

complaint

Mrs M complained to The Prudential Assurance Company Limited about information she was given during the sale of her Teachers' Additional Voluntary Contribution (TAVC) plan. She says the Prudential representative told her that she wasn't eligible to purchase added years.

background

Mrs M met with an adviser from Prudential in 1991. At the time she was 42 years old and had been a teacher for a year. She was a member of the Teachers' Pension Scheme (TPS) and her intended retirement age was 60. She'd previously been a member of the Local Government Pension Scheme (LGPS) and had transferred around 12 years of the pensionable service she'd accrued with the LGPS to the TPS under the public sector transfer club.

Mrs M says that she queried with the Prudential representative whether it would be possible for her to purchase added years within the TPS. But she was told this wouldn't be possible. So Mrs M started a TAVC plan. The plan started in 1991 with Mrs M contributing 5% of her salary to the plan. This was increased in 1996.

In 2018, Mrs M complained to Prudential about the sale of her plan. She said she asked the representative about purchasing past added years in the TPS but she was told this wasn't possible. She now realises this was incorrect and feels she's lost out by taking the TAVC plan rather than added years.

Prudential looked into the complaint and didn't agree Mrs M's plan had been mis-advised. It explained that it didn't think buying added years would've been a likely choice for her. And it advised that depending on the information provided at the time it's representative may have been able to give an indication on whether she would've been able to buy added years, but they wouldn't have known for sure as they were only able to provide advice on Prudential products.

Mrs M didn't accept Prudential's final response so she referred her complain to this service for an independent review.

One of our investigators reviewed matters but she didn't think Prudential had done anything wrong. She said it wasn't possible to know what was discussed during the sale of the plan. But she didn't think Mrs M would have bought added years in any event.

The investigator explained that Mrs M had a shortfall of 10 years to make up in the TPS but she initially only contributed 5% of her salary to the TAVC. The equivalent amount paid into the added years arrangement wouldn't have been enough to cover the shortfall. And she felt that the projected benefits from the TAVC would've likely looked more attractive than those provided by the added years arrangement.

Mrs M didn't agree with the investigator's findings. In summary she said that she wasn't made aware that there were any other options to increase her pension income and the idea of the TAVC was an entirely new concept to her. She's always been a low risk investor so the idea of choosing the possibility of a large gain over a certain reliable gain, wouldn't have been her choice. Prudential had a trusted and privileged status within schools and being the sole pension top up provider invited into the work place, and endorsed by the Teachers'

Union, she trusted what the representative told her. And she's said that had she been aware that commission was paid when she took the policy out she would have questioned the information the representative gave her.

The complaint has been passed to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I agree with conclusion reached by the investigator, and for mostly the same reasons.

It appears from the information I've seen that Prudential provided Mrs M with advice when the TAVC plan was taken out. However, the representative was only authorised to provide advice on Prudential products; they couldn't have advised Mrs M on the added years option. All the representative had to do was make Mrs M aware that there was an alternative option - other than the TAVC - for topping up her pension, and to direct her to the TPS or her employer for further information, should she wish to investigate this further.

In this case, it's not in dispute that Mrs M was aware of the added years options. But she says she was told by Prudential's representative that it wasn't possible for her to buy added years within the TPS. There's no documentary evidence to support this conversation but I don't doubt Mrs M's recollection that there was a discussion around added years. As the representative was only able to advise on products offered by Prudential, it wasn't for them to confirm whether it was possible to buy added years; they should've directed Mrs M to the TPS to check this. Although I acknowledge that it's possible the representative failed to follow the correct process.

Having said that Mrs M has said that if she'd known Prudential received commission, she would've questioned what she was told. But instead she felt Prudential was in a position of trust. However, I think it should've been clear at the time that Prudential wasn't only offering products to members of the TPS and so was likely to be receiving commission.

I say this because Mrs M's husband – who wasn't a member of the TPS - was also party to the advice. And although it's not clear if he took any products out, it does appear from the paperwork I've seen that there was a conversation around his pension provisions and other insurance policies. In my view this should've alerted Mrs M to the fact that the representative was working on behalf of Prudential rather than acting for the TPS and that it would need to be reimbursed for the service it was offering.

In any event, as it's not possible to know for certain what was discussed and whether the representative gave incorrect information, I've gone on to think about whether Mrs M would've acted differently if she'd been correctly informed of all her options.

I have to think about this as it was at the time of advice. I appreciate that now, with the benefit of hindsight, many individuals would've rather taken the more expensive option with the guarantees that came with it. But, as the investigator explained, at the time it would probably have been shown that the projected benefits from the TAVC - based on the same contribution rate of 5% - would be greater than the benefits of using this same contribution rate to purchase added years. This is because the cost of added years of service in the TPS was determined by the Government Actuary using conservative assumptions of likely future investment experience. This made them more expensive than if a less conservative (or more optimistic) set of assumptions had been used. The aim was to make sure, as far as possible, that the cost of added years would be met by the members. The intention was that this would mean there would be no shortfall that would have to be picked up by the employer.

The initial contribution that Mrs M started paying wouldn't have been enough to buy all the added years she needed to cover the shortfall she had in the TPS. I note she increased her contributions in 1996 but by this time there was less time to cover the cost of additional years, so any added years bought at this point would've been even more expensive. This means that it's difficult to say now that Mrs M would definitely have considered added years a cost effective option when compared to the TAVC plan.

In addition, the added years option was generally only considered suitable for individuals that were risk adverse. The TAVC wasn't considered high risk but unlike added years, it wasn't possible to guarantee at the outset the benefits that would be received in retirement from the TAVC plan.

Mrs M's TAVC was invested in the with-profits fund, which was low risk. This was in line with her attitude to risk. I'm also conscious that the TAVC only formed part of Mrs M's overall pension provision. And I've not seen anything to suggest she couldn't – or wouldn't have been willing – to take a small degree of risk with this plan.

It's unfortunate that the investments returns that were predicted in the early 1990s haven't been achieved. But overall, I'm not satisfied that Mrs M would've purchased added years, even if she'd been told to check with the TPS about the possibility of buying them. Instead, I think it's most likely she would've still opted to contribute to the TAVC plan. I appreciate Mrs M will be disappointed but given the above I'm not upholding the complaint.

my final decision

For the reason set out above, I'm not upholding the complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 20 January 2020.

Lorna Goulding
ombudsman