

The complaint

Mrs W complains that some advice she received in 1997 from The Prudential Assurance Company Limited about making additional contributions to her occupational pension was either inappropriate or misleading.

What happened

Mrs W is a teacher, and in 1997 was a member of the Teacher's Pension Scheme ("TPS"). Following a meeting with Prudential Mrs W agreed to make additional voluntary contributions to her pension plan. Prudential recommended that those contributions should be paid to its Teacher's additional voluntary contributions ("TAVC") plan. Mrs W continued to make the agreed monthly contributions for three years before ending her payments.

Mrs W says that she was led to believe that the contributions she was agreeing to make would be used to purchase "added years" benefits in the TPS. She says that she would have found making simple AVC payments to be unattractive given the financial pressures she was under at the time.

Last year Mrs W asked Prudential for information about her retirement benefits as she was approaching 55 years of age. She says it was only at that time did she discover that she hadn't been advised to purchase added years. So she complained to Prudential about the advice she'd been given in 1997.

Prudential didn't agree with Mrs W's complaint. It said that it had been unable to locate the actual application form that Mrs W would have completed, but given it operated under a strict contract with the Department for Education ("DfE") it was able to identify the application form that would have been used at the time. It said that form confirmed that Mrs W would have been made aware of each of the options available to her at that time to increase her pension savings. However it said its representative was unable to provide advice on, or sell, the added years option. So it thought it had been Mrs W's choice to start paying TAVCs. Unhappy with that response Mrs W asked us to look at her complaint.

Mrs W's complaint has been assessed by one of our investigators. He thought that the recommendation Prudential had given Mrs W, to pay TAVCs, was likely to have been suitable. And he thought the information contained on the application form that Mrs W would have needed to complete was sufficient to make her aware that she was applying to make TAVCs rather than purchase added years. So he didn't think Prudential had done anything wrong.

Mrs W didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mrs W and by Prudential. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

Prudential was appointed in 1989 by the DfE (or its predecessor to be exact) to provide an AVC scheme to run alongside the Teacher's Pension Scheme. As part of its contract with the DfE, Prudential was required to make all applicants aware of the existence of other pension top-up options – essentially the Added Years option, and/or what's known as a Free Standing AVC.

Mrs W has said that she attended a meeting at her school about her pension options. In my experience those meetings were hosted by an advisor employed by Prudential. The advisor was known as a 'tied' agent. This means he was only able to recommend/sell products marketed by Prudential, which here was the TAVC plan. It's important to make clear they weren't able to actively recommend, or sell, any other products from any other pension provider, or recommend OPS Added Years.

At the time of Mrs W's advice, tied advisors were required to follow certain rules and requirements. These have varied over time but essentially required that advisors should maintain high standards of integrity and fair dealing, and exercise due skill, care and diligence in providing services. What this means is that a tied advisor would have been expected to know that other options (than the TAVC) were likely available to Mrs W at the time. Further, the tied advisor would have been expected to mention the generic features of the other options, including the generic features of Added Years.

Given the time that has passed since the AVC plan was sold to Mrs W it isn't entirely surprising that the actual application form she completed is no longer available. And although I have no doubts that Mrs W has given us her complete and honest recollections of what happened, I am mindful that over such an extended period of time even the most careful of memories can, and do, fade. Mrs W's complaint isn't that the advisor failed to tell her about the other options – her complaint is that she was led to believe that her monthly additional contributions would be used to purchase added years benefits in the TPS.

I think it unlikely that the advisor would have actively persuaded Mrs W to take a product that he was unable to sell to her. If anything, the greatest failing I would expect to see in sales of this nature would be an advisor not providing sufficient information about the added years options. So it is unusual to see a complaint of the nature made by Mrs W. But that doesn't mean I should discount her testimony entirely. So I've looked at the documentation it is likely that Mrs W would have seen, and completed, at the time of the sale. Whilst I accept there is no evidence that Mrs W completed these documents, I think it likely that some paperwork would have been required for her plan to be opened. And on balance I think it most likely these would have been the forms she used.

Prudential says that Mrs W would have been given a booklet entitled “How to build yourself a better pension”. That booklet is specifically mentioned on the application form it is likely that Mrs W signed. The first page of the booklet deals with how additional pension contributions can be made. It says that members have two options;

- The added years facility which allows you a “buy” extra years of service
- The Prudential Additional Voluntary Contribution facility specially designed for teachers

I’ve also looked at what the Teacher’s AVC new member application form says. On page one (section 2 (A) – Pension Scheme Details), it asks that the applicant confirms if, under the Teacher Pension Scheme, they are paying additional contributions for (amongst other things) past Added Years. And on page 4, the Declaration specifically asks the applicant to confirm they have “been made aware of the booklet entitled “A guide to the Teachers’ Pensions Scheme” with regard to the “Added Years” option”. I note that the applicant’s signature should be entered immediately below that statement.

I think it’s possible, or even probable, that the advisor likely completed the application form. That said, I would expect – and think it more likely than not – that Mrs W would have read the document before signing it. And, whilst there is no way of being sure what exactly was discussed during the meeting – as I have said it was more than 25 years ago – I think it’s more likely than not that whilst the representative would have mentioned the Added Years option it would have been on the basis of it being an alternative pension top-up option. And these documents would have pointed Mrs W in the direction of the Teachers OPS if this was an option that she wished to explore.

I am satisfied that an AVC policy wouldn’t have been set up for Mrs W unless Prudential had received a signed application from her. It would have had no legal authority to take money from her salary without such express written permission at the time. Accordingly, I’m persuaded that Mrs W is highly likely to have signed the AVC application form at the time, and it follows she signed to agree that she’d been made aware of the alternative Added Years option.

I appreciate that Mrs W says she thought she had chosen the Added Years option. However, I will reiterate here that, given Prudential was under no obligation to provide Mrs W with the level of detail, or more precisely the costs and likely financial benefits of paying for Added Years, I think it unlikely she would have received sufficient information to enable that decision to be made. All Prudential needed to do was alert Mrs W to the existence of, and very generic elements of, the other options available to her – which I think it’s more likely than not is what it did.

At the time Prudential advised Mrs W it is likely that added years would likely have looked expensive compared to the projected returns and benefits of the AVC. Mrs W has told us that her finances were relatively stretched in 1997. And I note that she ceased paying additional contributions entirely just three years later. So even if I thought that she should have been sold an added years plan, it is likely that her current benefits in the AVC would far outweigh any she had accrued under an added years arrangement that was cancelled after just three years.

I appreciate how disappointing this decision will be for Mrs W. I am satisfied that Prudential was not in any position to sell an added years plan to Mrs W. And so I think it unlikely its advisor would have done any more than provide the basic information he was required to offer about that alternative to Mrs W. I think the application form Mrs W would have signed would have provided further confirmation that she was applying for an AVC plan. So I think Prudential did all that it needed to when it provided advice to Mrs W in 1997, and that the advice it gave to her was suitable.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against The Prudential Assurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 24 July 2025.

Paul Reilly
Ombudsman