DRN-4534723

The complaint

Mr H complains that Prudential Assurance Company Limited ("Prudential") mis-sold him a Teachers Additional Voluntary Contribution plan.

Mr H is represented in this complaint by a claims management company ("CMC"), but for ease of reading I'll mainly refer to Mr H in the decision.
Your text here

What happened

Mr H was a teacher and joined the Teachers' Pension Scheme ("TPS") in 1993. He was interested in topping up his pension, so in 1998 he was advised by a Prudential tied adviser to make additional voluntary contributions ("AVCs") of £50 per month, to the Teachers AVC ("TAVC") scheme provided by Prudential, electing to contribute for a period of ten years.

Mr H complained to Prudential in August 2023 that making TAVCs wasn't in his best interests, and he'd have been better off purchasing "*past added years*" ("PAYs") in the scheme. Prudential responded to say they weren't permitted to advise on PAYs or compare TAVCs with PAYs, but the range of top up options were set out in the literature Mr H would've seen. And in any case, Mr H may not have chosen to purchase added years for a number of reasons, including their cost. So it didn't uphold the complaint.

Mr H referred his complaint to this service in September 2023, where it was considered by one of our investigators. Due to the events happening so long ago, she initially thought it might fall outside our jurisdiction, but Prudential consented to our involvement. So she went on to consider the merits, and agreed a Prudential tied adviser couldn't have advised on the other options open to Mr H. But these, including PAYs would have been drawn to his attention, and they were set out in the scheme booklet Mr H would've received when he joined the TPS. She felt Prudential had met its regulatory requirements, so didn't uphold the complaint.

In response Mr H said that while the advice might have met regulatory requirements it was clearly unsuitable. He wouldn't have understood the implications of choosing AVCs over added years unless it had been explained by a financial professional. And that as an intelligent, educated individual he would have made an informed choice if the implications had been explained to him clearly.

So the case has come to me to make 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.

Having done so, I've reached the same outcome as the investigator for broadly the same reasons.

Prudential had been appointed by the government in 1989 as the sole AVC provider to the TPS, and until 2000 offered an advice service through local representatives. So their role as the provider of the "in-house" TAVC was closely monitored and subject to regular reviews. The regulations in place at the time meant a Prudential tied adviser could only provide advice on the TAVC scheme, they couldn't actively recommend other options such as PAYs or FSAVCs from another provider. But they were required to maintain high standards of integrity and professionalism, and ensure members were aware of the other options open to them. Generally TAVCs were considered to be the lowest cost way of topping up the pension provision for teachers.

I understand Mr H says he wasn't made aware he could purchase PAYs. On joining the TPS in 1993 he'd have been given a booklet by his employer, explaining the scheme, and among other things the options for topping up a pension, including TAVCs and PAYs. While he may not recall it now around 30 years later, I think it's most likely Mr H would've had access to this information.

There were five years between Mr H joining the TPS and the advice to make TAVCs, so Mr H may have mislaid the TPS booklet in that time. But the evidence shows he was made aware of the other options at the time of the advice. Prudential doesn't have a copy of the application form Mr H signed, although it has provided an example from around that time which asks a question about whether the member is already paying for past added years. So I think it's likely Mr H would've seen that question when he signed his application form and would've been aware of PAYs.

I've also seen an example of the Prudential TAVC booklet which Mr H would've been given at the time of the advice, particularly the section titled "*What is an AVC and how does it work?* This explained that AVCs allow the member to bridge the gap between the pension the TPS will provide and the maximum allowable under Inland Revenue rules. Under this is the following paragraph: "*In addition to the AVC facility with Prudential, there are other ways to enhance your pension benefits. You can buy added years of service through your occupational scheme's Added Years facility or become a member of a Free Standing AVC with another provider. Further details of the Added Years facility are available from Teachers' Pensions at the address at the back of this booklet*".

While the Prudential adviser couldn't advise on whether buying PAYs would've been better than TAVCs, I'm satisfied Mr H would've been aware he could purchase PAYs, and was signposted towards the TPS if he wanted to find out more.

Mr H says he was sufficiently intelligent and educated to make an informed choice had he been provided with the right information. I don't know whether he approached TPS to explore PAYs, but if he was only willing to commit to a monthly contribution of £50 for a period of ten years, he may have thought PAYs seemed expensive, particularly as predicted growth rates would've appeared favourable. Each PAY purchased an additional 1/80th of pension, and required a commitment of a percentage of salary, meaning the contribution would increase as Mr H's salary rose with experience.

As he started at age 24, if Mr H wanted to retire at 60, he'd be four years shy of the maximum 40 years contributions. The cost of each PAY varied depending on age and salary and was set by the Government Actuary based on conservative (rather than optimistic) assumptions of future investment performance. The worked example in the TPS booklet sets out that a member aged 35 would pay 1.92% for each added year, so purchasing four added years over a ten-year period would've meant a commitment of 7.68% of salary for ten years.

As the original application isn’t available, I can’t be sure of Mr H’s salary at the time, although in 1999 it was recorded as just under £20,900, so the contribution figures for Mr H may be slightly different. But I think he’d have felt contributions based on a percentage of salary for a period of ten years would be more expensive per month than the £50 he’d decided he could afford. And he’d be committed to pay that percentage each year until 2008, whereas I understand from Prudential Mr H actually stopped making TAVCs in 2001.

With the benefit of hindsight, Mr H feels he’d have been better off had he purchased PAYs, as investment growth hasn’t proved as strong as predicted. But I’m satisfied Prudential met its regulatory requirements in terms of making Mr H aware of his options. I still think at the time of the advice, he’d have considered PAYs relatively expensive and inflexible compared with TAVCs.

So I don’t uphold the complaint, and don’t require Prudential to take any action to put things right.

My final decision

I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr H to accept or reject my decision before 22 February 2024.

Sarah Milne
Ombudsman