

complaint

Ms B's complaint is that she was advised by The Prudential Assurance Company Limited (Prudential) to take out a Free Standing Additional Voluntary Contribution (FSAVC) policy rather than join the in-house Additional Voluntary Contribution (AVC) arrangement available within her occupational pension scheme.

background

The complaint was investigated by one of our adjudicators who wrote to Ms B's representative with his assessment of the complaint. The adjudicator did not recommend that the complaint should succeed. In summary, he noted that Ms B had been given a copy of the leaflet "AVC - some important features" and a Key Features document during the meetings with the adviser. He noted that Ms B was converting a personal pension arrangement to an FSAVC, and there were no set up charges on the major proportion of the premium paid.

The adjudicator had also found that the occupational scheme available had gone into compulsory liquidation in 2009, and had insufficient assets to meet all its liabilities. The scheme itself went into the Pension Protection Fund, but this did not cover money purchase AVC benefits. The Trustees had limited options to deal with the AVC, and the administrators had said that during the lifetime of the pension scheme there appeared to be no consistent policy on AVC arrangements except that the employer did not appear to encourage such arrangements within the scheme.

Ms B's representative did not agree with the adjudicator's findings and stated:

- The fact that the occupational pension scheme had been placed in compulsory liquidation in December 2009 should not form part of the investigation into how the FSAVC plan was originally sold.
- No comparison had been made between the annual management charges of the FSAVC plan and the in-house alternative at the time of the advice.
- There was no evidence that the generic differences between the in-house AVC scheme and the FSAVC plan had been discussed
- The documentation provided to Ms B was post sale, which intimated that the sale of the FSAVC plan had been pre-determined

Prudential made no further submissions

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 broadly for the same reasons.

The contemporaneous documentation records that *"The benefits of additional savings for retirement have been explained to me. The relative merits of FSAVC's and AVC's were covered"* and *"Advised now must stop PP – convert to FSAVC or consider AVC to continue pension provision"*. The adviser also said in the letter dated June 1998 that: *"I have given you a copy of the leaflet "AVC – some important features" and have explained the contents to you."* It does not specifically say when the leaflet was provided or explained, however I am

satisfied that the content of this leaflet outlined the generic differences between FSAVCs and AVCs. I note that it also 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.”

Clearly, I cannot determine with any reasonable degree of certainty exactly what the adviser said about the alternative option of contributing to the in-house AVC scheme. However I am satisfied, albeit on balance, that it was likely to have been discussed, and that the adviser met the regulatory obligations that were required at the time. As noted by the adjudicator, the charges on the FSAVC were lower than would ordinarily have been the case with a new plan (albeit the AVC plan charges may still have been lower).

However the scheme administrators have also said that it does not appear that the employer encouraged AVC arrangements and that the employer had “...not been keen on accepting AVC’s.” Whilst I accept that this does not necessarily mean that Ms B would not have joined the in-house AVC if she had made enquiries about it, it seems unlikely that if she had done so its benefits would have been actively promoted.

Overall, having carefully considered the matter, I am satisfied that Ms B was likely to have been in a position to make an informed decision, and I have not been persuaded, on the balance of the evidence, that the FSAVC was unsuitable in the particular circumstances of this case.

my final decision

Accordingly, my final decision is that I do not uphold Ms B’s complaint.

David Ashley
ombudsman