

complaint

Mrs M and Mr M complain that an appointed representative of The Prudential Assurance Company Limited (Re Max 2000) sold them a mortgage endowment policy that wasn't suitable for their needs.

background

Mrs M and Mr M took out a unit-linked endowment policy in 2000 through Re Max 2000 when they moved home. The policy had a target value of £25,000. They had an existing interest only mortgage with an endowment policy and wanted a top up endowment to meet the higher amount they were borrowing on the new home. Mrs M and Mr M surrendered the policy some time later due to a change in their circumstances.

In 2014, Mrs M and Mr M complained about the endowment through a representative. Their representative said the endowment sold to them in 2000 was unsuitable for their needs. It said Re Max 2000 should have recommended a capital repayment mortgage and that a unit-linked endowment policy was too high risk for people like Mrs M and Mr M. The Prudential rejected the complaint. It said the suitability letter clearly explained why Mrs M and Mr M had chosen an endowment policy instead of a capital repayment mortgage. And it said the type of unit-linked endowment was appropriate for people with a balanced risk profile like Mrs M and Mr M.

Mrs M and Mr M's representative disagreed with this and brought the complaint to our service. The adjudicator investigating the complaint thought the complaint shouldn't succeed as she didn't think the advice given was unreasonable in all the circumstances.

When I looked at the complaint, I felt there were reasons to uphold it and I issued a provisional decision outlining why.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've considered the Prudential's comments following my provisional decision but my view of the complaint hasn't changed.

I can see that the possibility of capital repayment was discussed in the suitability letter given to Mrs M and Mr M. But this endowment policy was a top up and the adviser explained why they'd decided to stick with an interest only mortgage alongside their existing endowment policies. She also pointed out that Mrs M and Mr M were familiar with endowment policies. But Mrs M and Mr M's other policies were with-profits. It isn't for me to risk rate a policy, but I think it's fair to say that most commentators would rate this policy as a higher risk than a with-profits policy. Its value could fluctuate quite markedly over short periods of time. I can't see from the documentation, a particular reason for the adviser to recommend a higher risk policy than Mrs M and Mr M already had on this occasion.

The recommendations note that Mrs M and Mr M had a "balanced attitude to risk". I've noted the Prudential's comments that a consumer's attitude to risk may change over time. But I can't see that their attitude to risk was really explored or that the real risks involved in the policy were fully explained to them in this case. Although Mrs M and Mr M had existing endowment policies, their occupations at the time wouldn't indicate a particular knowledge of financial risk. Taking into account Mrs M and Mr M's overall circumstances, I'm not

persuaded that it was appropriate for the adviser to recommend that they should increase their exposure to risk related to the repayment of their mortgage.

The financial regulator, the Financial Conduct Authority (FCA), has laid down a standard approach for calculating compensation in cases like this in its guidance, "*Handling Mortgage Endowment Complaints*" (sometimes referred to as a Regulatory Update 89 or RU89 calculation). I think this method is appropriate in this case.

The guidance provides that Mrs M and Mr M are entitled to be put in the position they would have been in, so far as is possible, had the Prudential not recommended this unsuitable policy. In other words Mrs M and Mr M will be put back in the position they would have been in if their mortgage had been arranged on a repayment basis in 2000.

The Prudential should carry out a calculation in line with the regulator's guidance to determine whether Mrs M and Mr M have suffered a financial loss as a result of the advice it gave. I understand the policy has now been surrendered. Mrs M and Mr M repaid their mortgage a number of years ago following a change in their circumstances. This will need to be taken into account in the calculation. Mrs M and Mr M will need to provide the Prudential with any information it reasonably requires to complete the calculation. Because the policy was surrendered soon after it was taken out, it may be that the calculation results in no financial loss as a result of the advice. This would mean that Mrs M and Mr M won't necessarily be entitled to any compensation.

my final decision

For the reasons given above, it's my final decision that this complaint is upheld.

The Prudential Assurance Company Limited should carry out a calculation of redress as set out above and pay Mrs M and Mr M any resulting compensation if Mrs M and Mr M have suffered a financial loss as a result of the advice given.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M and Mr M to accept or reject my decision before 4 December 2015.

Susie Alegre
ombudsman