complaint

Mr C complains The Prudential Assurance Company Limited mis-sold him a series of policies which were too risky for him. He also says the advisor didn't provide him with key information about these policies or review these investments regularly and misled him about the likely returns.

background

the endowment policies

In 1988 Mr C and his wife took out an endowment policy. This policy was surrendered in 1995.

In 1993 Mr C and his wife took out a second endowment policy. Mr C stopped payments in 1995 and the policy was made paid-up. It matured in 2015 but the proceeds have yet to be paid out.

In 2003 Mr C enquired about transferring this policy into his sole name, and was told that a deed of assignment was needed.

An adjudicator at this service didn't feel there were sufficient grounds to uphold Mr C's complaint about the endowment policies.

He was satisfied Mr C should've been aware the policies were in joint names and that a deed of assignment would be needed to make a change; allso, that the latter policy was paid-up and no further bonuses would be added after 2003.

He also believed the Pru had clarified various issues arising from Mr C's divorce and the possible impact on these policies but Mr C hadn't acted on its letters.

Mr C didn't agree and said:

- He did give the advisor an assignment form but he lost it
- The advisor gave him a verbal assurance bonuses would be added after the policy was made paid-up
- He had death in service benefits so didn't need the life cover
- The endowments were designed to help put his children through university and repay his mortgage early

the investments

In 1998 the Pru assessed Mr C's attitude to risk as cautious and recommended he invest £1,400 in a Prudential Gold PEP (PG PEP). He added a further £4,000 in 1999.

In 1999 he was also advised to invest £10,000 in a with-profits fund in a Prudential Investment Bond (PIB).

In 2001 he was advised to invest £2,000 in a Prudential Mini-ISA (PMI).

The adjudicator felt both the PG PEP and the PMI exposed Mr C's money to a greater risk than he was looking for, and outlined the reasons why he thought this.

He said the Pru should compare the return Mr C has received on these two products with what he would've got via suitably-cautious investments.

By contrast, he felt the PIB was a suitably-cautious investment and appropriate for Mr C's circumstances.

The Pru didn't accept that any of the investments were unsuitable, and said:

- Mr C wanted to increase his exposure to risk between 1998 and 2001 and could afford to do so, thus making the PG PEP and the PMI investments suitable
- The PG PEP literature explained this provided exposure to world stock markets which may involve a higher risk
- The amounts invested in the PEP were small, limiting Mr C's overall risk exposure
- The advisor would've explained the risks of the PEP and given him the key features document which outlined these
- Mr C wanted to invest in a tax efficient way and these products did that

As no agreement has been reached, this case has been passed to me for review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In this case I agree with the adjudicator and mainly for the same reasons.

I recognise there is limited documentation about the various recommendations and points of sale. But given this, I don't feel I can safely conclude that the Pru failed to provide Mr C with sufficient key information or that its advisors misled him about the likely returns on the various investments.

Also, while I don't dispute Mr C's evidence about the deed of assignment, I don't believe there is sufficient evidence to uphold his complaint on this point. Nor have I seen documented evidence that he paid for ongoing advice and failed to receive it.

I've considered Mr C's points about why he took out these investments and the promises he say he was given. But I've also not seen sufficient evidence to fairly or reasonably conclude he was misled about their likely returns or bonuses.

Turning to the specific investments, it looks as if Mr C was prepared to take a small or modest risk with his money, and it was therefore reasonable for the Pru to recommend suitably cautious investments.

In this context, I'm satisfied the with-profits investment was a reasonable suggestion but I think both the PG PEP and PMI investments represented a greater risk than Mr C wanted to take with his money.

The Pru doesn't dispute Mr C was generally looking for cautious investments. In this light I don't believe its advisor should've recommended these somewhat higher risk products, irrespective of whether the literature spelt this these risks.

From what I've read, Mr C was not an experienced investor and relied on the advisors to make recommendations that matched his declared risk profile. In my view, they did not do this.

fair compensation

In assessing what would be fair compensation, my aim is to put Mr C as close to the position he would probably now be in if he had not been given unsuitable advice.

I take the view that Mr C would have invested differently. It is not possible to say *precisely* what he would have done differently. But I am satisfied that what I have set out below is fair and reasonable given Mr C's circumstances and objectives when he invested.

what the Pru should do?

To compensate Mr C fairly it should:

- Compare the performance of Mr C's investments with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investments. If the *actual value* is greater than the *fair value*, no compensation is payable.

- A separate calculation should be carried out for each investment – including the top-up paid by Mr C into the Prudence Gold PEP in 1999.

- It should also pay interest as set out below.

- Provide the details of the calculation to Mr C in a clear, simple format.

- Income tax may be payable on any interest awarded.

investment name	status	benchmark	from ("start date")	to ("end date")	additional interest
Prudence Gold PEP	still exists	for half the investment: FTSE WMA Stock Market Income Total Return Index; for the other half: average rate from fixed rate bonds	date of investment	date of settlement	not applicable
Prudential Mini-ISA	still exists	for half the investment: FTSE WMA Stock Market Income Total Return Index; for the other half: average rate from fixed rate bonds	date of investment	date of settlement	not applicable

for each investment:

actual value

This means the actual amount paid or payable from the investment at the end date.

fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

To arrive at the *fair value* when using the fixed rate bonds as the benchmark, you should use the monthly average rate for the fixed rate bonds with 12 to 17 months maturity as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Apply those rates to the investment on an annually compounded basis.

Any additional sum paid into the investment should be added to the *fair value* calculation from the point in time when it was actually paid in.

why is this remedy suitable?

I have chosen this method of compensation because:

- Mr C wanted capital growth with a small risk to his capital

- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to his capital

- The WMA index is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return

- I consider that Mr C's risk profile was in between, in the sense that he was prepared to take a small level of risk to attain his investment objectives. So, the 50/50 combination would reasonably put Mr C into that position. It does not mean that Mr C would have invested 50% of his money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mr C could have obtained from investments suited to his objective and risk attitude

further information

The information about the average rate can be found in the 'Statistics' section of the Bank of England website under 'Interest and Exchange Rates Data' / 'Quoted household interest rates' / 'Deposit rates' / 'Fixed rate bonds' / '1 Year'.

You can find information about the WMA index on the Wealth Management Association or the FTSE Group websites.

Some examples of how the calculation should be carried out are available on our website under 'Publications' / 'Online Technical Resource' / 'Investment' / 'Calculating compensation in investment complaints'.

my final decision

For the reasons outlined above, I uphold this complaint and instruct The Prudential Assurance Company Limited to pay Mr C compensation as described.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 September 2016.

Tony Moss
ombudsman