

complaint

Mrs L complains The Prudential Assurance Company Limited (“Prudential”) provided incorrect and misleading information about her pension.

background

I set out the background to Mrs L’s complaint in my provisional decisions. I’ll summarise it again here.

Mrs L took out an additional voluntary contribution plan (AVC) with Prudential in 2014. The plan is linked to her Local Government Pension Scheme (LGPS). Mrs L decided to make contributions of £40 gross to her AVC following a meeting with a Prudential representative.

In 2016, Mrs L had a further meeting with her Prudential representative. She says she was given a calculation from the Prudential representative, which showed she could achieve a maximum tax-free cash lump sum of £78,903 from her AVC plan. She decided to increase her monthly contribution to £100 gross based on the information she was given at this meeting.

In 2017, she spoke again with Prudential after she received her annual LGPS benefit statement to discuss her contributions to her AVC and check the maximum tax-free cash available. Mrs L was considering increasing her AVC contribution again and wanted to check the benefit of doing so.

On this occasion, Mrs L was informed the maximum tax-free cash available to her would be £58,013. This was based on a number of assumptions such as her current salary and expected retirement age and information Mrs L gave from her annual benefit statement.

Mrs L tried to clarify why the amount had changed from her initial meeting with Prudential but after speaking to several different representatives didn’t feel satisfied with the explanations she was given. She complained and asked the Prudential to explain why the figures had changed so significantly.

Prudential responded and confirmed the original figures quoted for the maximum tax-free lump sum were based on an assumptive tax-free lump sum from Mrs L’s main scheme of £2475 but couldn’t explain why this figure had been used. Prudential apologised for any misunderstanding and accepted the number of quotations and variations can be confusing but didn’t uphold Mrs L’s complaint. They say the figures given were only ever a guide to how much tax free cash may be available and are always subject to change.

Mrs L was dissatisfied with their response and referred the matter to this service.

Our investigator looked into things for Mrs L and originally didn’t uphold the complaint. Mrs L provided some further information and he changed his view slightly as he felt some of the information given by the Prudential was unclear. In addition, as they didn’t correct Mrs L’s information for over 12 months and couldn’t offer an explanation as to why the figures were so different, he thought an award of £100 should be offered.

The Prudential disagreed, they say they have provided illustrations on Mrs L's potential tax free cash from her AVC based upon the information she gave from her annual benefit statement which included but was not limited to her current salary, length of service, the scheme provisions and her assumed retirement age. The illustrations were not guaranteed and were a guide to the benefits Mrs L may receive in the future

Mrs L feels Prudential have given her misleading information regarding the amount of tax-free cash that could be taken from her AVC in the future. She wants to understand why this happened and is unhappy that following several telephone calls and a written response from Prudential she hasn't had an adequate explanation

Both parties asked for an ombudsman review to look at the matter again.

I considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I looked at all the information provided by both parties, including additional submissions from Mrs L, afresh. I have also listened to all the telephone recordings between Mrs L and Prudential's representatives.

It is important to note here that Mrs L is a member of her LGPS but I haven't looked in detail at this scheme. I have only examined the statements provided as the basis of the calculation Prudential have used in illustrating the benefits of the AVC in question.

I said it's quite clear from all the information Mrs L's aspiration from the onset was to maximise the amount of tax-free cash she could receive at retirement and was understandably concerned when she started to receive different quotes and illustrations twelve months later which appeared to indicate to her that the tax free cash element was reducing rather than increasing.

Prudential operate an AVC scheme in conjunction with Mrs L's main LGPS. This provides the option for Mrs L to make additional contributions. When Mrs L comes to retire the value of her LGPS AVC will be added to her main scheme benefits and 25% of the total value can be taken as tax-free cash. If the amount of tax-free cash allowed is equal to or greater than the value of the LGPS AVC fund, in theory, the whole amount of the LGPS AVC can be taken as tax-free cash. This is dependent on a number of factors and differentials, some of which will only be known at the time Mrs L chooses to retire. And it is precisely for this reason why the illustrations are not guaranteed but rather act as a guide or indication of future benefits.

There is no dispute here that two different sets of illustrations have been provided which result in differing potential benefits and amounts of tax-free cash which has been the cause of concern for Mrs L. Having reviewed the evidence from the illustrations and the detail provided in the telephone calls the most likely reason for the difference in the 'aspirational potential maximum AVC tax free cash figures' is that the two calculations for them are premised on a different level of tax free cash being taken from the main scheme.

In 2016, the initial illustration details there is a higher level of income and a lower level of tax-free cash from the main scheme and so Mrs L could then build up a higher level of AVC to take as 100% tax free cash (around £78k) in conjunction with the main scheme. The calculation has been carried out in the manner one would expect it to be calculated taking into account factors such as, but not limited to, an individual's current salary, current years' service, and anticipated retirement age. This illustration is premised on maximising the potential AVC tax free cash by minimising the sum to be taken in tax free cash from the main

scheme which appears to be based on the minimum automatic entitlement of $(\frac{2}{80} \times \text{£}33,000) \times 3 = \text{£}2,475$. This would suggest the Prudential representative provided Mrs L with an illustration, which would achieve her aspiration of maximising both her tax-free cash and potential income from the main scheme.

The telephone recordings go on to evidence that the second calculation was based on information Mrs L gave Prudential from a main scheme benefit statement projection which had recorded the 'standard' main scheme benefits at retirement as being tax free cash of £12k and an income of a little over £8k. So, Prudential reasonably then used those figures to calculate the new updated 'aspirational potential max AVC tax free cash based on taking 'standard' benefits from the main scheme and the new AVC figure was then projected at around £50k.

The Prudential make it very clear on a number of occasions, both writing and verbally, that the calculations provided are not guaranteed, they are illustrative. The level of maximum tax free cash Mrs L can take from her AVC in conjunction with main scheme benefits is entirely dependent on the level of tax free cash she may choose to take from the main scheme. The calculations in both cases are simply providing aspirational future AVC 100% tax-free cash totals. The current value of Mrs L's AVC is around £3k and she is approximately 10 years from retirement so there is some way to go before the fund realises either £50k or £78k. This is entirely dependent on the level of contribution Mrs L chooses to make (subject to annual limits) into her AVC and the investment performance of the underlying funds.

I said it was clear from listening to the telephone recordings that Mrs L has struggled to understand why the illustrations are different. This is understandable as there is a lot of complex information to digest with numerous different projections of outcomes that yet are unknown and dependent on future decisions Mrs L will have to take when she retires. But, to uphold Mrs L's complaint I said I would need to see evidence that the Prudential have misled or misinformed Mrs L and in doing so she has suffered a material loss or distress and inconvenience that warrants a monetary award.

The Prudential are not acting as Mrs L's financial advisors, their responsibility lies in providing fair, clear and non-misleading information about the product and how it works in conjunction with her main scheme. From what I've seen they have met those obligations and explained that any illustrations are for guidance and are not guaranteed.

I could see Mrs L hadn't sustained any financial loss, she is still able to meet her aspirations making tax free contributions to build up a fund within her AVC which can be amalgamated with her main scheme in the future to enable her to take a tax free cash lump sum. At retirement Mrs L can still take the minimum sum permissible as tax-free cash from the main scheme and thereby maximise the level of AVC she can take as tax-free cash, which may be 100% of the fund available.

I said in my view, the original illustration was most likely based on a reasonable calculation carried out by the Prudential representative that gave Mrs L an idea of the most likely amount she could achieve as a 100% tax free cash lump sum from her AVC, taking the minimum tax free cash lump sum from her main scheme which seems to meet with Mrs L's aspiration both at the time and currently. The second illustration, provided by Mrs L to the Prudential, was based on taking the standard amount of tax-free cash from the main scheme and as this was higher than the first illustration the amount of 100% tax-free cash from the AVC reduced.

I said I couldn't fairly agree with our adjudicator's second view that as a period of twelve months had passed there is room for a monetary award due to raise expectations. Indeed, Mrs L could ask for such a projection from her main scheme now and forward this to the Prudential to calculate another aspirational maximum AVC tax-free cash illustration. This may well be a different figure again as it will always be subject to the projected overall fund value of the main scheme and the AVC, the level of tax free cash taken from the main scheme and the value of the AVC fund

I said I appreciate Mrs L hasn't been satisfied with the explanation the Prudential has given here as to how the calculations were reached but that doesn't mean they were misleading or incorrect. I said I accept that this is very complex information, and it may be Mrs L might think about engaging an independent financial advisor to assist her with her retirement planning in the future, but as Prudential are not engaged in this capacity they have no contractual or regulatory responsibility to Mrs L other than to provide the product information and clear illustrations for guidance.

Based on this information I didn't intend to uphold Mrs L's complaint.

I invited both Prudential and Mrs L to respond. Prudential had no further comment to make.

There has been a delay in providing my final decision as Mrs L requested more time as she has sadly had a bereavement, which understandably meant she had other important matters to attend to.

I have received further submissions from Mrs L that I have taken into consideration.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I have considered all the information and the additional submissions from Mrs L afresh. Having done so I haven't been persuaded of any new information to change my mind and so whilst I appreciate Mrs L will be disappointed I'm not going to uphold her complaint.

I can see Mrs L feels very strongly the original figures were incorrect and she feels this was a "ploy" to get her to increase her contributions. She maintains she only did so as she believed she would attain the figure quoted on her original illustration. She feels Prudential have intimated she may have given incorrect information and she refutes this. She doesn't feel Prudential have answered her questions adequately and been dismissive.

I sympathise with Mrs L as I understand pension information can be complex. But I think the telephone conversations between Mrs L and Prudential show they have tried several times to explain how the original illustration were reached and although Mrs L said she "got it" I'm not sure she'd really understood why the illustrations are different and this was why I suggested she may benefit from independent financial advice.

Prudential haven't acted as Mrs L's advisers they have given her information on her AVC's and how this could supplement her income in retirement. The actual amount of tax free cash available will depend on a number of factors as previously explained.

The additional submissions Mrs L asked me to consider didn't provide any new information but rather re-iterated her early thoughts and frustrations with the information she feels

Prudential have failed to provide her with and so I've reached the same conclusion as in my provisional decision.

I'm satisfied Prudential have given Mrs L projections of future retirement benefits that reflect more than one outcome that could be achieved in the future. Mrs L is entirely in control of her additional contributions and the level at which she makes them and she has yet to acquire a fund value approaching the amount she is seeking.

As Mrs L hasn't suffered a financial loss I'm afraid I can't agree that Prudential have provided misleading information and so I'm unable to uphold her complaint.

my final decision

For the reasons I have given I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 17 November 2018.

Wendy Steele
ombudsman