DRN-5785956

The complaint

Mr W complains that The Prudential Assurance Company Limited (Prudential) gave him unsuitable advice to take out a Free Standing Additional Voluntary Contribution (FSAVC) in 1998.

What happened

I set out the background to this complaint in my provisional decision, which is attached at the bottom of this decision and forms part of it. Following my provisional decision, neither party had anything to add in terms of the merits of the complaint.

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, I see no reason to depart from the findings I made in my provisional decision.

In conclusion, the event in question was 25 years ago and so records and testimony about what was said aren't particularly robust. But the evidence I have seen suggests Prudential met the regulatory guidelines at the time of the advice. And therefore I think it likely that Prudential acted fairly and reasonably when it sold Mr W the FSAVC.

My final decision

I do not uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 29 September 2025.

SHollingshead

Simon Hollingshead
Ombudsman

The complaint

Mr W complains that The Prudential Assurance Company Limited (Prudential) gave him unsuitable advice to take out a Free Standing Additional Voluntary Contribution (FSAVC) in 1998.

What happened

Our investigator set out the background in her letter of recommendation, for ease of reference I've included an amended copy of this below:

On 4 June 1998, Mr W met with a representative of Prudential to discuss increasing his retirement contributions. The adviser completed a fact find which established Mr W's circumstances as follows;

- Mr W was 36 years old, married with financial dependents.

- He was employed full time as a policeman.

- Mr W had been a member of his occupational pension scheme (OPS) for three years.

- He was hoping to retire at age 55.

- Mr W had a cautious attitude to risk.

Prudential considered Mr W's circumstances and issued him with an advice report on 16 June 1998 recommending that he take out its FSAVC plan investing in a lower risk with profits fund. Mr W accepted that advice and started contributing £40.00 per month to the FSAVC plan.

Later in 2024 Mr W complained, via a professional representative, that Prudential had failed to provide him with a suitable recommendation in 1998. In particular, he said that Prudential failed to provide sufficient information about the additional voluntary contribution ("AVC") options offered by the OPS, including its lower charges. Mr W says that if he was provided with sufficient information, he would have opted for an AVC and likely would have been better off in retirement as a result.

Prudential didn't agree with Mr W's complaint and said that it had followed the regulatory guidelines in place at the time the FSAVC plan was sold.

Unhappy with that response, Mr W asked this service to investigate.

Our investigator looked into matters, she said that she'd seen nothing to say Mr W ought to have been aware of his cause for complaint at an earlier stage and therefore the complaint was one she felt we could look at. With regards to the merits of the complaint she felt that Prudential hadn't evidenced it had met the regulatory guidelines at the time. She said there wasn't sufficient evidence that a discussion had taken place about the differences between an AVC and an FSAVC and that the cost would likely be lower in the AVC.

Prudential didn't agree it said the evidence from the time shows that the differences were discussed and the attached leaflet said that in many cases AVC's are cheaper than FSAVCs.

What I've provisionally 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.

Firstly just to confirm, I've considered whether this complaint is within our jurisdiction and the pertinent part here could've been our time rules. But I've seen nothing to suggest this complaint has been made three years after Mr W ought to have been aware of his cause for complaint. So I am satisfied this is a complaint I can consider.

With regards to the merits of this complaint, the sale occurred in June 1998 and so I'll set out the relevant guidance in place at the time. The adviser was tied to Prudential products, so the relevant legislation was the PIA's RU20, this said a tied adviser should:

- *Draw the consumer's attention to the in-house alternative*
- *Discuss the generic differences between the two routes*
- *Direct the consumer to their employer or the occupational pension scheme for more information on the in-house option*

RU20 also referred to the lower charges under an in-house AVC in general terms. It said:

'Charges under in-scheme AVCs will usually be lower than those under FSAVCs, reflecting economies of scale, rebated commission or a contribution to administration expenses by the employer. Of all the differences between the two routes, this is likely to exert the greatest impact on which route would offer the greater benefits to the client.'

Mr W argues that Prudential in this sale didn't meet its regulatory requirements, Prudential believes it did.

As the events took place over 25 years ago, I cannot be certain what was said in the meeting between Mr W and the adviser. The evidence recorded at the time shows that the recommendation letter said 'I have given you a copy of the leaflet "AVC – some important features" and have explained the contents to you.'

And later in the letter it said:

'The relative merits of FSAVCs and AVCs were covered. You chose the FSAVC plan because of the choice of investment with Prudential.'

The leaflet which the evidence recorded at the time states was discussed, gave the key information about the differences between FSAVCs and AVC and in regard to the most important part, under the heading "cost" it said:

"It is difficult to be specific with regard to the difference in costs between AVCs and FSAVCs as product structures vary considerably. The cost of running your AVC or FSAVC is important as it will affect your final benefits, however you should also take into account other factors such as the funds you are investing in and the financial strength of your provider to be able to select the appropriate investments that make up these funds in the case of "with profit" plans. "In many cases the employer bears some, or all of the administration costs whereas in the case of an FSAVC these costs are borne by the customer".

So, the evidence suggests that on the balance of probabilities the differences between FSAVCs and AVCs were discussed. If it wasn't I would have expected Mr W to speak up upon seeing this mentioned, as his recommendation letter confirmed this discussion.

The leaflet also set out in as many words that it was likely the AVC would be cheaper (as in many cases the employers bear the costs and for FSAVCs the customer meets this cost), I think the adviser in explaining this would've likely said that the AVC would be cheaper or words to that effect. It can't reasonably be explained in any other way. The leaflet drew Mr W's attention to the inhouse option and also directed Mr W to his employer for more information about the AVC. And as I've said the recommendation letter said the contents of the leaflet as explained.

It's difficult to be sure or make concrete findings backed up by solid evidence as unfortunately this complaint has been made 25 years after the event. And due to this it's not surprising that the evidence is sparse. But as I said whilst I cannot be sure exactly what was said, the evidence suggests on the balance of probabilities that a discussion was had about the relative merits of the two options. And that the AVC likely being cheaper was also covered. I am therefore of the view that Prudential *treated Mr W fairly and the advice it gave was in line with regulatory requirements at the time.*

My provisional decision

I am not minded to uphold this complaint for the reasons explained.

Simon Hollingshead
Ombudsman