

summary of complaint

Mr A has complained about the advice he received from Prudential Assurance Company Limited in 1989 to contract-out of State Earnings Related Pension Scheme ("SERPS"). Having recently compared the level of Contracted-Out Deduction (COD) off his SERPS payments to the pension benefits he will receive from his Appropriate Personal Pension Plan (APPP), Mr A has realised that there is a shortfall and states that this possibility was never explained to him when he commenced the policy.

background to complaint

One of our adjudicators after investigating this complaint wrote to Mr A in August 2012 concluding that the complaint should not be upheld. In summary, he considered that Mr A's circumstances at the time met all the key requirements to justify the advice to contract out of SERPS.

Mr A then informed the adjudicator of an error within his view. Mr A stated that he was not a member of the occupational pension scheme at the time of advice although an employer's pension scheme was available to him. The adjudicator acknowledged the mistake but informed Mr A that his view of the complaint did not change. He did so because the available occupational pension scheme was not contracted-out of SERPS which allowed Mr A the option to contract-out of SERPS using a personal pension policy should he wish to.

Mr A did not agree with the adjudicator's findings and has since written further information and arguments in support of his complaint. In summary, he explained that this complaint originated from a previous Prudential plan that was taken out in place of joining his employer's pension scheme. Further, that at no point did Prudential contact him to advise him that contracting-out of SERPS was not beneficial. Mr A says that had he been aware, he would have had the option to invest more into the in-house Additional Voluntary Contribution (AVC) plan, which became available to him in 1992.

Prudential did not add anything further.

my findings

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

I would firstly note that under the above complaint reference I am only considering Mr A's concerns about contracting-out out of SERPS.

In his view the adjudicator explained the background to the Government allowing individuals to contract-out of SERPS to which I have nothing further to add.

Mr A fulfilled all the relevant criteria to contract-out and I have seen nothing to suggest that the advice Mr A received was not suitable. Given his personal circumstances at the time of advice it would have been expected on conservative assumptions of likely future investment experience that contracting-out of the additional state pension would be expected to benefit him. This was not however guaranteed.

In 1989 Mr A was at an age when the policy commenced where the actuaries at Prudential had determined using conservative assumptions of likely future investment experience that he would be expected to be better off at state pension age having contracted out of SERPS. It is of course disappointing that the actual investment returns that have been achieved have been much lower than was anticipated. This combined with the fact that the annuity rates are now much more expensive than was expected has meant that the gains expected from contracting out have not arisen.

The advice to contract-out of SERPS appears to have been suitable at the time of advice, based on the guidelines set at that time. Further, in regard to Mr A's point that he did not receive any further advice on the suitability of contracting-out and that it was no longer beneficial, Prudential can be only be responsible for the advice provided at the time of sale. Had Mr A wanted further advice he had the option to request it. This would also refer to when an employer's AVC scheme became available to Mr A in 1992.

my decision

I reject Mr A's complaint against Prudential and I make no award.

Adrian Hudson
ombudsman