

complaint

In 1990 Mr B received advice from a representative of The Prudential Assurance Company Limited (“Prudential”) to start a personal pension plan. Mr B’s complaint is that he believes he should have been sold an ISA or another savings vehicle instead of a personal pension.

background

The adjudicator who investigated Mr B’s complaint concluded that it should not be upheld. In her assessment of the case, she explained that she had reached this view because:

- at the point of sale, Mr B was self-employed, had no other pension provision set up to save for retirement and did not have access to an occupational pension scheme
- it was not known at that point whether Mr B would take up employment which would make him eligible to join an occupational pension scheme in the future
- Mr B was 20 years old when the policy started, and she did not think Mr B was too young to start saving for retirement at that age
- the contributions were affordable, given Mr B’s earnings (noting they were reduced in 1991 when Mr B ceased to be self-employed)
- contributions were paid into the with-profits cash accumulation fund, which she considered to be a lower to medium risk investment
- there was no mention in Prudential’s paperwork of Mr B and his partner wishing to save for a house deposit or a wedding instead of a pension
- Mr B had the right to cancel his policy at the time it was taken out, if he had felt that his main concern was to save for the purchase of a house or for a wedding
- the above circumstances indicated that the recommendation to start a personal pension was suitable to Mr B’s needs at the time

Mrs B, on behalf of Mr B, had also mentioned being unhappy about the annual payments he would receive from the pension plan, as they considered that the amount was too small to be useful. The adjudicator explained that the projected benefits at Mr B’s retirement age were lower due to two factors. First, the cost of purchasing an annuity had increased. Secondly, fund growth has been less than anticipated. This did not mean that the original recommendation was unsuitable. The adjudicator explained that Mr B may have the option to transfer the value of his personal pension into another arrangement, such as one of his occupational schemes.

Mr and Mrs B did not agree with the adjudicator’s findings and Mrs B asked for an ombudsman to review the complaint. The reasons she gave were:

- Prudential was unlikely to have recorded that they were saving for a house deposit or a wedding at the time
- Prudential should allow the policy to be surrendered as it is worth less than £5,000, so it is not valuable as a pension but could be useful to their family as a lump sum
- she still believes Mr B should have been advised to start a savings account or an ISA, as this would have been more suitable to his needs at the time
- she noted a BBC news article on pensions mis-selling, particularly in relation to under 35s who had been advised to opt-out of an occupational scheme and start a personal pension, and felt that this is what Mr B had been advised to do
- she believes Mr B’s pension was sold by the adviser just to gain commission

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 reached the same conclusions as the adjudicator, and for broadly the same reasons.

I am satisfied that the advice to start a personal pension was likely to be suitable to Mr B's needs at the time, for the reasons highlighted by the adjudicator (and set out in the background section above).

When the personal pension plan was sold, Mr B was self-employed, had no other pension provision and did not have access to an occupational pension scheme. The mis-selling article that Mrs B referred to relates to advice provided to people who had access to an occupational pension scheme, but were advised not to join or to opt-out of their employer's scheme. This was not Mr B's position. The fact that he later gained access to an occupational scheme does not mean that he was badly advised at the time the personal pension plan was recommended to him. It also could not be known at the time that he would later gain access to an occupational scheme, and if so, when and on what terms. I cannot therefore apply the benefit of hindsight to reach a conclusion that Mr B was badly advised.

Mrs B has said that Mr B should have been advised to set up an ISA or some other savings product, as he wanted to save for a house purchase and a wedding at the time. However, in my view, Mr B ought to have been able to understand that starting a personal pension plan to save for retirement was a long-term investment. If he had other needs which made Prudential's recommendation unsuitable, this should have been clear to him at the time. He also had the option to cancel at the outset of the policy, if he was unhappy with the advice.

There are strict tax rules that govern pension plans. The tax rules do not currently allow Prudential to surrender Mr B's policy and pay him the lump sum that he would like to receive.

This option may be available to him at age 60, although it will depend on the tax rules that apply at that time. I understand that Mr B may be disappointed with what his personal pension is currently worth. However, it will be available to provide additional benefits at retirement. Alternatively, as the adjudicator referred to in her view, there may be an option to transfer the fund to another of Mr B's pension arrangements. I understand that Prudential has already supplied Mr B with a transfer value statement.

my final decision

I do not uphold this complaint and therefore I make no award.

Venetia Trayhurn
ombudsman