

complaint

Mr J says that, on the advice of The Prudential Assurance Company Limited ('Prudential'), he opted not to join two occupational pension schemes when invited to do so in 1987 and 1988. Mr J now wishes to claim compensation for the potential loss of pension benefits.

background

Mr J was advised to contribute to a personal pension plan (PPP) in March 1985. His employer at the time has confirmed that Mr J had one opportunity to join its pension scheme in 1987, but declined. Prudential subsequently advised Mr J to contract out of the State Earnings Related Pension Scheme (SERPS) in October 1987.

Mr J changed employers in July 1988. His new employer has confirmed that Mr J was invited to join its pension scheme in July 1988, but declined.

Prudential reviewed the advice provided to Mr J as part of the industry-wide Pensions Review. It wrote to him in July 2001 informing him of its conclusion that he had not suffered a loss of pension benefits on the basis that it could see no evidence that it had provided advice not to join either occupational pension scheme operated by his employers.

Mr J queried the outcome of this review. Prudential subsequently re-confirmed that it did not consider he had suffered a loss as he was ineligible for membership of an occupational pension scheme at times when it provided advice.

Mr J complained to Prudential in May 2012 as he says he sought advice from Prudential's representative at the time he had the opportunity to join his employer's pension scheme, and was advised not to join.

Prudential declined Mr J's complaint on the basis it held no records of any advice given at the time he could have joined the schemes.

Mr J's complaint was investigated by one of our adjudicators, who, concluded that there was not sufficient evidence that Prudential had advised Mr J not to join.

Mr J disagreed with the adjudicator's assessment and, in summary, felt that he was being asked to prove that this advice happened, which was not possible as Prudential would hold all of the details. He also questioned the training of the particular adviser at the time and whether the adviser would have received commission for the sale of the personal pension.

Following further investigation, it was established that the SERPS policy had been advised in October 1987; however it had not been signed for until 19 September 1988.

It was also brought to our attention that Mr J's initial employment with his new employer was subject to a probation period of three months in 7 July 1988. Mr J has said that the option to join the occupational scheme may have been held back until his probation period was completed.

my findings

I have considered all of the evidence and arguments from the outset, in order to decide what is fair and reasonable in the circumstances. Having done so, I have come to the same overall conclusions as the adjudicator, for the same reasons.

Pensions Review guidance required businesses to review pension advice given to consumers between 29 April 1988 and 30 June 1994. This was to establish whether consumers would have been more appropriately advised to join their employer's pension scheme and compensate them for any losses arising. This included occasions when existing PPP holders may have been advised to opt out of a potential occupational pension scheme.

Mr J was offered the chance to join his employer's scheme in October 1987. But, as he could only have been a member for a maximum of 13 months, at the end of his employment all his contributions would have been returned to him. This would have been closed as a 'no loss' case under the Pensions Review and the PPP would not have been considered inappropriate in those circumstances.

In the course of the adjudicator's investigation he established that meetings between Mr J and Prudential occurred on the following dates:

5 March 1985
21 October 1987
1 March 1989

Further investigation has established that Mr J probably met with a Prudential adviser on 19 September 1988 in order to sign the application form to contract out of SERPS. This had been recommended in October 1987. The September 1988 meeting would have been just prior to the completion of Mr J's probation period with his new employer, on or around 7 October 1988. The suggestion is therefore that the pension was not offered to him until he completed his probation and it was the September 1988 meeting when he was advised to opt out.

I have fully considered this argument, and while it is conceivable that Mr J was advised to opt out of this scheme, the evidence I have been provided with is inconclusive. The evidence provided by Mr J's new employer was that the offer to join was a one time invitation made in July 1988. I appreciate that this letter was written 13 years after the event, and may not show the full picture, however I have no reason to doubt its contents.

Unfortunately the extended period since these events has meant that it is now difficult to reach a conclusion about when Mr J received advice and who he spoke to. The evidence indicates that Mr J had to decide in July 1988 whether to join his new employer's pensions scheme. I am unable to conclude that Mr J did receive advice at that time and therefore unable to uphold his complaint.

I have also considered whether Prudential should have, at a later date, advised Mr J to join. However, the scheme did not allow Mr J to join after he had made a decision not to join when he was first employed.

Although Mr J has asked about the adviser's qualifications, this is not a point that will establish whether he received advice at the time.

my final decision

I do not uphold the complaint and I make no award.

Roy Milne
ombudsman