

complaint

Mr and Mrs J complain about the way the Prudential Assurance Company Limited has dealt with them and their mortgage endowment policy. They say the policy was mis-sold, that it has been mismanaged and that there were delays in paying out when the policy matured.

background

The business rejected the first two parts of Mr and Mrs J's complaint. It seems the policy was not sold by this business. I understand a complaint about the sale was made through the Financial Services Compensation Scheme and a payment was received by Mr and Mrs J. In any event that is not something I can look at here.

As regards the last part of the complaint the business accepted it could have dealt with things more quickly and made an offer to Mr and Mrs J. The offer covered extra interest paid by Mr and Mrs J because of delays by the business and a modest amount for the trouble caused.

Mr and Mrs J remained unhappy and brought their complaints here. The adjudicator agreed that the sale was not the responsibility of the business. She also thought the offer made for the delays was fair and no less than we would award.

The remaining issue was the complaint that the policy has performed badly because of mismanagement. The adjudicator thought as did the business that there was no evidence of that. She thought the poor performance in terms of reaching the policy's target value was the result of a number of factors including market movements.

Mr and Mrs J did not comment further on the adjudicator's view of two parts of their complaint but responded about the mismanagement complaint. They said, in effect, the business had not demonstrated that their policy's value was correct or that market forces could explain the low maturity value. They asked for an ombudsman's decision. I have been asked to look at the complaint.

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 that I have to say to Mr and Mrs J that I do not uphold the complaint about performance. I know this will disappoint them.

We are set up to look at individual complaints. Much of what Mr and Mrs J say about performance and the way businesses conduct themselves relates to wider issues and other types of organisation such as the banks. I should make it clear this business *is* accountable and responsible for this product and dealing with the complaint. If it was upheld the business would be responsible for paying compensation. It has not avoided responsibility.

To uphold a complaint I will usually need to be able to make a finding that a business has got something wrong. Being unhappy with performance is not enough. The way businesses work is a matter for the regulator not ourselves. At its simplest, what the business has to do is to follow the terms and conditions of the contract entered into, the law and the regulator's guidance.

Many of the products provided by this and many other similar businesses have performed less well than hoped in recent years. It is most certainly not just a problem of this product or this business. The reasons for that are complex. However a significant factor is indeed market performance.

It has not been in the interest of the business or its managers to perform badly. I suspect this fund will have performed better than some but less well than others. That is only to be expected. These funds in particular are exceptionally complex and difficult to understand. Again this does not just apply to this business but across the industry as a whole and has been publically commented on very widely over many years.

The way the business and its funds are operated are subject to a number of controls and "checks and balances". Managers, actuaries, internal and external audit and the framework set by the regulator and the law all play a part in increasing the likelihood of the funds being properly managed (in the sense of avoiding mistakes and ensuring values are correct).

I can see perfectly well what Mr and Mrs J are saying and how it seems wrong that when markets recover the fund value does not. In itself that is due to the very complex way in which these funds are operated. The business has been asked to check the value of the policy, has done that and responded that it is right. Unless there is some evidence of a mistake or error (and I have seen none) it is far more likely than not that the business is right in what it says.

As regards the performance of the fund that is not something I will usually look at. A very large number of commercial and actuarial decisions have been made about this fund over a long period of time. To establish positive mismanagement requires the kind of evidence that I simply have not seen.

I see there was an exchange and a complaint in 2000 about this policy. This exchange suggests that Mr and Mrs J were fully aware of what was happening and how the policy worked then. They complained and received redress for the mis-sale. That redress should have put them in the position they would have been in had they taken out a repayment mortgage from the start.

I understand Mr and Mrs J are in a very difficult situation and could not convert to paying their mortgage on a repayment basis at the time. That however is not something for which I can hold the business responsible. I am not suggesting this is entirely satisfactory but I cannot see how it is something for which the business should pay redress.

The fact is Mr and Mrs J had an unsuitable investment product which has performed less well than hoped. They have complained and received redress for being wrongly sold the product. I accept that redress has not been enough to enable them to fully resolve the situation they are in. However I cannot hold this business responsible for that.

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 J to accept or reject my decision before 24 October 2016.

Mike Boyall
ombudsman