

## **complaint**

Mr B has complained about the advice he received in 1994 from The Prudential Assurance Company Limited ('Prudential') to take out a free standing additional voluntary contribution ('FSAVC').

## **background**

The adjudicator who assessed this complaint did not uphold it as he saw no evidence that Mr B had been told by the Prudential representative about the alternative option of an in-house AVC with his employers.

Prudential were unable to provide a completed fact find for the sale but did provide a copy of a document entitled '*Additional Voluntary Contributions – Some Important Features*' which they said would have been provided to Mr B as part of the sales process.

In addition Prudential contended that as Mr B was already contributing to an in-house AVC he should therefore have been aware of the comparative charges between a FSAVC and an in-house AVC; he still chose to take out a FSAVC. The adjudicator did not agree as he felt that Mr B could not be considered an experienced investor and there was no persuasive evidence to show that a discussion about the most appropriate course of action for Mr B had been undertaken at the time.

Prudential also raised the point that their representative's responsibility during the sales process would have been to simply make Mr B aware of the in-house AVC option and the representative's responsibility did not extend to a direct comparison. However, whilst the adjudicator agreed with this point he was not provided with persuasive evidence that even this limited discussion had taken place.

As agreement could not be reached the complaint has been passed to me to consider.

## **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 reviewed the submissions I am unable to conclude that the sales process outlined by the Prudential was adhered to. There is no fact find available, only a copy of a document that was usually provided to customers at the time and the assumption by Prudential that as Mr B held an existing in-house AVC he was therefore aware of the various features and charges of both products.

Given the absence of contemporaneous evidence I am not persuaded that it is reasonable to rely only on the assumption by Prudential that Mr B was aware of the difference in charges and features of the in-house AVC compared to a FSAVC. I agree with the adjudicator's approach that Mr B could not be considered an experienced investor.

In the absence of any Prudential documentation to the contrary, I consider that it was more likely than not that the Prudential representative failed to inform Mr B that the in-house AVC was likely to provide better value for money. I consider that Mr B would, more than likely, have been better off increasing his contributions to his existing in-house AVC as this would have been the cheaper option.

**my final decision**

My final decision is that I uphold Mr B's complaint.

I direct that Prudential carry out a loss calculation in accordance with the methodology set down by the regulator for the industry wide review of FSAVC policies. If any loss is established, Prudential should also pay redress in line with the regulator's guidance.

If there is any dispute about the implementation of my award that cannot be resolved between the parties, it should be referred back to me for further directions.

Terry Connor  
**ombudsman**