

complaint

Mr and Mrs R complain that the Prudential Assurance Company Limited gave them wrong information about their policies. As a result they say they have lost financially and want to be compensated.

background

Mr and Mrs R complain that an advisor from the business gave them incorrect information. The advisor included in a schedule of Mr and Mrs R's assets the surrender values of some endowment policies. They say they challenged the business but were assured they still had these policies. In fact the policies had been traded (in effect sold) by Mr and Mrs R some years earlier.

The advisor's records were not accurate. Mr and Mrs R say that on the strength of that inaccurate information they took some significant financial decisions including Mr R moving to a less stressful job. They now find that they were not entitled to the values of the endowment policies. Mr and Mrs R say they took action on the basis of the incorrect information given to them by the business. They say they should be compensated for the losses they say they have incurred as a result.

The business accepted its records were not up to date and that the wrong information had indeed been given to Mr and Mrs R. The business has offered £500 in compensation for that error. Unhappy with that Mr and Mrs R brought their complaint here.

One of our adjudicators looked at the case and thought that the business' offer was fair in all the circumstances. In particular she (and the business) thought that Mr and Mrs R should have remembered that they had sold the policies and received a "substantial sum" for them some years ago. Therefore, in effect, although a mistake had been made Mr and Mrs R should have been aware of that at the time they saw the advisor.

Mr and Mrs R remained unhappy and the complaint has been passed to me to consider.

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 so, I agree with the adjudicator. I think £500 represents a fair outcome here. I appreciate this is not what Mr and Mrs R want. I understand they will be disappointed.

There are a number of difficulties in doing what Mr and Mrs R want. First, I would need to be persuaded that it would represent a fair outcome in all the circumstances of the complaint. Here it is accepted that an error has been made. I cannot however ignore the fact, and it has not been disputed, that a substantial sum of money was received by Mr and Mrs R in respect of the policies in question.

It has never been explained to my knowledge how or why Mr R in particular could have been unaware of that. I understand what he is saying about his challenge of the business to check he was indeed entitled to the money. However that does not change the facts. Of course clients are entitled to rely on advice and information given without question. However, where something is clearly wrong, and I think it should have been clearly wrong, I take the view Mr R should have been alerted to the issue and the possibility of a mistake. Mr and Mrs R do

not appear to have very substantial or complex investment portfolios or particularly complicated financial affairs.

I have seen nothing to persuade me Mr and Mrs R took the actions they did (repaying debt for instance) after consulting with the business about their plans. That is they were not advised by the business to repay their mortgage or do the other things they did.

When making a decision I must take into account the law. The law relating to the foreseeability of losses resulting from negligence (because that is what this appears to be) is exceptionally complex and difficult. Advisors (or any professionals) do not have an unlimited liability for the consequences of the advice given.

I would also just comment that in any event Mr and Mrs R list a number of actions they say have been taken as a result of the business' error. However it is not clear to me that all those actions incurred losses. For instance repaying borrowing is often regarded as good advice and can be financially beneficial. Making pension contributions commonly attracts tax relief and an enhancement in value. Of course there may be cash implications of the actions taken. That is not the same however as a loss having been incurred.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs R to accept or reject my decision before 29 December 2015.

Mike Boyall
ombudsman