

complaint

Mr and Mrs W have complained that the business failed to notify them about the poor performance of their investments and they did not have the opportunity to address the situation when their investments were performing poorly.

background

The adjudicator did not uphold the complaint. She thought that as Mr and Mrs W were receiving statements on a regular basis, it is reasonable to assume that they would have been aware when these statements suddenly stopped. Mr and Mrs W say that neither they nor their IFA received any statements from the business.

my findings

To decide what is fair and reasonable in this complaint, I have considered everything that Mr and Mrs W and Prudential have provided.

Firstly I would like to say that I am very conscious of Mr and Mrs W's financial circumstances and this must be a very difficult time for them now that they have less income to meet their expenses. I have therefore considered their complaint carefully.

The complaint concerns the lack of statements issued since 2008. As I understand it statements were received prior to that point. Mr and Mrs W have said that the lack of statements had led to their funds being depleted or reduced because they have not been able to take any action to halt that reduction.

I think it would be fair to say that Mr and Mrs W were taking a high level of withdrawals from their with profits bond(s) and this appears to have coincided (from circa 2003 onwards) with a reduction in bonus rates. This has led to a significant reduction in the value of the bonds they hold.

I have considered carefully Mr and Mrs W's and their IFA's comments about the non-receipt of statements. I have also taken account that Prudential have said they would have issued such statements; they were issued automatically and their systems would flag if there was a problem which would cause a failure to issue them.

It is very difficult to arrive with any degree of certainty as to what occurred in such a situation; it is possible that there was some system failure at the Prudential, it is also possible that such were not delivered because of some reason outside of its control and which it was not responsible for. Given that lack of certainty I do not believe I can in good conscience uphold the complaint against Prudential.

Having said that, if I were to arrive at the conclusion that the Prudential did not issue the statements, I would then have to consider if that caused a financial loss. With its letter of November 2011, Mr and Mrs W's IFA enclosed detail of the statements it received in relation to their various with profits bonds. Most of the bonds were taken out in the 1990's; the largest of approximately £80,000 in 1997. The statements for such start in 2003. From 2003 to 2007 there is significant reduction in value; in 2003 the investment had already reduced to approximately £50,000. There is then a steady reduction to £30,000 in 1997. It is also

recorded that the yield on the bond is much less than the level of withdrawals being taken, at most points 50% lower.

It is therefore reasonably apparent that information was available which already indicated a significant reduction in value was taking place and would likely continue at the set level of withdrawals. I have not seen any evidence that any action was taken to halt the reduction. It would follow that there is insufficient likelihood that any action would have been taken after that point. I would mention that there are also statements for two other sizable investments of total contributions approaching £70,000 that also show significant reduction in value post 2004.

Although there is an obvious duty on Prudential to issue the statements, it could be reasonably expected that, if statements were being monitored, the lack of their receipt post 2008 would have generated a request that they were provided. I have not seen evidence of that.

I would finally say that Prudential were declaring positive bonus rates and I have no reason to believe they were mismanaging the with profits funds; the level of investment performance is not something I would consider as a valid complaint.

my final decision

I have every sympathy with Mr and Mrs W's situation but I cannot uphold their complaint.

I would confirm that I have not considered the suitability of any advice Mr and Mrs W received when they made the investments. If they have any concerns of that nature they should raise them in the first instance with the business that provided that advice (if any).

David Bird
ombudsman