

complaint

Mr C complains that The Prudential Assurance Company Limited has not provided him with enough information about his with-profits endowment policy's likely maturity value and final bonus.

Mr C has also said that the business no longer provides a financial advice service that he can contact; the policy literature was mis-leading; it was a condition of his staff mortgage that he needed to take out this endowment policy; and he has not received his fair share of the fund that his premiums were invested in.

background

In 1990 Mr C and his then-wife were re-mortgaging. Mr C was employed as a Prudential agent and was eligible for a staff mortgage at a discounted rate. Mr C says it was a condition of the mortgage that he took out such a policy. The policy was assigned solely to Mr C in 1998.

Mr C later complained to the business along the lines I have outlined above. The business did not uphold it. So, he brought his complaint to our service where it was considered by an adjudicator.

The adjudicator did not recommend that the complaint should be upheld. He said the information Prudential sent him about the projected returns on his policy was sufficient.

He also told Mr C that Prudential was entitled to withdraw its financial advice service; the policy literature did not seem mis-leading; the business was entitled to set its own conditions in relation to its staff mortgage; and that on the available evidence he was not persuaded Mr C had received an unfair share of the with-profits fund.

Mr C did not agree with the adjudicator's conclusions and has asked for an ombudsman's decision. He has provided some additional points for consideration. I have taken account of these in the course of my decision and made some additional remarks towards the end.

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 agree with the adjudicator's conclusions and for broadly similar reasons.

I apologise to Mr C at the outset for the length of time it has taken our service to issue this decision. I appreciate his policy has now matured. However, I want to assure Mr C that I have given full consideration to his complaint.

First, I can understand why Mr C has complained that he was not given enough information about the performance of his policy during its term. With-profits funds are some of the most complex and opaque investment contracts in existence. It is very difficult for policyholders to know what is going on and what their policies are worth. It is not uncommon for policyholders to face difficulties with this.

I can also appreciate why Mr C says he did not find the response from the business very helpful in this respect. However, I think it should be noted that the complexity of with-profits policies is a key reason why it is very difficult to give an accurate picture of their performance. In particular, any final bonus will not be known until around the time of maturity. Given this, I do not find that the business did anything wrong by not providing more detailed information following Mr C's request. Any such information might well have proved to be inaccurate, in that it is likely to have required projections and estimates of future performance. This would not have helped Mr C.

In addition, the re-projection letters Mr C received used the growth percentages required by the regulator. So, I agree with him that they were not specific to his particular policy. However, I do not think the business could have been expected to provide alternatives. I note that the policy matured at a sum that was slightly higher than the sum estimated at the middle growth projection (6%), which was set out in a review letter that the business says it sent in 2012.

Regarding Prudential's decision to withdraw its financial advice service, I think all I can say is this was a matter of legitimate commercial judgement. The business has given some explanation of why it made this decision. I can understand Mr C had assumed the service would continue for at least the term of his policy, given the length of time the business had offered it. However, I have not seen evidence that satisfies me the business guaranteed this would happen. Or, that Mr C would be offered replacement advice in the event that this service stopped. Given this, I cannot uphold this part of Mr C's complaint.

Having considered the policy documentation on the file I agree with the adjudicator that from looking at the policy illustration the business does not appear to have misrepresented the policy. The adjudicator has provided more detail about this, which I will not repeat here.

I understand Mr C says the policy was set up on the basis that it only needed 80% of current bonuses to reach its target value. This was very common in the industry at the time. The setting of the 80% bonus rate "allowance" meant that a view was taken which, at the time, was seen as very conservative. That is a "margin for error" was built into the policy – bonuses could drop to 80% of their then level and the policy would still reach its target value. This was seen as prudent at the time. It is not for me to comment on that. However, bonuses are always unknown and discretionary and can be reduced at any time. The way this policy was set up has no bearing on the bonus setting policies of the business over the life of the policy.

I can usually only uphold a complaint when a business has got something wrong. All I have seen here is that the business operated the policy in accordance with the terms and conditions issued at the time. Although Mr C says in effect how do I know that without the policy booklet and details of the staff mortgage my response is that a) the business says it has b) I have seen many similar cases and policies that have been operated in exactly the same way and c) Mr C has produced no persuasive evidence that the policy has not been operated in the way it should have been.

In addition, I have not seen evidence that persuades me there was a binding guarantee that the policy would mature at or above its target amount. So, I cannot ask the business to pay Mr C the shortfall, which is what he would like me to do.

I have reflected on Mr C's comments about the conditions attached to his staff mortgage. The policy was taken out more than 20 years ago in an environment that was no doubt different to how it is today. I do not think I can say now in 2014 that the business did anything wrong by requiring staff to take out an endowment policy alongside its mortgage product. I agree with the adjudicator that this is also an area where the business was entitled to exercise its legitimate commercial judgement. I also agree that Mr C could have chosen to place his mortgage business with a different provider if he had been unhappy with Prudential's mortgage terms.

The business has noted the wider benefits staff received from the mortgage scheme. I appreciate that Mr C now feels these benefits were overstated, but I think he might be doing so with the benefit of hindsight. I cannot however use hindsight in making a decision.

At the risk of repeating myself, I have also not been persuaded that the business has done anything wrong in respect of Mr C's share of the with-profits fund. Again, I agree that decisions about what bonuses to award and to whom are a matter of commercial judgement. So, they are not generally for this service to comment on.

Finally, I have read the letter Mr C sent to us following the adjudicator's view. Nothing in this has persuaded me that his complaint should be upheld. I appreciate what he says about whether or not advice was given, but I understand that he complained to the business about this some years ago. Mr C has also raised some additional concerns about the way the policy was managed and the assumptions its estimated growth was based on. However, this service is not the place to investigate the day to day behaviour and decision making of businesses – that is the role of the regulator, the Financial Conduct Authority.

my final decision

For these reasons my final decision is that I do not uphold this complaint and make no award against the business.

Kirsten Smart
ombudsman