

The complaint

Miss C complains she was poorly advised to contract out of the State Earnings Related Pension Scheme (SERPS) by The Prudential Assurance Company Limited (Prudential).

What happened

Miss C says that on 26 January 1989, she was advised by Prudential to contract out of SERPS with effect from 6 April 1987. As Miss C wasn't a member of an occupational pension scheme, she contracted out through a personal pension with Prudential. At the time of the advice she was 23 years old, employed and earning £5,000.

In December 2004, Miss C joined the Local Government Pension Scheme and then became contracted out through that arrangement. She transferred her contracted out benefits accrued through her personal pension plan to that scheme in August 2005.

Miss C doesn't think that the advice Prudential gave her was in her best interests at that time. And she thinks that she didn't meet Prudential's criteria as she got older and earned more.

So in January 2020 Miss C complained to Prudential. It didn't uphold her complaint. It said that Miss C was within the guidelines it set at the time to assess if someone could benefit from contracting out of SERPS.

Miss C didn't agree. So she brought her complaint to this service. Our investigator didn't uphold the complaint. He felt that Miss C's personal and financial circumstances at the time of the advice met the key requirements for contracting out of SERPS. So he considered that Prudential had acted fairly and reasonably when it'd advised Miss C to contract out.

Miss C didn't agree with our investigator. She still felt that the advice hadn't been in her best interests at the time, or afterwards. So her complaint has come to me for a review.

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.

Having done so, I've come to the same conclusion as the investigator, largely for the same reasons. I'll explain why.

SERPS was an addition to the state pension built up by national insurance contributions. But it was possible to contract out of SERPS through an occupational pension scheme, or for those individuals without such access through a personal pension. There's nothing to suggest Miss C had access to an occupational scheme so if she wanted to contract out she needed to divert her national insurance contributions to a personal pension.

When the Government decided to allow individuals to contract out of SERPS - and offered incentives to do so - it didn't give advice about who should be advised to remain in SERPS and those for whom it was anticipated that contracting out would be beneficial. To provide

clarity, pension providers made comparisons of the projected benefits from SERPS with those from a personal pension. These calculations were based on what were felt to be conservative assumptions of likely future investment returns at the time.

In drawing up these comparisons, two key criteria were considered: age and earnings. The rebates paid by the Government were one of the reasons where it could've been considered more attractive for younger individuals to contract out than those who were older.

The age, where the provider's advice as to whether to contract out or not changed, is known as the 'pivotal age'. Miss C was 23 when she contracted out. I should confirm at this point that Prudential's pivotal age was actually 35, not 25 as stated in our investigator's view. So while I understand why Miss C felt she was fast approaching the pivotal age, she was actually several years away from it. Miss C's annual earnings at the time were £5,000. This means that she was earning the minimum salary set by Prudential for individuals to contract out.

So, in the context of her age and earnings, Miss C was within the guidelines for potentially benefiting from contracting out of SERPS. But there was no guarantee that she would be better off. The amount paid into her personal pension was invested in the hope it would grow sufficiently so that the future benefits would be more than those she would've received had she remained in SERPS.

That depended on the growth achieved by the funds in which the pension was invested and the rates available at retirement for converting the pension fund into an annuity. Prudential quoted two different possible projected annual pensions in the illustration it produced at the time. The illustrations used assumptions that complied with the regulatory basis in force at the time.

I've not seen any record of Miss C's attitude to risk at the time. But taking into account the projected returns and the number of years left to retirement, it wasn't in any case an unsuitable proposition.

It's disappointing that investment returns have been lower than anticipated and annuity rates more expensive than expected at the time Miss C was advised to contract out. This means that the gains from contracting out weren't as great as had been hoped. And I can understand Miss C's disappointment that she feels she may now be worse off than if she hadn't contracted out. But this doesn't mean the advice given at the time was unsuitable.

I appreciate that Miss C feels she's worse off because she took Prudential's advice to contract out of SERPS. I acknowledge that she feels that it should've updated its advice over time as her circumstances changed. But there was no requirement for it to do this. So I can't reasonably hold Prudential responsible for not regularly reviewing Miss C's decision to contract out of SERPS. And, taking everything into account, I'm not persuaded that Prudential's advice to contract out of SERPS in the first place was inappropriate.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 15 September 2021.

Jo Occleshaw
Ombudsman