to sign.

The forms were quite short, and in my view quite easy to read. So, I think it would've been reasonable to expect X to read these before signing them. By signing the forms X agreed to a declaration, which read:

*"I authorise the deduction from my earnings of the Additional Voluntary Contributions (AVCs) specified above."*

#### *Clear and fair information.*

The declaration on the form X signed in 1996, also said

*"I have received the Key Features document, "Your Personal Quotation" and the members AVC booklet".*

The members AVC booklet referred to the other options available to X, such as purchasing added years or joining a free standing additional voluntary contribution scheme.

I can't know if X received these things. The Prudential adviser had a duty to advise X on the TAVC and make him aware there may be different options available. But, there was also a duty on X, to ensure he understood what he was signing and agreeing to. So, I can't fairly conclude that Prudential didn't give him the information he needed to make an informed choice about whether what he was buying was right for him.

Both when he took out the plan, and when he amended the contribution, letters were sent confirming the action that was going to be taken. Had X wanted to clarify anything, change what had been agreed, or ask for missing documents he could've done so. I can't see that he did.

#### *X's personal circumstances*

As our investigator explained, topping up a pension fund wouldn't generally be considered poor advice, and looking at X's circumstances in 1996, I can't see that it was unsuitable or inappropriate advice in his particular circumstances. It was for him to decide whether or not he wanted to top up his pension in retirement.

The original contribution was below the amount recommended on the 'ready reckoner', so I can't see that this would've made the level of contribution unsuitable or unaffordable for someone in X's circumstances, particularly as he said he had a good level of income and savings.

The increase to 9% was also the recommended maximum additional contribution amount for him, so I can't see that this level of contribution was unsuitable or unaffordable either. By then X's annual salary had increased to £37,500, according to the amendment form.

The contributions were taken out of his monthly salary and his payslips would've shown these deductions. X could've changed his mind at any time and stopped paying into the TAVC, if he considered he didn't need to top up his pension.

X said he had a medical condition at the time of sale and later left the teaching profession due to ill health. He says he would've been better off taking out added years. The paperwork showed that this option was available. It may be that with the benefit of hindsight X may have been better off taking added years, however the adviser didn't carry out a full financial review and can't have known how things would end up.

Since 2007, X has been receiving an annuity on top of his TAVC, so while he may not have wanted the TAVC, or benefited from paying into it as much as he would've liked, I can't see that he has lost out financially.

#### *'Personal Financial Review'*

The form X signed in 1996 gave him two options. He could have a "*Personal Financial Review*" or the adviser could assist him with "*Completion of the application form only*". The box was selected for the second option. Both were equally prominent on the form.

X said his adviser ticked this box, and he wasn't asked about this. I can't know what was discussed, but as I've said previously the form was relatively short and it would've been reasonable to expect X to read it before signing it. So, based on the information now available, I can't fairly say Prudential did anything wrong by not conducting a Personal Financial Review in 1996, when X took out the TAVC.

When X increased his contributions in 1998, he said no mention was made of the option of a Personal Financial Review. The application form doesn't contain any information about this. And I can't know what was discussed. But, I can't see that X's lost out because of that. He already had the TAVC by then and was increasing his contribution level to the level initially recommended (when he said he didn't want a Personal Financial Review).

#### *Pressure to take out the TAVC for commercial reasons*

X said that pressure was placed on him to take out the TAVC because the adviser would get commission from the sales.

Like with many other financial products, the advisers would've got commission through the sales. But, as the advisers' advice appeared not to be unsuitable or inappropriate, I can't fairly find that X was mis-sold the TAVC simply because the advisers received commission.

Looked at overall, I can't see that Prudential did anything wrong here. So, it follows that I do not uphold X's complaint.

**My final decision**

For the reasons explained above, I do not uphold X's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 10 August 2020.

Kim Parsons  
**Ombudsman**