

complaint

Mr H complains that The Prudential Assurance Company Limited sold him a mortgage endowment policy that was unsuitable for his needs.

Mr H took out his policy in 1999 when moving home. It had a term of 15 years, and a target of £47,500. According to the business, the policy was invested 50% in a with-profits fund and 50% in investment-linked funds. The policy has since been surrendered.

He is represented by a claims management company.

background

I considered the complaint and issued a provisional decision.

I said that there was a lack of clarity over the investment spread of the policy and asked the business to confirm it. Given this uncertainty, I based my decision on the policy being invested 25% in a with-profits fund and 75% in investment-linked funds.

I noted that a policy invested 25% in a with-profits fund and 75% in investment-linked funds would generally have been considered at the time of the sale to carry some risk. I then assessed the likelihood that Mr H was in a position to take the level of risk presented by the policy. Having done so, I decided that Mr H was more likely than not in a position to take this degree of risk.

Mr H was in a professional role, earning more than the UK average salary at the time. He was borrowing a bit more than one times his income, which would have been within usual limits. He had no dependants, although was making regular maintenance payments following his divorce.

I also considered costs. I noted that the endowment policy was provided on a "low start" basis, rising in yearly 10% steps until the start of year six. The fact find said that Mr H declined to take out critical illness cover for cost reasons. These factors suggested to me that the policy could have been seen to be an appropriate way of keeping costs down.

The policy would have ended some years beyond Mr H's state retirement age, which could have been seen as cause for concern. However, the documentation from the time of the sale suggested to me that the adviser discussed this issue with Mr H in some depth, and that Mr H had a plausible strategy for continuing to make the payments. So, I was not persuaded that the policy was unsuitable in relation to Mr H's retirement plans.

Mr H's representatives had said that Mr H did not need the life cover that accompanied his policy, because he was single with no dependants. I noted that the life cover would have been needed in order to make the policy qualifying for tax purposes.

Finally, Mr H's representatives had said that Mr H was led to believe that his policy would pay off his mortgage at the end of the term. I said that I had not seen any evidence that had persuaded me that this outcome was guaranteed. I also felt that Mr H should have reasonably been aware from the documentation that the policy maturity amount was dependent on the performance of the underlying investments.

Overall, I was not satisfied that the policy was unsuitable for Mr H.

I invited both parties to comment on my provisional decision. Mr H's representatives responded and stated that they had no further comments to make.

The business responded with confirmation of the policy investment split, which shows that the policy was in fact invested 50% in the with-profits fund and 50% in investment-linked funds.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Having done so, I see no reasons to change the conclusions that I reached in my provisional decision.

The business has confirmed the investment split of the policy (50% with-profits and 50% investment-linked). I based my provisional decision on a different split (25% with-profits and 75% investment-linked). The investment split that has now been confirmed would have been seen as carrying a bit less risk than the investment split on which I based my decision.

The confirmation of the investment split has not altered materially my view of the fair outcome in this case. This is because, given that I felt that Mr H was in a position to take the degree of risk presented by the 25% / 75% policy, it follows that he would have been able to take the risk presented by the 50% / 50% policy.

my final decision

For these reasons, and for those in my provisional decision, I do not uphold this complaint and so make no award against the business.

Kirsten Smart
ombudsman