

Complaint

Mr K complains he was mis-sold an investment policy by The Prudential Assurance Company Limited because he didn't receive the return he was told he'd get at retirement. He complains about the suitability and is also unhappy with the performance of the policy.

Background

In 1971, Mr R took out a whole of life policy with Prudential with a sum assured of £6,000. The policy was invested in the with profits fund. In December 1996, the policy was converted to an endowment policy. The fund and sum assured remained the same but the term was changed to 20 years, so that it matured in 2017 and the premium increased to around £45 per month.

A fact find was completed around the time the policy was converted to an endowment. This recorded that Mr R was aged 39, married with three dependents. He had some savings in cash and some life policies. He had a preference for low risk arrangements. It says he had a need for savings towards producing a lump sum when he reached age 60. To meet this need, it was recommended he convert his Prudential whole of life policy to an endowment.

Mr R says he was told he would receive a value of £120,000 to £125,000 when the policy matured. The policy matured in December 2017. The maturity value paid to Mr R was around £39,500.

Mr R raised a complaint as the amount he received was much less than he was assured he would receive. He was particularly unhappy with how little the policy had increased over the later years.

Prudential didn't uphold Mr R's complaint. It said the sum assured of the policy was the only amount guaranteed. It explained how bonuses were added to the policy – both annual and terminal bonuses. It also provided Mr R with a breakdown of the bonuses added to his policy each year. It explained that the very low interest rates in UK over a number of years had meant investment returns had also been very low. It also said the estimated values quoted to Mr R were based on assumed rates of investment return over the full term. And, in order for the estimated value to be met, the with-profits fund had to grow at the sustained growth rates quoted but unfortunately, this wasn't the case over the full term of Mr R's policy.

As Mr R was unhappy with the explanation he received from Prudential, he referred his complaint to this service. One of our investigators looked into the complaint - he didn't uphold it. In summary, he said he thought the recommendation to convert the policy to an endowment was suitable. He also didn't find that Prudential had given Mr R a guaranteed pay out or had administered the policy incorrectly – including how it added bonuses to the policy.

Mr R remained unhappy with the outcome of his complaint. He said Prudential had provided information about the growth of the with profits fund over a number of years and this didn't reflect the information it has given about the growth of his policy. He also provided quotes from 1991 when he was considering changing the policy. He said the figures in this document support the level of returns that were described by Prudential salesmen in 1996. It was based on these promises that led him to eventually converting the policy. As no agreement could be reached, the complaint has been passed to me to reach a 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.

I've carefully read all of the information Mr R and Prudential have sent us. It's clear Mr R is disappointed with the returns he's received on his investment and I do appreciate this. He's asked some far-reaching questions about the investment performance and the growth of the with profits fund. As an ombudsman at an informal dispute resolution service, my role here is to reach a fair and reasonable conclusion about how this complaint should be resolved rather than cover the full scope of Mr R's questions.

The first thing I've considered is the suitability of the policy when it was converted to an endowment policy in late 1996. I've looked at Mr R's circumstances and needs at the time. As explained above, the fact find completed records that Mr R had a need for savings towards producing a lump sum when he reached age 60 and he had a preference for low risk arrangements.

I'm satisfied the conversion of his policy to an endowment met those needs. The term was set in line with his retirement age and would provide a lump sum at maturity or earlier in the unfortunate event of death. The policy remained invested in a with profits fund. The level of risk presented by the new policy is in line with what I know of his circumstances and the information recorded about his attitude to risk in the fact find. So based on this I think the recommendation to convert was suitable.

Mr R feels strongly that he was provided with assurances about how well the policy would perform and the size of the lump sum he would receive at maturity. I appreciate the adviser is likely to have spoken about the policy in very positive terms. But, that isn't the same as giving a binding guarantee. Mr R's was only guaranteed to receive the basic sum assured, in this case £6,000, plus the annual bonuses that had been added to the policy at the time of conversion with anything more dependent on non-guaranteed bonuses. I haven't seen anything to suggest Mr R was given a binding guarantee.

Prudential haven't been able to provide copies of the illustration that would have been given to Mr R when he was advised to convert the policy. But Mr R has provided copies of illustrations from a few years before (dated from 1991) the policy was converted. He was considering converting the policy at this time but chose not to at this time. He believes that these illustrations support that he was given assurances about the likely pay out from the policy if he converted.

I've reviewed these illustrations. They do illustrate different terms to the one that Mr R eventually chose but they provide an indication of the type of information he would have likely seen in 1996. They present potential growth for policy at two different rates (7% and 10.5%), with the higher rate growth showing over £100,000 projected at maturity. But there is also a warning that the figures don't represent the upper or lower amounts of what the policy might produce and the final value will be dependent on the future bonuses added to the policy. So I don't think this supports that a binding guarantee was given to Mr R about the maturity value. As mentioned above, I do appreciate the advisor may have spoken in positive terms about the potential maturity value but this doesn't amount to a binding guarantee.

I think it would be useful to explain how the addition of bonuses affect the maturity value of this type of policy. As Mr R is aware, his policy can attract two types of bonus - annual bonuses and a terminal bonus. His policy benefitted from the addition of relatively high annual bonuses in the early years. Once annual bonuses are added they are guaranteed but the terminal bonus isn't guaranteed until its paid. Each year Prudential will take into account such issues as the bonuses already declared, any benefits that have to be paid under policies, previous investment returns and what returns may be possible in future before deciding the level of bonus to be applied. Unfortunately for Mr R the returns for such policies have been much lower than when he first took out his policy and comparatively less since he converted the policy. This has led to a reduction in the annual bonuses applied and the terminal bonus rates. Future bonuses levels were never guaranteed and there was no absolute requirement to pay any level of bonus.

I've reviewed the points Mr R has made about the literature he was sent about the performance of the with profits fund. Mr R has questioned why the information provided about the fund performance isn't in line with the growth in value of his policy. The fact that there may have been a positive return on the with profits fund in a particular period doesn't mean there will be a bonus paid or an equal uplift in bonus. This is because there are many factors to consider, not only investment returns. Bonuses are indirectly linked to the performance of with profits assets but it is also as much a matter of judgement as to what is the right share to apportion to each policy bearing in mind Prudential is taking into account a variety of factors to make sure that existing bonuses and other benefits can be supported in the future. It is by no means certain what returns will be. This can be a difficult balance. So, the bonuses can be very different in comparison with some earlier level, regardless of the intervening with profits fund performance.

Prudential does have a wide discretion in terms of the bonus rates it applies. I don't think the lack of bonuses it has applied to the policy is unfair or incorrect. Similarly (for the reasons described above), I don't agree that where bonuses rates applied are lower than the annual growth of the fund means something must be wrong. I do appreciate why Mr R has raised these concerns and it is very unfortunate that bonuses have fallen so much compared to the early years. But all of this isn't in itself evidence of mismanagement or Prudential necessarily acting incorrectly.

In conclusion, I do appreciate that Mr R is disappointed with the overall performance of his policy but for the reasons explained, I don't think this is because it was mis-sold or that the investment has been mismanaged by Prudential.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 26 December 2019..

Daniel Little
Ombudsman