

## **summary and background to complaint**

Mr D and Ms E complain about a mortgage endowment policy they have with The Prudential Assurance Company Limited. Mr D and Ms E say that the policy performed poorly. They also say the business delayed paying the maturity value to them partly because it paid the value by cheque instead of using a faster method of payment.

Mr D and Ms E's complaint mainly concerns the delay in receiving their maturity proceeds. They say that Prudential should have offered to send their proceeds electronically in the first instance.

To compensate them, Mr D and Ms E would like Prudential to pay them the shortfall on their policy and interest for the two week delay in receiving their maturity proceeds.

The complaint was considered by one of our adjudicators who concluded that Prudential had not made any errors that caused the delayed payment of the policy proceeds. He also explained that whilst the policy had not performed favourably, this had always been the risk associated with the investment product. Therefore, he could not suggest that the complaint should be upheld.

## **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 and while I appreciate this will disappoint Mr D and Ms E, I cannot uphold this complaint broadly for the same reasons as given before me.

The adjudicator before me gave reasons for why the first part of the complaint-the delay over payment-could not be upheld. I do not think there is a great deal I can add. When upholding a complaint I must use my powers carefully. If I uphold a complaint and a consumer accepts that decision (the business has no choice) it becomes binding in law with no right of appeal to the Courts. In short it must be right insofar as it is possible.

Here the business made payment using a cheque. When the policy was taken out that would have been I suspect the intended and usual way for such a payment to be made. Although technology has moved on a cheque is a lawful way of discharging a liability and paying money. There is nothing wrong with that in itself. The business has explained that it recognises this is not entirely satisfactory and is working on a solution to the problem. However, while helpful that is not something I can consider. I do not regulate, fine or punish businesses or tell them how to run their businesses. The regulator the financial conduct authority has responsibility for supervising the way businesses operate. All I can do is look at an individual complaint.

It seems to me here Mr D and Ms E were not misled by the business. They knew (or ought reasonably to have known) what to expect in terms of payment. I accept that there were postal problems but that is not something I can hold the business responsible for. I note the business waived the fee for an electronic transfer which is helpful. Overall however I cannot see the business got anything wrong as regards this part of the complaint.

As regards the performance of the policy policies such as this are notoriously complex and difficult to understand. That helps no one. However I cannot change the way the policy

worked. It does not help however when it is very difficult if not impossible to understand what has happened to a policy in detail or what the final outcome is likely to be.

The policy's final value is subject to a number of highly complex factors. Some are within the business' control and some are not such as investment returns. The way the fund is operated is controlled by a number of things including the professional oversight of actuaries.

Performance is not something I will usually seek to interfere with. It is self-evident that with hindsight different decisions could have been made which would have resulted in a more profitable or less loss making outcome. That is however the very nature of investments and the highly subjective nature of the decisions made while those investments are managed.

I have seen nothing to suggest the value of the policy is in anyway wrong or that the business has got something wrong in what it did. It is a fact common to many product providers that funds like this have done very badly in recent years. It is certainly not just this business.

I note Mr D's comments about it being fortunate that he has not incurred losses as a result of the business' actions. I agree. However as a dispute resolution service when a business has got something wrong we would usually tell a business to put things right by paying compensation. That is calculated by working out the financial position someone would be in "but for" the business' error. Not all mistakes or bad advice cause loss. If no loss has been incurred then no compensation is due. It is as wrong to over as under compensate.

I also note Mr D's comments about the industry in general making large profits at the expense of the public. That is not for me to comment on. However it is a fact that the industry has paid substantial sums in compensation in respect of mis sold mortgage endowment policies over a number of years.

### **my final decision**

my final decision is that I cannot uphold this complaint.

Mike Boyall  
**ombudsman**