

complaint

Mr and Mrs A complain to The Prudential Assurance Company Limited about the advice they received in 1993 to start a mortgage endowment policy to cover and repay their mortgage loan.

Mr and Mrs A say the policy was unsuitable and they were not prepared to take the degree of risk it presented. They were not told about the risks and would have started a repayment mortgage had they known the true position. They are represented in this complaint by a claims management company (CMC).

background

Prudential did not uphold the complaint and it was referred to this service where it was considered by an adjudicator. She did not think the policy was unsuitable and so she did not feel the complaint should be upheld. The CMC did not agree, it reiterated that the policy did carry risk which Mr and Mrs A were not prepared to take. They were not warned of the risks and would have started a repayment mortgage instead. Although they had another endowment policy this does not mean they were experienced or knew of the risks.

The complaint has been referred to me for a final decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have reached the same conclusion as the adjudicator and for essentially the same reasons. I do not uphold this complaint.

Mr and Mrs A started this policy in 1993 and their premiums were invested in a with-profits fund. At the time a policy like this would have been considered to be a relatively secure method of repaying a mortgage loan and although there was a degree of risk it would have been thought suitable for many consumers although not for those who were unwilling to accept any risk at all. With-profits policies had been performing well for many years often maturing at values in excess of their targets and it was widely anticipated that this would continue. Unfortunately investment and economic conditions have not been as good as was expected and many consumers have had to address actual or potential shortfalls. This is true of many policies with many different providers, not just Prudential.

I note that Mr and Mrs A say they were not prepared to take any risk but I must base my assessment on all the available evidence and without using hindsight. My role is to decide whether Mr and Mrs A were likely to have been in a position to take the level of risk presented by the policy, taking into account their circumstances at the time of the sale. That is the approach that we usually take in cases such as this one where the policy was sold many years ago. We take this approach because we cannot be sure of exactly what was discussed at the time of the sale between the consumers and the adviser, or how the consumers viewed their attitudes to risk.

Looking at Mr and Mrs A's circumstances I think that they probably were in a position to take a degree of risk with the repayment of their mortgage and I do not think the policy was unsuitable. They were both in their thirties and had three children. The policy would mature before their normal retirement ages (although I accept, only shortly before Mr A's) and the income to borrowing ratio was within most lenders guidelines. They were not first time buyers and had some experience of endowment mortgages, although I accept that this is not a strong indicator in itself that they knew of the risks, as it is possible that the advice to start that earlier policy was defective as the CMC suggests.

But here the point of sale documents record that the issue of risk was discussed and an illustration was provided which demonstrated that the policy was not guaranteed and may fall short. Whilst Mr and Mrs A may not have had any above average knowledge or experience of investment, given their professions I think it could be expected that they would have considered the sale documents which would have shown that there was *some* risk with this policy and that it was not guaranteed.

Overall, I think it was likely that Mr and Mrs A knew or ought to have known that there was some risk with the policy and I do not consider that it was "too risky" or unsuitable given their needs and circumstances at the time.

my final decision

I do not uphold this complaint.

Keith Taylor
ombudsman