DRN-2860371

The complaint

Mr W's complaint is about a mortgage endowment policy he had with The Prudential Assurance Company Limited. He is unhappy with the maturity value paid and believes it should have been higher, based on his assessment. Mr W has also said he found Prudential's reluctance to provide him with the information he wanted about his policy, and the fund it invested in, stressful.

What happened

In 1994 Mr W took out a mortgage endowment policy to support his mortgage. It had a term of 25 years and a target amount of £54,000. The policy was a traditional with-profits arrangement, where there was a basic sum assured of £22,680 payable at maturity, to which annual bonuses (linked to the net fund performance) would be added. It was designed for the added bonuses to achieve a sum of at least the difference between the basic sum assured and the target amount, but this was not guaranteed, as it depended on the performance of the with-profits fund.

Mr W would have been given an illustration of potential maturity benefits for the policy at the time the adviser recommended the policy to him. This illustration would have shown values based on the policy growing at assumed rates of 5% and 10% as required by the regulator at the time. Prudential may have also projected using a figure in between and calculated the policy premium based on that rate, what that figure was is unknown because we don't have the illustration, although at the time 7.5% was commonly used. Charges and tax on any growth within the investment fund would have been taken into account when the estimated figures were produced.

In August 2013 Mr W contact Prudential about the value of his policy and asked for some clarification. It sent him a letter which included an illustration of potential maturity values based on the policy achieving example growth rates. If the policy grew at 4% each year over the remaining term, it would have a maturity value of £43,700 and at 8% growth over the remaining term, it would achieve £54,500. It was detailed '*These figures are only examples and are not guaranteed – they are not minimum or maximum amounts. What you will get back depends on how your investment grows and on the tax treatment of the investment. You could get back more or less than this.*' The death benefit and surrender value of the policy were also detailed; the latter being £28,902.50.

Shortly thereafter, Mr W called Prudential and informed it that he was confused about the statements he'd received and was considering surrendering the policy. He wanted to know what the terminal bonus percentage was, in order to make up his mind about what to do.

Prudential responded by explaining when terminal bonuses are added and how they were made up. It said that it couldn't be known until the policy value was payable what terminal bonus would be paid, as it could be higher or lower that that paid in previous years. It was highlighted that there was no guarantee a terminal bonus would be paid.

The following year Mr W again asked for information about his policy. Prudential provided him with details of the basic sum assured and bonuses attached to the policy up to that date. This gave a figure of £32,565.90.

Prudential provided Mr W with an annual update on his policy and the likelihood of whether it would pay out its target value since 2000. In most years these letters told him it was possible that the policy wouldn't hit its target. However, there were some years, including 2016, in which he was told it was unlikely the policy would do so.

In June 2019 Prudential sent Mr W a maturity pack for his policy. This detailed the maturity value as at 1 August 2019 would be £50,335.46. Mr W questioned the maturity value and Prudential sent him a letter setting out a breakdown of the maturity value and set out how the bonuses were set. It gave Mr W details of the annual bonuses that had been declared during the term of his policy. Mr W remained unhappy and Prudential dealt with his concerns as a complaint. It sent him a complaint response on the basis that his complaint related to the sale of the policy and him having been misled about the risks associated with the policy. It said that complaint had been made too late as Mr W had been given a deadline for raising complaints about the sale of the policy of 1 June 2012.
Mr W went back to Prudential and confirmed that his complaint wasn't that the policy had been mis-sold. Rather he was complaining about the maturity value – the performance of the policy. Mr W asked for details of the investment returns on his premiums. Prudential confirmed the return on the premium paid had been approximately 5% per annum compound.

Prudential explained what type of policy Mr W had and how its value accrued in the form of a basic sum assured that was guaranteed to be paid and the addition of bonuses. The bonuses being the way it allocated the policy's share of the growth in the fund. It went on to confirm that it sometimes offers a terminal bonus, but there was no guarantee one would be paid or how much would be paid if it was. The concept of smoothing of growth on the policy was explained and its link to any terminal bonus was set out. Prudential rejected Mr W's concerns because it was satisfied it had paid the correct policy value at maturity.

Mr W asked for more information and Prudential sent him a letter giving him the then current surrender value for the policy and a death claim quote. It also explained that surrender values were based on an actuarial formula, which it declined to provide him with as it was confidential. However, it did explain that a proportion of the basic sum assured and attached bonuses were paid on surrender.

Prudential issued a further response to Mr W's concern about the maturity value of his policy in October 2019. It said the only guaranteed payment on maturity is the sum assured plus declared bonuses (if all premiums had been paid). It provided Mr W with net returns on the with-profits fund for the preceding 25 years. It also confirmed the maturity value it had paid was correct and reflected the investment returns his premiums had achieved. It said it was unable to increase the maturity value.

Mr W remained unhappy with Prudential's responses and asked this service to look into his complaint. When doing so, Mr W explained that when he took out the policy he was told it would achieve a maturity value of £54,500 if an annual growth rate of 8% was achieved throughout the term. In 2013 he had been considering cashing in the policy, and received the illustration I have detailed above. He said he'd decided, as the net return on the fund had averaged 8% over the previous 18 years of the term, to keep the policy as savings plan. When the maturity was paid in 2019 the policy paid out less than he was expecting.

One of our investigators considered the complaint, but she didn't recommend it be upheld.

Mr W didn't accept the investigator's opinion and said the policy documentation from the point of sale clearly stated that if the fund performed at a mean 8% investment return over the 25-year period then the policy would reach its target amount. There were no caveats to that statement in the policy document. He went on to say that the fund had performed at above mean 8%, but Prudential had not provided him with conclusive evidence he was wrong about the policy, but instead had provided him with net return data, which shows lower performance. He repeated his reasons for using the level of costs he had in his calculations and said that Prudential couldn't apply any costs other than those detailed in the policy terms. He also reiterated that he had asked Prudential to provide details of all the charges applied to the fund and policy, but it had said it was unable to do so. He also subsequently highlighted that he'd asked for gross fund performance figures too, as there was only ten years' worth of data on the internet, but the information had never been provided.

Our investigator considered Mr W's further comments, but she didn't change her opinion that the complaint shouldn't succeed. Mr W said that he was well aware that investments can fluctuate, as he had other investments. However, he was not persuaded Prudential had evidenced his maturity value was right.

Subsequently, Mr W was provided with further information about how the value of a policy is calculated, including the types of costs associated with it and smoothing. Prudential explained that the only explicit cost was the £2.50 monthly policy fee. It was also confirmed that 10% of any profit made within an investment fund was paid to shareholders. Mr W was also sent net fund performance figures for the entire term of the policy.

Our investigator also reiterated to Mr W that the bonuses applied to his policy, and so its value, was based on the net investment return of the investment fund, not its gross performance. Mr W disagreed with this and stated that 'on the *signed contract they have stated that if the policy averages 8% Investment returns over the life time of the policy then it will pay out the target amount. The legally binding document does not state net return.*' Mr W remained adamant the maturity value of this policy was wrong.

Prudential later provided Mr W with a detailed breakdown of the life cover and policy fee costs for each year of his policy, along with detail of the annual and terminal bonuses that had been added. This showed how the maturity value had been calculated.

After the final explanation of the policy was sent to Mr W our investigator reviewed her findings. She considered Prudential had taken too long to provide some of the information Mr W had asked for and it had needed this service's involvement for it to be provided. In recognition of the frustration and inconvenience Mr W felt because of the timescale, the investigator recommended Prudential pay him £150 compensation. She was, however, satisfied that Prudential had paid Mr W the correct amount at maturity and didn't change her conclusion that this aspect of the complaint shouldn't succeed.

Mr W clarified that the 8% growth he was referring to the policy needing to achieve was that documented in Prudential's letter of August 2013. He said that he had been unable to replicate the figures produced by Prudential in its most recent breakdown of the policy value and didn't believe they made any sense at all. He continued to disagree with the investigator's conclusions and asked that the complaint be reviewed by an ombudsman.

Prudential didn't make any comment in response to the investigator's recommendation for compensation.

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.

Initially I would explain that Mr W's policy was designed based on the *policy* achieving a certain growth rate each year from inception until maturity. That is different from the *fund* achieving gross investment growth of that amount each year. The policy receives a share of the *profits* (which is the net growth after taxation and policy costs are deducted) from the fund. Costs are deducted before the profit is determined and those costs include taxation and cover things like the life cover associated with the policy, fund management and administration of the policy. The charges and fees can vary over time; for example those linked with life cover are based on actuarial tables regarding the likelihood of death, a policyholder aging and the difference between the target value and the value of the policy – the amount of life cover provided.

In addition to this, some of the growth is allocated for shareholder dividends and, in successful years, some will be held back and not allocated to policies immediately. This is called smoothing. I don't intend to explain this process here as it has been explained to Mr W previously. However, it means that if, over the term of the policy, the policy's full share of the profits hasn't been allocated as annual bonuses, there will be a terminal bonus allocated at maturity to account for that growth. There is no guarantee that there will be a terminal bonus or, if there is, how much it will be.

Any illustration provided to Mr W, whether at the start of the policy or following enquiries in later years, would need the *policy*, not the fund, to achieve a set growth rate each and every year. So for example, the illustration he was sent in 2013 required a growth rate of 8% each year for the policy to achieve target – it required the policy to achieve compound growth of 8% each year - rather than an average of 8% during the remainder of the term. While higher performance in some years can compensate for poorer returns in earlier or later years, it won't always be able to do so fully. I note that during the years between the illustration being produced and the maturity value of the policy, the net of tax fund performance was less than 7%, from which shareholder dividends and charges linked to the policy would have been deducted. As such, I think it's clear the *policy* could not have achieved the 8% needed for it to reach its target value.

I know Mr W doesn't accept that it is the net performance figures, or profit, that are material to the growth of his policy, but that is the case. I've reviewed the documentation Mr W has provided but I don't consider it supports his belief that the growth referred to is the gross fund performance. I don't consider there is any evidence that Prudential paid out the wrong amount when Mr W's policy matured and I am unable to uphold his complaint about the value.

That said, I can see that Mr W repeatedly asked Prudential for information about his policy and its provision was sporadic and incomplete much of the time. Indeed, it took the involvement of our investigator for some of the information to be forthcoming. Whilst I don't think Mr W would have been satisfied with Prudential's information or explanations had they been provided in a timelier manner, the process to get to that point clearly caused Mr W unnecessary frustration for which he should be compensated by £150.

My final decision

My decision is that I uphold this complaint in part. In full and final settlement of this complaint I require The Prudential Assurance Company Limited to pay Mr W £150 compensation. Under the rules of the Financial Ombudsman Service, I am required to ask Mr W to accept or reject my decision before 5 July 2021.

Derry Baxter
Ombudsman