Financial Ombudsman Service

complaint

Mrs F's complaint concerns the advice she was given by The Prudential Assurance Company Limited ('Prudential') to take out a Free Standing Additional Voluntary Contribution (FSAVC) policy. She complains, through a representative, that the policy was not suitable for her, and she was not made aware of the differences between FSAVCs and Additional Voluntary Contributions (AVCs) she could make through her employer's pension scheme.

background

Mrs F met with a Prudential representative and took out a FSAVC policy in 1998. She was in the process of joining her occupational pension scheme (OPS) at the time, and therefore could not continue contributing to the personal pension policy she held with Prudential.
The Prudential representative assessed Mrs F's personal circumstances and recommended that she convert the existing personal pension policy into an FSAVC policy.

The adjudicator who considered Mrs F's complaint concluded that it should not be upheld. In summary she said:

- Prudential sold the FSAVC plan in accordance with the regulations applicable at that time.
- Investing the funds in a with-profits fund was consistent with Mrs F's attitude to risk.
- The amount Mrs F contributed to the FSAVC plan did not create any affordability issues.
- The summary report showed the generic differences between FSAVCs and AVCs – including the charges - were discussed and a leaflet detailing these differences was given to Mrs F.
- Mrs F had sufficient information to make an informed choice to take out the FSAVC plan.

Mrs F's representative did not agree with the adjudicator's findings. In summary, it said:

- She was not a member of the OPS when she took out the FSAVC policy.
- The switch from Mrs F's personal pension policy to the FSAVC policy incurred charges.
- The Prudential representative did not give Mrs F enough time to investigate the AVC scheme option.
- Mrs F had worked for her employer for six years, but the representative did not comment on why she had not joined the OPS.
- As Mrs F did not join the OPS before agreeing to the FSAVC policy, she did not have a copy of the scheme booklet.
- Investing the contributions into a with-profits fund was not consistent with Mrs F's cautious approach to risk.
- It was possible that Mrs F's OPS was a group personal pension.
- The FSAVC policy was unnecessary as Mrs F could have increased her contributions to the group personal pension.

Prudential has confirmed that the initial set up charges were waived for the FSAVC plan but the other charges remained the same.

I issued a provisional decision in December 2014. My provisional findings were:

- Like the adjudicator, I considered that the premiums Mrs F paid into the FSAVC were affordable – she had sufficient surplus income to meet the cost of the premiums. I also thought that the way in which the FSAVC was invested was suitable. Mrs F's representative had made the point that the fund selected was not suitable for a "cautious" investor. But I considered the fund was suitable for an investor such as Mrs F, saving over the longer term for retirement.

- However, it appeared that the OPS being offered to Mrs F was a group personal pension scheme, provided by Prudential. It also seemed that Prudential's advisor was aware of this, as it was recorded in the "fact find" document that was completed at the time the FSAVC policy was sold.

- In these circumstances it was not clear why Mrs F was advised to make contributions to the FSAVC – she would have been better advised to make additional contributions to the group personal pension policy offered by her employer. Although Prudential has confirmed that the set up charges were waived for the FSAVC plan, the ongoing charges were likely to be higher than those that would apply to the group personal pension scheme, which would likely have provided Mrs F with access to the same funds that were available through the FSAVC.

- So Mrs F should have been advised to make additional contributions to the group scheme, rather than make FSAVCs.

I suggested that Prudential put Mrs F in the position she would be, had she contributed to the group personal pension, instead of making FSAVCs.

Prudential did not accept my findings, and it said the scheme offered by Mrs F's employer was a money purchase plan, not a group personal pension scheme. But, after exchanging some correspondence with the adjudicator, it carried out a loss calculation, and offered £831.22 to Mrs F. This was the difference between the value of the FSAVCs Mrs F had made, and the value the same contributions would now have had they been made to the scheme offered by her employer.

This offer was put to Mrs F, through her representative, but she has not responded to it.

my findings

I have reconsidered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Neither Mrs F nor her representative has made any further submissions. So, as Prudential has made an offer which is consistent with what I suggested in my provisional decision, I see no reason to depart from my provisional findings.

To confirm, I consider that Mrs F should have been advised to make additional contributions to the pension scheme offered by her employer, rather than make FSAVCs, as she would pay lower charges by doing so.

I consider that the offer Prudential has made is fair and reasonable in the circumstances, as it addresses the loss Mrs F has made through paying higher charges.

my final decision

For the reasons given, I uphold the complaint. If Mrs F accepts my decision, The Prudential Assurance Company Limited should pay her the £831.22 loss it has already calculated.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs F to accept or reject my decision before 7 April 2015.

John Pattinson
ombudsman