

complaint

Mr and Mrs O complain about the sale in 1991 of a mortgage endowment policy provided by the Prudential Assurance Company Limited. They say the policy was mis-sold. They make a number of points. The main one however is that they say they were not told about any possible shortfall and that they were also told they could expect a tax free surplus on maturity. As redress they would like compensation and a full refund of the mis-sold financial product.

background

Mr and Mrs O complained to the business through a representative. Their complaint was not upheld. In summary, the business said that there was no reason to think the policy was unsuitable at the time it was sold.

The business set out Mr and Mrs O's circumstances in 1991. They were both employed. Their earnings and borrowings were within normal ranges for the time. They had some savings and investments. Broadly the information collected by the business and produced here is what would be expected from the time.

There was no record of any assessment of attitude to risk (although it was not a requirement to record any such assessment at the time). The business also considered the documentation provided and the fact that the policy would have been thought low risk at the time of the sale. Having done that the business thought the policy broadly suitable.

The representative said that at the time of the sale Mr and Mrs O had a repayment mortgage. They were approached by the business and persuaded to change to an endowment type mortgage. It says only the benefits of doing so were mentioned. The business has reached unfair conclusions. It has assumed because Mr and Mrs O were not first time buyers and that they have a modest amount of savings and investments that they understood what they were doing. Also the representative says, there is no evidence that Mr and Mrs O's attitudes to risk were discussed.

Mr and Mrs O say they would never take any risk with their mortgage as evidenced by the fact that they converted back to a repayment mortgage to guarantee it would be paid off.

Mr and Mrs O came to us. One of our adjudicators looked at the file. She set out her view which was that she also thought that the policy was not obviously unsuitable. She said that for much the same reasons as those given by the business. As a result she was of the view the complaint should not be upheld. Mr and Mrs O and their representative remain unhappy and have asked for an ombudsman's final decision. The file has been passed to me to consider.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done that, I don't uphold the complaint. I know this will disappoint Mr and Mrs O.

This all happened now over 27 years ago. That will inevitably bring its own problems. Any evidence (and it is perhaps surprising there is *any*) will be old, probably incomplete and possibly contradictory. Also the economic environment has changed substantially since the

sale. I must “test” this sale about what was known and expected at the time (in 1991) and not now.

Policies like this were thought very safe at the time of the sale. They were performing very well indeed and expected to continue to do so. It was an entirely reasonable expectation that the policy would repay the mortgage and produce a surplus. The file produced by the business is what I would expect to see from the time. It is very difficult for me to find that, 27 years later, the advisor effectively misled Mr and Mrs O into taking out the policy by failing to explain the risks involved.

To put it another way I am being asked to find that the advisor so “overstressed” the benefits and ignored the risks that the business should compensate Mr and Mrs O. Although I can see perfectly well what Mr and Mrs O and their representative are saying, I have not seen enough to make me come to that conclusion and uphold this complaint.

I don't need to repeat Mr and Mrs O's circumstances here in any detail. However, having looked at those circumstances Mr and Mrs O's position is one which at the time would (I suspect) have been thought ideally suited for this policy. They were both working, already had a mortgage and they had some limited savings and investments. Of course none of that means, of itself, that the policy was suitable or understood by Mr and Mrs O.

However it does in my view support the sale. There are no obvious reasons why the sale would be unsuitable. I understand Mrs O was on maternity leave at the time but other than that their circumstances do not suggest to me the policy is unsuitable. I also understand that Mr and Mrs O say they are and always were risk averse-they wanted a guaranteed mortgage. The difficulty is that is not reflected in the file. It is also more likely than not that there were warnings and opportunities for Mr and Mrs O to realise what they were taking out.

These are always very difficult decisions and it is clearly *possible* the policy was mis-sold. However I do not find that, on balance, it *was*.

my final decision

I do not uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs O to accept or reject my decision before 25 February 2019.

Mike Boyall
ombudsman