

complaint

Mr and Mrs H complain about what they say is the mis-sale of a mortgage endowment policy in 1993 for which the Prudential Assurance Company Limited is responsible. They say they were told the policy was low risk and would mature with a surplus. They are now faced with a significant shortfall.

background

Mr and Mrs H complained to the business which didn't uphold their complaint. Initially it also said the complaint had been brought too late under the rules which apply. Mr and Mrs H then came to us. One of our adjudicators disagreed with the business. He thought the complaint wasn't time barred..

He thought the time bar rules didn't apply because there was doubt over whether Mr and Mrs H actually received the necessary letters. The business disagreed and asked for an ombudsman's decision. I issued that decision saying I thought the complaint was one we could consider. To put it another way I decided that the time bar shouldn't apply to Mr and Mrs H's complaint.

An adjudicator then looked at whether the complaint should be upheld or not. The adjudicator didn't think the complaint should be upheld because she thought the policy was not obviously miss-sold.

She explained (in summary) that in 1993 when this policy was sold it was considered low risk. Mr and Mrs H seem to have known that. The policy was thought to be suitable for most. It was expected to mature with a significant tax free surplus. All that seems to have been explained to Mr and Mrs H because they say they were told the policy was low risk.

The adjudicator then looked at Mr and Mrs H's situation overall. She thought there was nothing to suggest that the policy was unsuitable at the time. Although Mr and Mrs H were young and had little experience of financial matters they seemed to have understood there was a risk with this policy. Mrs H had a pension and some shares. The policy would mature long before either Mr or Mrs H were likely to retire. Overall she thought these were not the circumstances of consumers for whom this policy was clearly "wrong".

Mr and Mrs H didn't accept what the adjudicator said and have 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 so I don't uphold this complaint. I know this will disappoint Mr and Mrs H. I am sorry we couldn't help them as they wish.

However I can't use hindsight in making a decision. One of the difficult things about complaints like this is that they relate to things which happened a very long time ago (25 years or so). That means any evidence will be old, possibly some will be missing and even

contradictory. I have to try and “test” the sale against what was known and expected at the time, not now.

The fact that as things have turned out, policies are falling short of target is not something which would have been thought likely in 1993. There would have been thought a low risk of that happening.

Mr and Mrs H’s circumstances from the time don’t suggest to me the policy was obviously a “bad” sale. All I can look at it whether, looked at nearly 25 years after the event, the sale was wrong and that even after so long it would be fair to order the business to pay compensation.

my final decision

I don’t uphold this complaint. Under the rules of the Financial Ombudsman Service, I’m required to ask Mr and Mrs H to accept or reject my decision before 31 August 2017.

Mike Boyall
ombudsman