

complaint

Mrs and Mr B complain about a number of mortgage endowment policies for which the Prudential Assurance Company Limited is now responsible. In summary they say that the policies were mis-sold. That is because, Mrs and Mr B say, they wanted to take no risk with their mortgages; there was no discussion about alternatives and they were told the policies would reach their target values.

They want the business to refund “what is due”.

background

The business didn't uphold the complaints which were about four policies sold in the early 1990s. It said Mrs and Mr B were not first time buyers as their representative had suggested, but had an existing endowment mortgage. There was nothing in their circumstances, the business said, which made the policies unsuitable for Mrs and Mr B.

Unhappy with that Mrs and Mr B came to us directly. One of our adjudicators looked at the complaint but didn't think it should be upheld. She thought, much as the business had, that these sales, from so very long ago, were not obviously unsuitable.

Mrs and Mr B remained unhappy. They said they disagreed with the adjudicator. They repeated that they didn't want to take *any* risk with their mortgage arrangements, especially since they had young children and Mrs B had recently given up work to look after them.

The adjudicator didn't change her view. As the parties couldn't agree I have been asked to look at the file and issue a final 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 that I don't uphold this complaint.

I understand Mrs and Mr B are in a very difficult financial position. I hope things improve for them soon. There are a number of agencies, some voluntary, which may be able to help them. Of course Mrs and Mr B may already be aware of those agencies but if they want further information they should contact the adjudicator.

If I uphold a complaint I will issue a decision saying so. If that decision is accepted by a consumer (the business has no say in it) that decision becomes legally binding. There is no right of appeal to the courts. My decision must be fair to both parties. If I uphold a complaint I must be able to explain why and use my powers carefully.

Here, the facts describe a very common situation. Mrs and Mr B wanted four separate loans “topping up” their existing interest only borrowing. It seems they already had a mortgage supported by an endowment policy. I'm sure Mrs and Mrs B would agree that like many (perhaps most) young people with families money would have been “tight”. Mrs B had left work to look after the children. It could be argued (and in effect Mrs and Mr B do argue) that things were uncertain and they were in a vulnerable position, and in no position to take risks.

However, as Mrs and Mr B now know, the policies sold were thought low risk (some would say very low risk). Also lending was and is a commercial activity. It was perfectly acceptable for a lender to agree lending, subject to conditions. One of those conditions often was that the lending would only happen if it was supported by a mortgage endowment policy. There was nothing wrong with that at the time.

It was usual for documentation to be provided as required by the regulator of the time. That gave at least some explanation as to how the policies worked and the risks involved. By the end Mrs and Mr B could have had 5 sets of such paperwork. It is not unreasonable to have expected them to have at least some understanding of what they were getting and have a chance to query what was happening.

I have read Mrs and Mr B's comments, specifically about why these policies were sold. It is true that such policies were often "sold" rather than "bought". Often commissions were paid for sales. That does not mean however that any resulting sales were automatically "bad".

Of course this isn't helped by the length of time since the sales (over 25 years). Any evidence will be old, probably incomplete and possibly contradictory. Businesses were only required to keep records for six years. It is perhaps surprising any records or documentation exists from the time at all. That doesn't help in deciding this complaint.

This is clearly a complaint where the policies might have been mis-sold. The difficulty is in being able to say, with reasons, that they were actually mis-sold.

my final decision

My final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs and Mr B to accept or reject my decision before 8 June 2018.

Mike Boyall
ombudsman