

complaint

Mr C complains, through a representative, about a mortgage endowment policy sold to him by the Prudential Assurance Company Limited in 1991 with a target value of £40,000. He says he was not told about any risk presented by the policy. He was told the policy would pay off his mortgage and produce a tax free surplus. He also says he was told this was the only way he could get a mortgage. He wants compensation for what he says was a mis-sold policy.

background

The business didn't uphold the complaint. It said the policy was suitable for Mr C and that the policy wasn't mis-sold. Unhappy with that Mr C came to us. In fact in his complaint to the business Mr C also complained that:

- he wasn't told about the costs and charges which applied to the policy.
- he was a first time buyer and had no investment experience.
- if he had known the true position he would have had a guaranteed repayment mortgage instead.

One of our adjudicators looked at the file. She didn't suggest the complaint should be upheld. She thought that, on the evidence, the policy was not obviously unsuitable for Mr C. She said the borrowing was within normal limits; the policy matured before retirement; being a first time buyer didn't of itself mean the policy was mis-sold and the policy sold was thought very low risk at the time.

Mr C's representative responded saying (in summary) that:

- their client was indeed risk averse and shouldn't have been sold a risk based policy.
- the adjudicator should take into account the fact that, Mr C says, no alternatives were discussed.
- no life cover was needed

It asked for an ombudsman's final decision and the file has been passed to me.

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 this isn't what Mr C wants.

The first difficulty here is that the sale took place 26 years ago. Inevitably that means evidence will be old, probably incomplete and possibly contradictory. Businesses were and are not required to keep records for that long. In fact it is surprising any evidence survives at all.

Also the economic situation and expectations going forward have changed significantly since 1991. I can't use hindsight in making a decision. At the time of this sale policies like this were thought safe (some would say very safe). I would have trouble proving it but I suspect the advisor was correct if he said these policies had never failed before and were expected to continue to do well in the future.

There was nothing wrong at the time in a lender requiring a mortgage to be taken out on an interest only basis covered by an endowment policy. It may well have been the case that this was the only way Mr C could borrow as a first time buyer.

As regards the life cover which Mr C says wasn't needed the costs of that cover were often small. It was an integral part of the policy - it wasn't possible to have such a policy without life cover being included.

This sale and the documentation supporting it is very much what I would expect from the time. As far as I can see the costs and charges involved were or would have been included in the product literature produced by the business at the time. I can only test what happened against what was required at the time. It may well be that a fuller disclosure would be required today but that is not relevant to this complaint.

It wasn't a requirement to formally note a consumer's attitude to risk at the time. Of course it would have to have been considered to ensure a policy was suitable but, on what I have seen, there is nothing obvious (from the time) which suggests Mr C's attitude to risk clearly differed from the risk profile of the policy sold.

To uphold a complaint I need to be able to say it is fair to do so in all the circumstances of the complaint. Here a first time buyer was sold what was considered a safe product to help him get on the housing ladder at a time when the property market was going through traumatic events as bad as any before or since.

I simply haven't seen enough to say that it would be fair to uphold this complaint. I don't doubt what Mr C or his representative has said. The policy *might well* have been mis-sold. The difficulty is being able to say I have seen evidence that it *was*.

my final decision

I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 March 2018.

Mike Boyall
ombudsman