

## **complaint**

Mr A is unhappy that he was advised in June 1992 by a The Prudential Assurance Company Limited (“Prudential”) adviser to invest into a Prudential FSAVC policy rather than his in-house AVC scheme.

## **background**

Mr A arranged a FSAVC policy with Prudential in 1992 after a meeting with one of its representatives. At the time the advice was given a fact find was completed and amongst other things this recorded that:

*“Mr A has recently decided not to contribute AVC’s into company pension...”*

In 2013, his representative complained to Prudential on his behalf about the advice he had received. As Prudential did not uphold the complaint the matter was referred to the Financial Ombudsman Service for an independent assessment. The case was assessed by one of our adjudicators in December 2013. He did not uphold the complaint, saying:

- He considered that Mr A’s personal circumstances at the time meant that the advice to make additional retirement savings was suitable.
- Based on the evidence available it appeared that sufficient discussion about the various options had taken place to satisfy the regulatory requirements in place at the time.
- Mr A’s policy was invested in the with-profits fund, which in the adjudicator’s opinion was suitable for someone considered a low risk investor.

Mr A’s representative did not agree with the adjudicator saying that:

- In its opinion regulation at the time required the advisor to give a clear and positive reason for recommending an FSAVC over an AVC policy.
- It did not believe that the advisor had acted in Mr A’s best interests.
- It did not feel that the onus should have been on Mr A to research his in-house options.
- It was well-known within the industry at the time that the charges of an in-house scheme were generally lower than those of an FSAVC scheme.

Prudential had nothing further to add.

## **my findings**

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

The advice to establish the FSAVC was provided to Mr A in March 1992. The requirements in force at the time which governed this type of advice were contained within the LAUTRO Code of Conduct.

This stated that life assurance company representatives should:

- *have regard to the consumer's financial position generally and to any rights they may have under an occupational pension scheme; and*
- *give the consumer all information relevant to their dealings with the representative in question.*

I acknowledge the comment relating to the cost difference between the FSAVC and the in-house AVC available to Mr A through his employer but representatives were not specifically required to highlight this at the time the advice was given.

Neither was there any specific requirement at the time for Mr A to be referred to his employer for further information regarding its in-house scheme. Indeed as a tied representative of Prudential the advisor would not have been allowed to advise on the in-house AVC scheme

Nevertheless, an adviser was of course also under an overarching obligation to provide suitable advice, and so I have considered the documentation produced at the time to determine whether there has been a failing in this regard.

A discussion about the relative merits of in-house AVC and FSAVC policies appears to have taken place, and in this discussion Mr A seems to have told the advisor that he had already researched his in-house AVC scheme before the meeting and wished to investigate other options.

As a result I am satisfied that Mr A would have been aware of the features of the FSAVC and would have been in a position to compare the benefits of the two possible arrangements. It would appear to be the case that, at the time the advice was given he did not wish to invest into the in-house AVC scheme and preferred the option of an FSAVC.

Overall, on the basis of the available evidence, I am not persuaded that I can safely conclude that the advice to establish the FSAVC was unsuitable, or otherwise at odds with Mr A's understanding of the product or intentions with regard to his pension planning.

### **my final decision**

I do not uphold this complaint.

Terry Connor  
**ombudsman**