

The complaint

Mrs S has complained to ReAssure Limited (ReAssure) that she was unsuitably advised to contract out of the state earnings related pension scheme (SERPS) in 1990 and invest into a personal pension plan (PPP) instead.

What happened

Mrs S has said that, in 1990, she was employed in her family's business, and she recalled a sales adviser from Windsor Life Assurance (now ReAssure) visiting her at work. Mrs S has said that she was advised to sign up for the PPP, but her recollection is that she felt pressurised during the sale.

Mrs S has since formed the view that the charges on the PPP were expensive, and that the plan was unsuitable for her.

ReAssure considered the complaint but declined to uphold it, saying in summary that the plan was suitable for Mrs S and her circumstances. Dissatisfied with the response, Mrs S referred the complaint to our service.

Having considered the matter, our investigator didn't think it should be upheld, saying the following in summary:

- SERPS was a top-up to the basic state pension which meant that, in an addition to their basic state pension, consumers would also receive a SERPS pension at retirement. But the government brought in regulation so that consumers could choose to opt out of SERPS, also known as contracting-out.
- This meant that instead of accruing the additional state pension, they could build up other benefits by redirecting some of their national insurance contributions to a personal pension – or by joining an occupational pension scheme (OPS) that was contracted-out.
- This was a fluid situation so that people could contract in or out of SERPS from tax-year to tax-year and there was usually a (pivotal) age at which it was beneficial to contract back into SERPS.
- The process required the consumer and employer to pay the normal level of national insurance contributions and, once a year, the state paid part of these contributions into a personal pension (known as rebating). When the government decided to allow individuals to contract-out of SERPS, incentives were offered to encourage them to do so. No guidance was given on who should be advised to remain in SERPS or on the type of person it was beneficial for.
- Due to this, pension providers' actuaries carried out comparisons of the projected benefits from SERPS with those from alternative personal pension arrangements, based on "conservative" assumptions of future investment returns. As there was little government guidance around "contracting out", providers generally took four main

factors into account when considering whether to advise someone to contract out or not. These were:

- The “pivotal” age, which was an age when the provider thought it reasonable to assume a consumer would benefit from contracting out – usually thought to be “the younger the better”.
 - The current salary and whether it met any minimum earning requirement the provider had set.
 - A consumer’s attitude to risk (ATR).
 - Whether there was an OPS available to join.
- The investigator considered each of these aspects in relation to Mrs S’s case. As part of the sales process, a fact find was completed, along with an application form. The fact find was completed to assess Mrs S’s personal and financial circumstances at that time.
 - This noted that Mrs S was 24 at the time of the sale. The pivotal age was usually somewhere between 40 and 50 and ReAssure had said in its final response that its pivotal age for a woman was 43. So, Mrs S was well below the age where it would have been deemed beneficial for her to continue with SERPS rather than contracting out. As such, there were around 20 years before it was likely that suitable advice would be for her to contract back into SERPS. In addition, given the investment horizon, it was in Mrs S’s best interests to contract out.
 - Another consideration was Mrs S’s annual earnings. ReAssure had said that the lower earnings limit in the tax year 1990/91 was £2,392. The fact find said that her earnings were £5,096. So, Mrs S was above the lower earnings limit. This meant that she earned enough to ensure that rebates forwarded by the government would generally cover the charges of the personal pension.
 - The fact find also recorded that Mrs S’s existing employer didn’t provide a pension, and that she hadn’t contracted out previously. So Mrs S’s circumstances demonstrated that the advice to contract out of SERPS was suitable and in line with guidance from that time.
 - ReAssure had also considered Mrs S’s attitude to risk and Mrs S was advised to invest in the Windsor Fully Managed (Series 3). Based on Mrs S’s circumstances and investment horizon, this was reasonable and suitable for her needs.
 - Mrs S had also raised concerns about the level of charges and had referred to the level of self-invested personal pension (SIPP) charges. However, this was a PPP rather than a SIPP, which typically would have higher charges. A SIPP product wasn’t introduced until much later.
 - Phoenix’s annual management and investment charges seemed to be in line with typical charges for similar plans at that time. And the available evidence didn’t support the position that the fees had been excessive or “unethical”. It was for Phoenix to set out its pension and fund charges, and this service wouldn’t normally interfere with a business’s charging structure, as long as it made the policyholder aware of them.
 - Mrs S would have also been provided with a copy of the terms and conditions and product particulars. This highlighted the main features of the policy and gave projected values. This also explained the following:

“The Values set out in this notice have been calculated according to rules prescribed by Lautro. The issuing office does not guarantee that the amount to be paid if the contract is terminated at one of the duration specified will be as high as the amount indicated. The amount actually payable will be determined by the number of units allocated and the ruling bid process of the units to which the policy is linked (less any relevant charges).

The values quoted are the amounts that could be payable on transfer of pension rights to another pension contract. The transfer value would not be payable directly to the pension scheme member”.

- This showed that the value wasn't guaranteed and would be based on the value of investments.
- Although Mrs S had also referred to the sale taking place during a pressurised situation, the investigator said that she wasn't present at the sale so couldn't be sure what was said. But the sale was over 35 years ago, and the adviser was able to fill in the fact find and application form, so this showed that some time was taken to discuss Mrs S's circumstances and the proposed pension plan.
- In any event, the guidance in place at that time demonstrated that the sale was suitable for Mrs S's needs.

Mrs S disagreed, however, saying the following in summary:

- She wasn't provided with any policy documentation.
- She didn't have adequate information and was pressurised into signing the document.
- She wasn't told that the company took a yearly fee.
- She wasn't told that commission was paid every year, and this had significantly affected the amount which had been invested in the policy.
- The adviser had been insistent, and could see that she was busy serving customers. It was a busy day for her, being on her own. He took advantage of this and she wasn't informed of the charges and commission.

As agreement couldn't be reached on the outcome, it's been referred to me for 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.

And having done so, whilst I'm sorry to disappoint Mrs S, I've reached the same overall conclusions as the investigator and for broadly the same reasons.

I acknowledge what Mrs S has said about what she considers to have been the pressurised situation in which the sale of the policy was conducted, and that she wasn't provided with any literature for the policy, but for the reasons set out by the investigator, I'm nevertheless satisfied that the policy wasn't unsuitable for Mrs S at the time. She was below the “pivotal

age", earned more than the lower earnings limit, and, being in her early twenties, had a long-term investment horizon for the contributions.

And so, even if more time had been taken to go over the details of the policy and the associated literature, I think it's more likely than not that Mrs S would have accepted the adviser's recommendation to establish the policy on the basis of potentially enhanced investment returns on the contributions.

With regard to Mrs S's position that she wasn't provided with any policy literature, I do need to take into account the amount of time which has elapsed since the policy was established, and that recollections can change over time. I also think it's more likely than not that Mrs S would have reasonably expected to receive something at the time, or shortly thereafter, to confirm what she was undertaking.

Turning then to the fees and commissions, these tended to be higher in the 1990s than was the case with subsequent pension policies, but I can't see that they were at variance with the type of charges which would have been levied on other similar policies.

I can see from the information provided by ReAssure that the policy stopped receiving contributions after a few years, in which case the impact of the charges may have been greater than if the contributions had continued. But I don't think the changes in Mrs S's circumstances would necessarily have been foreseeable at the time of the advice.

And moreover, as I've said above, and for the reasons given, the policy wasn't unsuitable for an individual in Mrs S's position, with her known circumstances, at the time of the advice. And so it wouldn't be fair or reasonable to uphold the complaint.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 25 November 2025.

Philip Miller
Ombudsman