

## **The complaint**

Mrs S complains that an appointed representative of Quilter Holdings Limited (“Quilter”) provided her with unsuitable advice in 1997 about paying free-standing additional voluntary contributions (“FSAVCs”) to her pension savings.

## **What happened**

Mrs S has been assisted in making her complaint by a claims management company. But in this decision, for ease, I will generally refer to all communications as if they have been with, and from, Mrs S herself.

The advice that Mrs S received was from an appointed representative of a firm that has now been taken over by Quilter. So although Mrs S had no direct dealings with Quilter, it is that firm that is responsible for the advice and for dealing with her complaint. In this decision, again for ease, I will simply refer to the business Mrs S dealt with as Quilter.

In 1997 Mrs S met with Quilter. Following those discussions she says she was advised to start paying FSAVCs into a new pension plan. I understand that Mrs S stopped paying those contributions some years later, and a small balance remains invested in her pension plan. Following discussions with her representative Mrs S complained to Quilter about the advice she had been given.

Quilter told Mrs S that it thought her complaint had been made too late. But it noted that Mrs S had provided little information about what had happened at the time. And it said that it didn’t hold any relevant information from the time of the sale either. Unhappy with that response Mrs S brought her complaint to us.

Mrs S’s complaint has been assessed by one of our investigators. He thought that Mrs S had made her complaint to Quilter in time so he went on to consider the circumstances of the sale. He said there was no evidence that Mrs S was a member of an occupational pension scheme at that time that allowed her to make additional voluntary contributions (“AVCs”). So he didn’t think it was reasonable to conclude that the advice given to Mrs S in 1997 was unsuitable. He didn’t think Mrs S’s complaint should be upheld.

Mrs S didn’t agree with that assessment. And her representative said that it had requested information from the pension scheme of Mrs S’s previous employer about her eligibility to pay AVCs in 1997. But despite more than three months having passed no further evidence has been provided about Mrs S’s membership of that occupational scheme, or the benefits it offered to her. 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 S and by Quilter. 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.

Our investigator explained why he thought Mrs S's complaint had been made in time and I share those conclusions. Quilter hasn't objected to those findings. So I don't intend to consider that matter any further and will simply deal with the merits of Mrs S's complaint in this decision.

The meeting in which the advice was given to Mrs S took place almost thirty years ago. And both the firm that was responsible for the advice, and the appointed representative that provided it, are no longer trading. So it isn't entirely surprising that Quilter holds no information about the advice that was given to Mrs S. I have no reason to think that Quilter has deliberately withheld any information that it holds about the advice given to Mrs S.

And Mrs S hasn't been able to provide much testimony, or evidence, about what happened either. For example she no longer holds a copy of the advice she was given. And despite an extended period of time she hasn't been able to provide us with any information about her membership of the occupational pension scheme around that time.

This service has been set up to decide complaints in a quick and informal manner. So generally it isn't appropriate for me to wait an indefinite period of time for information that might not even be relevant or available. And I think that approach is supported by the relevant sections of the regulator's DISP rules. In particular those sections say;

*DISP 3.5.9 : The Ombudsman may:*

*(3) reach a decision on the basis of what has been supplied and take account of the failure by a party to provide information requested;*

*DISP 3.5.13 : The Ombudsman may fix (and extend) time limits for any aspect of the consideration of a complaint by the Financial Ombudsman Service.*

*DISP 3.5.15 : If a complainant fails to comply with a time limit, the Ombudsman may:  
(1) proceed with consideration of the complaint;*

Here the fundamental basis of Mrs S's complaint is that the advice she received from Quilter was unsuitable because she would have been better off paying AVCs to her occupational scheme. Generally it is accepted that most consumers would find that option more attractive due to the lower charges that are likely to be paid on AVC pension savings.

But of course that would only be applicable if an AVC option was both offered at that time by Mrs S's employer, and most importantly, be something that was available to her. I have seen that Mrs S says she had been with her employer for around a year, and was at that time employed on a graduate training scheme. I cannot reasonably discount that either the length

of Mrs S's employment, or the training nature of her job, might have meant an AVC option was unavailable to her at that time.

I don't know whether Mrs S's eligibility to pay AVCs to her employer's pension scheme was something that Quilter considered when it provided the advice to her. I certainly think that good practice would suggest that is something it should have done. But even if Quilter failed to make those enquiries, or at the very least direct Mrs S to make the enquiries, that doesn't necessarily lead to a conclusion that the advice to pay FSAVCs was unsuitable. To reach that conclusion I would need to be persuaded that an alternative course of action – paying AVCs – was available to Mrs S. And on the information that I have available to me, that is not a conclusion I can safely reach.

I appreciate that my decision will be very disappointing to Mrs S. But I do not have sufficient information, or evidence, to conclude that Quilter provided her with unsuitable advice about paying additional pension contributions in 1997.

### **My final decision**

For the reasons given above, I don't uphold the complaint or make any award against Quilter Holdings Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 1 October 2024.

Paul Reilly  
**Ombudsman**