

complaint

Mr G complains about the performance of his endowment policies with The Prudential Assurance Company Limited ('Prudential').

background

Mr G (and his spouse) took out two endowment policies with a predecessor company of Prudential to support a house purchase mortgage – each through a different firm of brokers. The first was taken out in 1987 for £37,250 and matured in August 2010 with a shortfall; and the second in 1991 for £22,500 and was due to mature in June 2016, but Mr G sold it for £10,172 in December 2007. As the brokers are no longer trading, Mr G has approached The Financial Services Compensation Scheme (FSCS) about their involvement.

Mr G complained to Prudential about the poor performance of the policies. He does not believe that the policies were a smoothed investment, as the policies have not accounted for any dips in the investment returns. He also feels that the fact the policies matured after the financial crisis has a bearing on his complaint.

Prudential did not uphold the complaint. It explained that the policy was not guaranteed to achieve its target and how economic conditions had impacted upon growth. This had then caused a more cautious approach to be adopted to the allocation of bonuses. Mr G did not agree and brought his complaint to this service.

The adjudicator did not recommend that the complaint be upheld, because the bonuses were at the discretion of the business and there was insufficient evidence to show that it had been negligent.

my findings

I have considered all the available evidence and arguments (including Mr G's further representations since the adjudicator's letter) to decide what is fair and reasonable in the circumstances of this complaint. Though I am sympathetic to Mr G over the shortfall on his two policies, I have reached the same conclusion as the adjudicator.

Fund underperformance itself is not necessarily evidence of mismanagement or negligence. Poor performance alone will not normally be regarded as a reason to uphold a complaint. Fund management requires subjective decisions to be made and the fact that these judgements may subsequently turn out to have been 'wrong', in the sense that with the benefit of hindsight a different course might have produced a different or better result, does not in itself prove negligence or mis-management.

Whilst there are many different techniques in recommending or selecting investments or the investment strategy for a fund, they do not always work. Investments carry risk and the outcome will very rarely be certain. Unless an express or implied guarantee is given, then there is no guarantee of success. In this particular case, although I can appreciate Mr G's disappointment with the performance of the investments, the policies were not guaranteed to reach the target value. They were guaranteed to pay the sum assured plus bonuses that accrued - but the bonuses and final values were not certain or guaranteed.

It is not for this service to assess a business's legitimate use of its commercial judgement. The allocation of bonuses was at Prudential's discretion under the terms of the policy. It has explained how economic conditions caused it to take a more cautious approach to the allocation of annual bonuses. That strategy was a matter for Prudential and it is not something that I can interfere with.

I can understand Mr G's concern. The policies matured after the financial crisis. But Prudential has explained that the uncertainties in the financial sector still remain present today and as a result of this, equity markets have declined - which has impacted on the performance of the policies. I can understand Mr G's disappointment with the policy values. Although the calculations of bonuses may not be entirely transparent, they will involve actuarial input and this is subject to both internal and external checks and balances.

The decisions made about how Prudential managed and invested Mr G's policy funds (and all the other policyholders' funds) are matters for the managers and actuaries employed by it. Those decisions and their consequences are matters of commercial judgement and professional opinion. But I have seen no evidence that those decisions were so clearly wrong and flawed (without using hindsight) that they could be said to be evidence of mismanagement.

my final decision

My final decision is that I do not uphold this complaint.

Charles Sweet
ombudsman