complaint

Mr and Mrs G complain about the sale, in 1995, of an endowment policy taken out for the purposes of repaying an interest only mortgage. They complain The Prudential Assurance Company Limited led them to believe the policy would repay their mortgage and provide an additional lump sum on maturity.

background

Mr and Mrs G initially took out an interest only mortgage in 1990 when they were first time buyers. Alongside that they took out a repayment vehicle, although it's not known what that vehicle was. They surrendered that repayment vehicle in 1993. In 1995 they sought advice from their mortgage lender, who was a tied representative of Prudential, about their mortgage.

Mr and Mrs G were recommended a low cost endowment policy invested into the with profits fund. The term of the policy was 25 years (it's not clear if Mr and Mrs G also re-mortgaged at this time). In 2000 Mr and Mrs G were sent a warning letter which warned of a possible shortfall against the target maturity amount of £39,000. Because of this they changed their mortgage to a repayment mortgage in 2001 and later surrendered the policy.

Mr and Mrs G have complained about the advice they received to take out the policy. Prudential didn't uphold their complaint as it couldn't find any evidence of a guarantee and was satisfied the level of risk was suitable for them. Unhappy with that Mr and Mrs G referred their complaint to this office.

Our investigator upheld the complaint. He wasn't satisfied Mr and Mrs G were prepared to accept a risk with repaying their mortgage and so he concluded Prudential should redress this by calculating compensation in accordance with the regulators guidance for redress in such cases. Mr and Mrs G accepted the outcome but Prudential didn't. So the matter has been referred to me for a decision.

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 so I've decided I'm upholding this complaint. I explain why below.

Mr and Mrs G say they were reassured the policy would repay their mortgage at the end of the term, and possibly provide a lump sum. I've considered their comments, but I haven't found any persuasive evidence that Prudential gave Mr and Mrs G a binding guarantee the policy would meet the target amount at maturity (and no such guarantee existed in the policy itself).
At the time of the sale Mr and Mrs G already had an interest only mortgage in place. They had taken that out in 1990 when they were first time buyers. It's not clear what investment they had to repay that mortgage, but the fact find completed in 1995 records it was surrendered in 1993. There aren't any details about why Mr and Mrs G surrendered that.

In 1995, Mr G was a production worker with a net monthly income of £740. Mrs G was a receptionist with a net monthly income of £509. They had limited disposable income of about £150 a month. They didn't hold any other investments and had very little by way of savings in the bank (about £100). They didn't have any dependents at the time.

Mr and Mrs G were advised to take out a low cost with profits endowment policy. These types of policy are widely accepted to be low risk, but it wouldn't be suitable for someone who didn't want to take any risk with the repayment of their mortgage.

Having considered Mr and Mrs G's circumstances at the time I'm not persuaded they were in a position to take a risk with their mortgage, nor do I think they wanted to.

I accept the fact find does record Mr and Mrs G's attitude to investment risk as 'low risk'. But there wasn't a 'no risk' option for them to select. And the question was posed as a question about investment risk rather than risk connected with the repayment of their mortgage (although I do accept here they are connected). So it's difficult to know how truly representative this was of Mr and Mrs G's acceptance of risk in relation to their mortgage. They had no other investments at the time and very little in the way of disposable income or savings, with which they could mitigate any risk of a shortfall. I'm also mindful that Mr and Mrs G indicated in the fact find that they only had basic financial awareness. These circumstances don't strike me as being those of customers who are in a position to accept or who are willing to take risk with the repayment of their mortgage.

I am aware that Mr and Mrs G had a previous investment for their mortgage. And in some situations this might give customers some experience of investing or might indicate a willingness to accept some risk. But Mr and Mrs G had surrendered this policy some years before, so I don't think they would have gained much investment experience. And it isn't even certain that that investment was suitable for them or their circumstances. And I can't see that the adviser explored what the previous investment was or why Mr and Mrs G had surrendered it, which might have had a bearing on any recommendation made.

Overall, I'm not persuaded that the policy recommended by Prudential was suitable for Mr and Mrs G, given their circumstances at the time.

putting this right

The regulator has laid down a standard approach for calculating compensation for complaints like this in a guidance note called *Handling Mortgage Endowment Complaints*, often referred to as RU89 calculations. As per that guidance Mr and Mrs G are to be put back in the position they would have been in, so far as is possible, had they not been recommended an unsuitable policy.

In this case, that means putting Mr and Mrs G in the position had they been sold a repayment mortgage (capital and interest) in 1995 over a 25 year term. To put matters right Prudential need to pay Mr and Mrs G A+B where:

> A = the loss identified by carrying out a loss calculation in accordance with RU89 guidance to the date of conversion of their mortgage to repayment, using the surrender value as at that date;
>
> B = interest at 8% simple a year on the amount of A from the date of conversion to the date of settlement.

Prudential should pay compensation equivalent to any fees Mr and Mrs G were charged by their mortgage lender to switch their remaining interest only mortgage to an equivalent repayment mortgage (this isn't to include any fees for subsequent re-mortgaging fees) and

8% simple on that amount from the date the fees were originally paid to the date of settlement.

If Prudential considers it's legally required to deduct income tax from the 8% interest, it must send a tax deduction certificate if Mr and Mrs G ask for one

my final decision

For the reasons given above, I uphold this complaint against The Prudential Assurance Company Limited. I require it to pay compensation to Mr and Mrs G as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 19 April 2018.

Claire Hopkins
ombudsman