

complaint

Mrs and Mr F complaint about the sale of an 11 year mortgage endowment policy in 1992. The Prudential Assurance Company Limited is responsible for the sale. Mrs and Mr F say they were promised that the policy would mature for its target value (£5000) at least but there was a shortfall.

background

The business rejected the complaint. It said it had limited information from so long ago. It also said that policies like the one sold here were thought suitable for most at the time of the sale. It could see nothing to suggest there had been a mis-sale. Mrs and Mr F have also queried whether a fact-find was completed or an assessment of their attitudes to risk was carried out at the time of the sale. The business explained that it couldn't find any record of the fact find or any assessment of attitudes to risk from so long ago.

Unhappy with that Mrs and Mr F came to us. One of our adjudicators looked at the file. She said that she agreed with the business. She could see nothing in the circumstances of Mrs and Mr F to suggest the policy had been mis-sold.

Mrs and Mr F were unable to agree and asked for an ombudsman's decision. I have been asked to look at the file. Mrs and Mr F said:

- they had documentation giving an expected rate of return of 8%
- they couldn't believe that the business had no more records. They thought the business was being selective in what it produced.
- the business had difficulties in tracing what had happened.
- they think the lender received commission for making the sale.

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 don't uphold this complaint. I know this will disappoint Mrs and Mr F.

I can't use hindsight in making a decision. I must "test" a sale against what was known and expected at the time of the sale. Of course from 1992 any evidence will be old, probably incomplete and possibly contradictory. It is surprising *any* evidence survives from the time. Businesses were required only to keep records for six years.

In fact more recently businesses have been required to make sure they do *not* keep records any longer than they need to. I see nothing unusual in what the business has produced. Files and records help to support and explain a sale. However they are a "means to an end" not an end in themselves. It is perfectly possible for a complaint to be upheld both where there are good files and where nothing survives from the sale.

Policies like this were considered safe at the time of the sale. They were performing very well and I am sure expected to reach the target value of the policy plus a tax free surplus at the time. As the adjudicator said Mrs and Mr F's circumstances appear to be a reasonable fit for this low risk policy. Mrs and Mr F were in what at the time would have been considered secure jobs. The borrowing was within normal limits.

The policy was due to mature when Mrs and Mr F were some way off normal retirement dates. There is nothing to suggest they were clearly unable to take what would have been a low (some would have said very low) level of risk.

I think it is very likely the lender did get commission for the sale or some other kind of incentive. That was a recognised approach which was not against any rules at the time.

my final decision

I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs and Mr F to accept or reject my decision before 26 March 2018.

Mike Boyall
ombudsman