

## complaint

Mr P's representatives complained that The Prudential Assurance Company Limited (Prudential) advised him to start a Free Standing Additional Voluntary Contribution (FSAVC) plan instead of joining his in-house Additional Voluntary Contribution (AVC) scheme.

## background

In October 1997 Mr P contacted Prudential and asked them to "freeze" his personal pension plan (PPP) as he'd joined his employer's scheme. Mr P had a meeting with an adviser from Prudential in November 1997. At the time he was 47 years old, married with one child and earning around £1,000 a year. He'd returned to working for his employer having been made redundant by the same employer 3 years before and re-joined their pension scheme. Under the rules at the time he couldn't continue contributing to his PPP. The forms from the meeting in November show Mr P wanted to set up an FSAVC as he had to stop paying into his PPP with Prudential so he could continue his retirement planning. The FSAVC was started at the meeting.

Unfortunately the "reasons why" letter sent to Mr P after his meeting isn't available but the forms filled in and documents provided are available and their contents aren't disputed. They show the leaflet "Additional Voluntary Contributions – some important features" was given to Mr P and the contents explained.

In 2015, Mr P's representatives complained to Prudential on his behalf. Prudential didn't uphold the complaint.

Mr P's representatives came to this service and submitted the same complaints as they sent to Prudential. These are summarized below.

An adjudicator at this service investigated the complaint and didn't uphold it. Her view was that Prudential had complied with the rules in force at the time in particular the Personal Investment Authority Limited PIA Regulatory Update 20 (May 1996). Mr P was given the relevant information which highlighted the AVC alternative and explained differences in generic terms between the schemes. Mr P was also directed where to seek more information on the AVC option.

Mr P's representatives disagreed and asked for an ombudsman to review the case. In summary they repeated their initial complaint:

- It was the responsibility of the adviser to demonstrate suitability and make sure Mr P was able to make an informed decision.
- Despite the drop in his income when he started working again Mr P was happy to make a contribution that was quite big for him because he took his pension planning seriously.
- There should be evidence of a more meaningful comparison than had taken place with a note of reasons as to why the FSAVC was the better option.
- They accepted the adviser couldn't give specific advice on the AVC but suggested perhaps he could've had two meetings to give Mr P the chance to get a quote from his employer. Then Mr P could've been properly informed about the FSAVC charges (which Mr P's representatives say were more than the AVC) and their effect.
- The reasons why FSAVCs were usually sold didn't apply to Mr P.

- They agreed the FSAVC fund was suitable for an investor who was cautious like Mr P but they thought his employer's fund would probably have had a similar fund available.

They say Mr P relied on bad advice from Prudential and he has lost out. They say his understanding was limited because of the type of work he did and he would've chosen his employer's AVC scheme if it had been properly explained. Nothing has been submitted about Mr P's employer's scheme at the time or his employment history after 1997, save that his representatives say that his employer's scheme had a final salary element. I've seen that the forms filled in at the time say the employer's scheme didn't have such an element.

Mr P says he would've been a cautious investor at the time. This is reflected in the risk assessment Prudential completed at the time.

Prudential made no further submissions.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

From what I've seen I think that in 1997 Prudential made Mr P aware of the possibility of paying AVCs via his employer's scheme. His attention was drawn to this option in the leaflet given to Mr P at the time. It's also noted on the form that when the leaflet was given to Mr P the representative "*explained the contents to the client*".

This leaflet explained the generic differences between AVCs and FSAVCs and that an employer often paid for some of the in-house AVC costs. It said amongst other things that:

*"Since 1989, any employer who offers an 'in-house' occupational pension scheme also has to offer to provide an AVC facility, so, if you are a member of your employer's pension scheme, you will also be eligible to make contributions to the 'in-house' AVC facility. Information on any 'in house' scheme will be available from your employer or pension scheme trustees [and]...*

*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".*

It also highlighted some of the benefits that might only be available with an AVC or could cost more with an FSAVC.

I think Prudential met the regulatory requirements at the time. Having followed and documented the requirements it wasn't necessary for Prudential's adviser to do a full comparison of the employer's AVC and Prudential's FSAVC. Mr P had sufficient information to alert him that there were likely to be differences in the options.

Mr P was aware of the in-house scheme and as he'd recently re-joined his employer's scheme he was likely to have been given information about the AVC at the time. That was the reason for the meeting as he couldn't continue payments to his PPP.

I've seen that Mr P's representatives say Prudential's adviser should have held two meetings to allow time for Mr P to consider the AVC option. As Mr P was directed to his employer to

get further details of the in-house scheme it's more likely than not that Mr P would have been given the time to carry out his own investigation should he have wished to do so. There's nothing to suggest that Mr P felt he didn't have enough information or that he wanted more time. As he contacted Prudential to tell them to freeze his PPP and the forms suggest he'd asked for the meeting to start an FSAVC I think he'd already done some thinking.

Of course the adviser was under a duty to provide suitable advice and so I've looked at the documents produced at the time to decide if there has been a failing.

The availability of an in-house scheme didn't make an FSAVC immediately unsuitable and it doesn't mean that Mr P didn't go on to make an informed choice.

I've seen that although his PPP couldn't be converted into an FSAVC, Prudential did offer the switch of payments and starting the FSAVC without any plan fee or administration charges. As I've said I've not been provided with any information on Mr P's employer's plan. I don't see anything wrong with advice to save extra where it's possible.

At the time Mr P's employment future couldn't be known and didn't seem to be long term settled as he'd just returned to work for much reduced pay after being made redundant a few years before. I've seen a note that Mr P's circumstances changed again in 2002 and he revived his PPP. I can also see that at some point Mr P did significantly change the type of work he was doing.

I understand that Mr P's representatives have said that it was for the adviser to show suitability and to make Mr P sufficiently informed so that he was able to make a genuinely informed decision. I think Prudential did this.

Overall I think Prudential met the regulatory obligations and I can't say the FSAVC was unsuitable for Mr P.

### **my final decision**

I don't uphold Mr P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 9 November 2015.

Louise Wilson  
**ombudsman**