

complaint

Mr T complains that, despite repeated requests, The Prudential Assurance Company Limited failed to provide a response to his concerns about his projected pay-out. He also said that the adviser who sold him the policy told him he would receive a considerably higher maturity sum.

background

The background and circumstances of this complaint are set out within my provisional decision of 29 January 2019. A copy of this is attached and forms part of this decision.

The Pru disagreed with my provisional decision, saying it did not agree with my interpretation of events or my proposal to increase the compensation to £500. It said:

- Mr T's policy met the criteria of its 'fast track' pay-out process, meaning it did not need to get his signed authority to pay the money
- Mr T had contacted it in January 2018 to enquire about the bonuses and the inherited estate and it accepts its subsequent replies did not address all his concerns
- Mr T did not contact it again till April but it accepts its response in May still did not deal with his concerns
- He then did not raise a formal complaint till the end of July, and it did not receive this until the date of the pay-out
- So there were lengthy gaps between his letters
- As he asked for the pay-out to be delayed until his concerns had been addressed it recalled the cheque which had already been issued
- It never led him to believe that accepting the money would prevent him from continuing with his complaint
- It provided a detailed reply on 24 September and paid him £150 in lieu of its failures
- As it had not heard from Mr T it issued a reminder letter on 18 October and included a form for him to sign. He subsequently returned this unsigned saying he was happy to accept the money but only in full and final settlement. (It also outlined what happened subsequently)
- Given the above, it doesn't accept it should be responsible for the delay following 24 September
- It also doesn't accept it was solely responsible for Mr T not accepting the money on its due date. It arranged to pay it via its Fast Track system and he rejected it
- Mr T only pursued his concerns after significant gaps from its responses
- My proposed compensation of £350 is equivalent to paying 8% interest from the due maturity date to end of November. This is not fair or reasonable

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 don't disagree with several of the Pru's recent arguments or dispute, broadly-speaking, its time-line but I think it ignores a number of the points I made in my provisional decision.

It acknowledges it didn't deal satisfactorily with Mr T's concerns in any of the correspondence prior to the pay-out date. While it refers to Mr T leaving lengthy gaps

between pursuing his concerns, Mr T insisted he also rang the Pru on other occasions to chase things. This seems likely.

While it admits that its letters in late January and June failed to respond to Mr T properly, it ignores its response of 11 January which also completely ignored his questions about the inherited estate. So for a period of six months it consistently ignored his concerns and legitimate questions raised in a least three letters/emails and probably via phone calls as well. Given this, I do not accept its view that Mr T should be partially responsible for not pursuing matters more promptly.

This is why I felt it was entirely understandable that Mr T did not accept the money at that due pay-out date. He had just put in a formal complaint and was right to expect the Pru to address this complaint and the underlying issues he'd been trying to get answers to for seven months. I have seen no evidence that it told him by that point that he could accept the pay-out and still pursue his complaint/concerns. It said this in its late September letter.

This is why I said Mr T should be compensated solely for the loss of interest between 1 August 2018 and the receipt of this letter in late September. I explicitly said that Mr T ought reasonably to have agreed to the pay-out after receiving the Pru's reassurance that this wouldn't affect his ability to bring a complaint – in its late September letter. I did not base my proposed compensation on loss of interest to end of November.

I am still satisfied that the Pru should pay compensation roughly based on Mr T's notional loss of use of his pay-out sum from 1 August to the date he received the 24 September letter i.e. close to eight weeks. If the Pru had acted fairly I believe it should have offered 8% simple interest, covering this period, in its 24 September letter.

As I said in my provisional decision this seems to me to be an unnecessarily complex calculation given the modest sum involved. But as Mr T's pay-out was just under £20,000 I think would come to more than £200. As the Pru did not pay this sum, I believe it ought in theory pay 8% interest on this sum as well to the date this complaint is settled which adds another modest amount.

But, as I explained in my provisional decision, my recommended additional sum of £350 was also included a sum designed to reflect the very significant upset the Pru's failures have had on Mr T. So this sum was not entirely based on loss of interest.

my final decision

I uphold this complaint and instruct The Prudential Assurance Company Limited to pay Mr T £350 in addition to its early payment of £150. If that payment has yet to be made it must also do this.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 14 March 2019.

Tony Moss
ombudsman

provisional decision

complaint

Mr T complains that despite repeated requests The Prudential Assurance Company Limited failed to provide a response to his concerns about his projected pay-out. He also said that the adviser who sold him the policy told him that he would receive a considerably higher maturity sum.

background

An adjudicator at this service initially did not feel the complaint should be upheld.

He said the Pru had already apologised for its initial failure to respond to all of Mr T's points and had offered £150 in lieu of this, an amount he thought was fair and reasonable. He was also satisfied that the Pru had paid the correct amount on maturity and that the original documentation made clear that bonuses or other additional sums were not guaranteed. He quoted from the policy document in support of this. At the same time he noted that Mr T had received a number of a number of bonuses over the years and a healthy final bonus.

He noted that Mr T had yet to accept the maturity sum while his complaint was being considered. But, in his view, the Pru had not made a mistake when calculating the maturity sum so he did not believe it needed to pay 8% interest on this sum.

Mr T did not agree, and said:

- Re the additional final bonus, the letter says you "may" be entitled to further bonuses on maturity depending on the performance of the policy and how long it runs. He'd had many chairmans' reports telling him what a great year it had been for the fund.
- The policy also ran for the full 25 years. What else would have needed to happen to warrant the additional bonus?
- He still hasn't been told what the current situation is with the money in the inherited estate. Has any of it been added to the policy at maturity or not? Does the Prudential not have to give an answer to this? They have regularly failed to provide him with any details. Can they just refuse to answer questions from policyholders?
- If they haven't given this service any details about the policy, how well it's done, how they arrived at the maturity value, how much of it is from the inherited estate etc. how can we come to the conclusion that they've paid the correct amount on maturity?
- The sum assured plus his £9,000 premiums come to just under £17,000. The sum assured would be paid out regardless, even if he died the week after taking out the policy. So for the privilege of paying in to the plan for 25 years they're only really added less than £2,500 despite the yearly reports telling him how well the fund was doing. Doesn't sound like much of a good deal
- Yet again he's had to jump through hoops to get any kind of satisfaction from Prudential. He posted back the acceptance form and a covering letter asking it to pay the maturity sum into his bank account. A member of staff took his call on 31 October 2018 and said Prudential had received his letter on 22 October and didn't know why the money had not been paid but that it would be in his account the next day and that he would ring/text to confirm this
- The money wasn't paid into his account and no call/text arrived. He phoned again on 6 November, and the call handler said she couldn't see any reason why it had not been paid and that she would mark it as urgent. She also said that someone would phone before close of business on 8 November to update him which didn't happen

The adjudicator then felt the Pru should pay 8% interest on the maturity sum from the date it should have been paid to the date of settlement of the complaint given its obvious failures to deal with things promptly.

It disagreed, saying:

- Mr T's letter dated 8 November 2018 was received on 12 November
- It originally received Mr T's unsigned maturity claim form on 22 October 2018, which referred to his covering letter dated 19 October. In this he referred to having been informed that it needed to pay him interest at the rate of 8%, which is contrary to the adjudicator's original assessment letter
- He also stated that he was unable to sign the maturity form in full and final settlement as he was not prepared to sign away any rights to future payments
- In view of this, it referred the matter to its legal/technical department for clarification of the implications of what he'd said. Payment has now been made and Mr T has been advised of this. The payment included gratuitous interest at the prevailing Bank of England rate and not 8%. This is because the delay in payment was due to Mr T's unsigned claim form and covering letter

Mr T replied, saying:

- He didn't see how they could have paid the money to his bank without first having received a completed acceptance form. This would not be possible as they never sent a form to complete
- He got a letter, just telling him the money would be paid the following Wednesday. This left him virtually no time to ask any questions about, or get a reply to, any concerns he may have had about the maturity amount. Do the acceptance letters not say that no money can be paid out until the customer signs the payment off as full and final settlement?
- The point is that they had possession of his money for a period of time, mainly due to their unwillingness to answer any previous queries, which pretty much left him with no choice other than to refuse to sign

The Pru replied, saying it had sufficient detail to be able to make the maturity payment direct into Mr T's bank account without the need for a maturity claim form to be completed. It has streamlined some of its processes to enable this to happen so that customers to receive their maturity payments on time. Mr T effectively rejected the payment and it was then his specific instruction not to pay it.

During this time it had been providing Mr T with responses to his enquiry and complaint points and so this would not have precluded him from receiving the payment.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I recognise there have been a large number of points made by both parties and considerable exchanges about these. But overall I am satisfied this complaint revolves around three key issues which should determine its merits.

Is their persuasive evidence to indicate that the Pru paid out the wrong maturity sum, ignoring or contradicting promises it had made in its policy documents? Did it fail to respond to Mr T's initial and follow-up concerns promptly and adequately? And to what extent is it responsible for his refusal to accept the maturity pay-out earlier?

On the first point I do not believe there is sufficient, persuasive evidence to conclude that it has done anything wrong. In common with other providers of these types of policies, bonuses are largely not guaranteed and dependent on a range of factors, only one of which is investment returns.

So there is no contradiction between statements from the Pru saying that it had 'enjoyed a good year' and the fact that bonuses might still prove in the long run far lower than original projections. Investment returns have fallen steadily, and at times dramatically, over the lifetime of this policy so few if any investment or insurance policies taken out at that time are now paying the sort of maturity sums originally projected.

Crucially, I do not believe the documents guarantee the sort of returns Mr T claims he was promised or expected.

Further, his premiums paid for the ongoing monthly cost of life insurance so one cannot reasonably add the guaranteed sum assured and the cost of all those premiums as a basis for assessing what level of maturity pay-out one ought to receive.

It is not for this service to seek to investigate a business' operation of a fund, its investment decisions or performance so I am not in a position to assess how it decided upon bonuses or Mr T's final maturity pay-out. But I have seen nothing to suggest it has not operated in accordance with the terms and conditions of the policy.

In this context I do not agree that it needed to provide any further information about the inherited estate or other issues beyond its response of 24 September. Nor do I think this service ought to look into these issues further.

On the second issue, I think Mr T's questions of January 2018 were understandable and perfectly reasonable. The Pru did not address these. This, in my view, fully warrants him not simply accepting the maturity pay-out at that point or when asked to do so in July but instead continuing to pursue the Pru for answers. I do not think the Pru offered a reasonable and sufficient response until 24 September 2018.

In the meantime the maturity payment was due to be made on 1 August 2018. This did not happen for the reasons previously discussed. So broadly speaking I feel the Pru should be responsible for paying 8% interest to cover this period (of approximately seven weeks). After this point I do not feel it would be fair to require it to pay the court-approved compensatory rate, particularly given current interest rates. This is because I feel its letter of 24 September did provide Mr T with sufficient responses to his understanding queries. In my view, he was then in a position to choose to take the maturity sum even if he wanted to pursue matters further.

As the Pru did not offer or pay 8% interest on this seven week delay I think he is also entitled to 8% simple interest per annum on this sum from 24 September 2018 to the date of settlement of this complaint. At the same time the Pru has paid interest at the Bank of England rate on the entire sum to the date it made this offer. This makes any redress very complicated and, in my view, unnecessarily so.

Instead, having considered the complaint overall, I currently believe the Pru should pay Mr T an additional £350 in lieu of its failures (in addition to the £150 previously offered/paid). This sum includes compensation for the fact that, from what I've read, the Pru could have handled Mr T's recent pay-out request better although I accept a number of its points about why this proved complicated, and Mr T's partial responsibility for this.

Finally, I note that the adjudicator told Mr T he would come back to him further about his most recent comments but I am satisfied that I have sufficient evidence to make a fair and reasonable decision about this complaint.

my provisional decision

I currently intend to uphold this complaint and instruct The Prudential Assurance Company Limited to pay compensation as outlined above.

Tony Moss
ombudsman