

The complaint

Mrs K complains that she was provided with inappropriate advice, or insufficient information, by Lloyds Bank PLC about making some additional pension contributions.

What happened

The advice that was provided to Mrs K was from a representative of TSB. That firm is now part of Lloyds, so it is Lloyds that is required to deal with this complaint. For ease, in this decision, I will refer to Lloyds as the responsible business throughout. Mrs K was unmarried when the advice was given so was known by her maiden name. And Mrs K has been assisted in making her complaint by a claims management company. But, again for ease, in this decision I will simply refer Mrs K as the consumer at all times and treat all communication as if it has been with, and from, Mrs K herself.

In 1993 Mrs K was aged 30 and employed by her local council. She had been a member of her occupational pension scheme ("OPS") for around 5 years. She met, with an advisor employed by Lloyds.

The advisor recommended that Mrs K should take out a pension policy in order that she could make free-standing additional voluntary contributions ("FSAVCs") to increase her savings for retirement. Mrs K accepted the advice and agreed to make gross monthly contributions of £30. She complains that Lloyds failed to make her sufficiently aware of the additional voluntary contribution ("AVC") options offered by the OPS.

Mrs K's complaint has been assessed by one of our investigators. He thought that Lloyds had complied with its regulatory obligations when giving the advice to Mrs K. And he thought that the advice Mrs K had been given was suitable for her circumstances and objectives. So he didn't think the complaint should be upheld.

Mrs K didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mrs K and by Lloyds. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

The advisor that met with Mrs K was what was known as a "tied" advisor. That meant they could only recommend products offered by Lloyds. They couldn't actively recommend any other products from any other product providers including the in-house options (AVCs or added years) offered by the OPS.

However, a tied adviser was required to follow rules set in 1988 by the regulator at that time - LAUTRO (the Life Assurance and Unit Trust Regulatory Organisation). The LAUTRO Code said advisers should maintain high standards of integrity and fair dealing, exercise due skill, care and diligence in providing any services, and generally take proper account of the interests of investors. It added that businesses should:

- Have regard to the consumer's financial position generally and to any rights they may have under an occupational scheme, and
- Give the consumer all information relevant to their dealings with the representative in question.

So, this means that tied advisers should have known that 'in-house' AVC options would most likely be available to consumers like Mrs K. And in addition to highlighting the benefits of the FSAVC plan, a tied advisor needed to mention the generic benefits of the 'in-house options', including that:

- Money purchase 'in house' AVCs could potentially offer lower charges than the FSAVCs
- Added years' might be available under a defined benefit OPS
- The consumer's employer might match or top-up the amount the consumer paid into either in-house option.

The advice that Mrs K was given by Lloyds was provided almost 30 years ago. There is no recording or transcript of what was said in that meeting. And over such an extended period of time even the most careful of memories can, and do, fade. So I don't think it unreasonable that I should rely on the documentation that was produced after the meeting, and was signed by Mrs K, as the best record of what is likely to have been discussed.

In November 1993 Lloyds completed what was headed a "Financial Appraisal Form". Mrs K signed that form to confirm that it was an accurate reflection of her financial circumstances. In the section headed "Income on Retirement" was the comment;

"[Mrs K] is planning to retire at 55. She understands there will be a shortfall. She has discussed AVCs with her company but still prefers to take out a private one. She understands the charging structure and the penalties for retiring early."

I'm satisfied, based on the above, that Mrs K was aware that her OPS offered AVCs when she agreed to take the FSAVC plan from Lloyds. And it seems that she was given information about how charges would be applied to her FSAVC plan. It seems likely that, as

part of her information gathering into the AVC plan, Mrs K would have also obtained some information about the charges she would need to pay if she took that option instead.

I think it is important to remember that Lloyds wasn't required to provide Mrs K with a direct comparison between the AVC and FSAVC options. In simple terms Lloyds needed to provide Mrs K with information about the FSAVC plan and set her off on her own research to compare that information to the AVC scheme. I can see that Lloyds gave Mrs K an illustration showing how her FSAVC savings might grow, and the income that might provide for her at retirement. And that is something she could have readily used when deciding whether an AVC plan, or the FSAVC plan, would be better for her circumstances.

There was a period of around six weeks after Lloyds' meeting with Mrs K to gather the information about her circumstances and make its recommendation for the FSAVC plan, and when Mrs K completed the application form for that plan. I think that period of time allowed Mrs K some further reflection about the advice she'd been given, and to make further enquires of the OPS if she thought it necessary.

Mrs K told Lloyds that she wanted to retire at age 55. Her OPS scheme retirement age was five years later, and I've not seen anything that makes me think Mrs K would have had any right to insist on early retirement from her OPS. So it seems entirely reasonable that she asked Lloyds to provide her with some advice about making provision for those years of early retirement when she might not have been able to take any pension income from the OPS. And I think it important to remember that, in 1993 when the advice was provided, the legislation at that time required AVC and main scheme pension benefits to be taken at the same time.

Mrs K's FSAVC payments were invested into a managed fund. I haven't seen much detail about Mrs K's attitude to risk at that time. But she had more than twenty years until even her earliest expected retirement date, so I think a balanced approach to her pension investments would have been appropriate here. So I haven't seen anything to make me think that the investment advice Lloyds gave to Mrs K was inappropriate.

I appreciate that my decision will be disappointing for Mrs K, but the evidence I have seen suggests that Lloyds met its regulatory obligations when it sold the FSAVC plan to her in 1993. I think the advice Lloyds gave to Mrs K was suitable for her circumstances and objectives at that time.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 9 October 2023.

Paul Reilly
Ombudsman