

## The complaint

Mr and Mrs K complain that The Prudential Insurance Company Limited failed to inform them when it altered the 'Guaranteed Insurability Option' (GIO) feature on their Mortgage Protection Plan (MPP).

## What happened

Mr and Mrs K took out their MPP in 2002. It provided £72,000 of life and critical illness cover and £225 per month of mortgage payment and unemployment cover, on a joint basis for a monthly premium of just under £60.

In 2019 Mr and Mrs K made enquiries about exercising the MPP's GIO to increase their level of cover in light of a forthcoming house move and mortgage increase. But they were unhappy to be told that the GIO was now limited to the life cover element only.

Mr and Mrs K complained and Prudential explained that the alteration was due to the MPP having been closed to new business for a number years. It said that although it had been able to keep the options available for a period after the closure, a European Court ruling on gender neutral pricing had ended the facility in 2012. As such, it was now only able to offer guaranteed insurability on the life cover element of the plan, by providing a new, separate policy.

Mr and Mrs K didn't accept Prudential's response and referred their complaint to this service. Our investigator considered the matter and noted that the terms and conditions of the MPP explained that the GIO would only be available while Prudential had published rates of premium for new MPPs. As the product had been closed to business in 2007 it meant rates were no longer published. So, the investigator felt Prudential was entitled to no longer offer the option.

The investigator did, however, feel that the removal of the full option facility had been a significant change to the policy terms, which should really have been communicated to Mr and Mrs K at the time. He recommended that Prudential pay them £150 in recognition of this.

But the investigator went on to explain that although he'd concluded that Prudential had failed to communicate the change he didn't think Mr and Mrs K had been disadvantaged as he wasn't persuaded that if they *had* been informed of the change in 2007, or sometime after, they would more likely than not have taken up the option.

Mr and Mrs K didn't accept the investigator's view. They said, in brief;

- The fundamental principle of the complaint was Prudential's failure to inform them of the change, thereby limiting their ability to make an informed decision.
- Had they been informed, their circumstances at the time were such that they would without doubt have sought financial advice. It was inconceivable they'd have done nothing.

- If they had known in 2007 they would've gone to market and procured better terms for a similar premium.
- Prudential had also been inconsistent in explaining when the GIO actually became unavailable.
- It seemed likely they'd incurred a cost, built in to their premiums, for a facility that was no longer available to them.
- Prudential had ample opportunity to inform them of the change. They'd made enquires about one of the plan benefits in 2007 but the change had not been communicated.

The investigator wasn't persuaded to change his opinion, so the matter's been referred to me to review.

### **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. Having done so, I've come to the same conclusions as the investigator and for broadly the same reasons.

I'm satisfied the terms and conditions of the MPP were such that Prudential could legitimately limit the availability of the GIO in the event that it was not publishing rates for new plans. But it's not really this that's at the crux of the complaint. Rather, it's whether Prudential acted unreasonably in not communicating the limitation.

The change didn't affect the primary cover provided by the plan - life cover - and Prudential was aware that it was, initially at least, still going to have a mechanism by which to offer a form of the GIO post-2007. So, I think it's arguable whether the change was actually significant enough to warrant a mass communication. But in any event, certainly from a customer service perspective I think it would've been good practice to communicate with plan holders, at least when Prudential became aware in 2012 that there was no longer any way to provide the GIO on certain elements of the plan.

So, I think Mr and Mrs K were unreasonably deprived of the opportunity to act on the change and should be compensated for that. And I think the £150 suggested by the investigator is fair in the circumstances.

But Mr and Mrs K have also said that if they'd been told of the change they would definitely have acted upon the information. Where there's a dispute about what might have happened, I base my decision on the balance of probabilities – in other words, on what I consider is more likely than not to have happened in light of the evidence and wider circumstances. While I understand Mr and Mrs K's strength of feeling in respect of what they might otherwise have done, I find I'm not persuaded that the wider circumstances support their contention that they would definitely have acted.

The GIO was intended to be a feature utilised at the point of a change in the plan holders' circumstances - such as an increase in mortgage, a marriage or the birth/adoption of children. I understand that Mr and Mrs K experienced all these events in the years following Prudential's closure of the MPP to new business in 2007. But it appears that at no point did they enquire about using the GIO. Indeed, it seems they took on new borrowing in 2010 and didn't investigate the possibility of using the GIO, instead starting an additional policy on the recommendation of a new adviser.

This is, of course, something they were entitled to do. It was quite up to them how they managed their finances and protection. But it does lead me to conclude, on balance, that if they had been told of the changes to the GIO, whether in 2007 or in 2012, they would more likely than not have decided to *not* take up the option at that point. And even if notification of

the change had at least prompted them to look into other possibilities, there's no way of determining now what they might otherwise have done, if anything.

As to whether they've incurred a cost because part of their premiums have been paying for a facility that no longer exists, I don't think the cost - if indeed there is one - could realistically be isolated. And even if it could I think it's likely it would nominal.

### **Putting things right**

While I understand Mr and Mrs K's frustration, I don't think I can reasonably conclude that Prudential need do more than pay compensation for the failure to keep them better informed.

### **My final decision**

For the reason given, my final decision is that I uphold the complaint and direct The Prudential Insurance Company Limited to pay compensation of £150 to Mr and Mrs K.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs K to accept or reject my decision before 28 February 2020.

James Harris  
**Ombudsman**