

complaint

Ms C's complaint is that The Prudential Assurance Company Limited ("Prudential") gave Ms C unsuitable advice to contract-out of the State Earnings Related Scheme ("SERPS").

background

One of our adjudicators investigated the complaint. She did not recommend the complaint should be upheld. In summary she said that:

- Ms C was below Prudential's pivotal age of 35
- Ms C's recorded monthly rebate was £456.59 (approximately earning £22,000) and this exceeded the pivotal earnings limit
- At the time of the advice, there was a reasonable prospect that contracting-out of SERPS would likely have been beneficial for Ms C.

Prudential did not provide a copy of the application form but the information about when the advice was given, her monthly rebate and where her funds were invested were recorded on its system.

Ms C did not agree with the adjudicator's findings. In summary she said that as Prudential cannot locate the signed application form, she is challenging the validity of the information.

Prudential made no further comments.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

As the adjudicator explained, when the government decided to allow individuals to contract-out of SERPS and offered incentives to encourage them to do so, it gave no advice as to who should be advised to remain in SERPS and those for whom it was expected that contracting-out would be beneficial.

Instead, pension providers' actuaries carried out comparisons of the projected benefits from SERPS with those from an alternative personal pension arrangement in order to determine if contracting out would be beneficial or not.

These calculations were based on what were felt at the time to be conservative assumptions of likely future investment returns. The rebates paid by the Government were set in such a way that it was more attractive for younger individuals to contract-out than for those who were older. The ages where the provider's advice as to whether to contract-out or not changed, were called pivotal ages.

Prudential's actuaries determined that, at that time, the pivotal age for women was 35. This meant that it was anticipated that women aged below 35 would be better off contracting-out rather than remaining in SERPS. As Ms C was well below this age in 1987 it was expected that she would be better off contracting-out.

As well as age, another of the factors used to determine whether someone was likely to be better off contracting-out of SERPS was their earnings. Ms C's first monthly rebate was

£457.59 (which was approximately 2% of her salary earnings – therefore her estimated earnings in 1987 were £22,000). The pivotal earnings limit was £5,000 which was the minimum Prudential calculated to justify that there was a reasonable prospect for consumers to be better off as a result of contracting-out of SERPS. As Ms C's earnings were in excess of the pivotal earnings limit, she was eligible to take this plan out with Prudential.

At the time therefore, it was anticipated that Ms C would likely be better off at retirement by contracting-out of SERPS. However it was not guaranteed that she would be, as it depended on the actual returns provided by the fund the money was invested into and the rates at which Ms C's fund would be converted into a pension at retirement (called annuity rates).

I note that Ms C has said that she questions the validity of the information provided by Prudential as it cannot provide the signed application form. Due to the passage of time since Ms C opened her policy with Prudential in 1987, I find it not unreasonable that Prudential cannot provide a paper copy of the information.

However, I consider it likely that there was such an application form for the information in respect of Ms C's circumstances at the time to have been recorded on Prudential's system. I have not been presented with any evidence to suggest that this information or its recording on Prudential's records system is incorrect or inaccurate.

my final decision

Accordingly, I do not uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms C to accept or reject my decision before 12 February 2015.

Terry Connor
ombudsman