Financial Ombudsman Service

consumer factsheet on ...

mortgage endowment complaints

This factsheet gives general information about mortgage endowment complaints. It is aimed primarily at consumers who think they may have a complaint about a mis-sold mortgage endowment policy.

what are the problems with mortgage endowment policies?

Some endowment policies taken out with mortgages in the 1980s and 1990s are not expected to pay out the amounts originally estimated. Your endowment company should have sent you a "re-projection letter" – telling you whether your endowment policy is on track to pay off your mortgage loan.

If you get a letter warning you that there may be a "shortfall" (meaning that your endowment policy may not grow enough to pay off your loan at the end of your mortgage) don't cash in your policy, or stop your monthly payments, without taking advice.

There are a number of ways you can deal with the predicted "shortfall". Look at the information published on the Money Advice Service's website at www.moneyadviceservice.org.uk – or phone 0300 500 5000. They can explain how to decide if you need to take action – and what action you can take.

what if I want to complain?

There is no automatic compensation just because you may be disappointed with how your endowment policy is currently performing. Endowments are linked to long-term investments – which can go down as well as up.

But you might decide to take action by complaining about the advice you were given about the endowment in the first place.

how do I complain about my mortgage endowment?

There's a simple two-stage process:

stage one

Complain first to the business that sold you the endowment policy and give them the chance to put things right. If you are not sure who to complain to, get in touch with us on **0300 123 9 123**.

stage two

If the business hasn't resolved your complaint within eight weeks – or if you're unhappy with their decision on your complaint – contact us to see if we can help. We will explain any particular rules or restrictions that may apply in your own individual case. You will need to fill in and sign our complaint form. You will also need to fill in our special mortgage endowment questionnaire. You can print these forms off our website – or call our helpline on **0300 123 9 123**.

when does the ombudsman service get involved?

In many cases, the business will be able to settle the complaint itself – without the need for us to get involved. The business should investigate your complaint and send you its "final response". This should set out its conclusion – including whether it accepts that it should pay you compensation – and explain the reasons for its decision.

You can come to us if you are dissatisfied with the business's final response – or if the business has had at least eight weeks but has still not sent you its final response.

do I need to complete your mortgage endowment questionnaire as well as the complaint form?

Yes, you will need to complete our complaint form and our mortgage endowment questionnaire.

Our complaint form is the standard form that everyone has to fill in, to bring a complaint to the ombudsman. It gives us the basic information we need.

But for mortgage endowment complaints we need more details. For example, we need to know about your current and previous mortgage arrangements, the endowment policy, and your other savings and investments. Our mortgage endowment questionnaire helps collect all these details from you in one go – so hopefully we won't have to keep asking you questions later on.

In some cases, the financial business you are complaining about may already have asked you to complete a form that might look similar to our mortgage endowment questionnaire. But you will still need to fill in our special questionnaire.

is there a deadline for making a complaint?

Yes. There are strict time-limit rules for complaining about mortgage endowments. Financial businesses must give customers a clear “final date” for making a complaint. Once this final date has passed, you will be too late to complain – either to the firm or to the ombudsman service – because your complaint will be “time-barred”.

do I need to employ someone to handle my complaint for me?

No. Financial businesses have to handle mortgage endowment complaints according to guidelines set out by the financial services regulator. So you should not need any special help or support if you complain.

The ombudsman service is a free and informal way of getting disputes resolved, if you are unhappy with how a business has handled your complaint. We decide if a complaint is valid by looking at the facts of the case – and we prefer to hear from you in your own words.

Experience shows that there is no difference in the outcome – whether consumers bring their complaints direct to us themselves, or whether they use a claims-management company (sometimes called a “no win, no fee” agency) to bring the complaint on their behalf.

If you decide to employ someone to handle your complaint for you – you'll have to pay their costs yourself. This could mean you paying them part of any compensation you have been awarded.

Since April 2007, claims-management companies have been required by law to be authorised by the Ministry of Justice. Before you deal with any business offering to handle a complaint on your behalf, you should check on the official website at www.claimsregulation.gov.uk/search.aspx that the business is authorised.

how long will the ombudsman service take?

This may depend on whether you and the business both agree, at an early stage, to any recommendation or informal settlement that we might suggest – or whether either of you request the next, more formal stage of our process, involving a formal review and final decision by an ombudsman.

We are still receiving a significant number of complaints about mortgage endowments. On average it takes six to nine months to resolve a complaint – but it may take longer if there are particularly complex or unusual issues involved. We will keep you informed about progress on your case, so you know what is happening with your complaint.

We will give priority to cases where the consumer might clearly be disadvantaged by having to wait – for example, through financial hardship or for medical reasons. Please let us know if you think this should apply in your case.

what do we look at?

What matters is what happened when the endowment policy was taken out – not how the policy has performed since then. Just because a future "shortfall" is predicted at the moment doesn't necessarily mean the policy was "mis-sold".

Much will depend on the particular circumstances of your own case – and whether you took out the policy before or after special rules came into force in 1988.

Before reaching our decision, we will look carefully at the points you and the business have made – and at any written material the business gave you at the time you took out the policy.

what compensation might be due?

If you have a valid complaint, you may be due compensation. The financial services regulator has set out how this should be calculated. (The regulatory guidance is sometimes referred to as "RU89".) If the business has already offered you compensation in accordance with the regulator's guidance – as businesses usually do, if they agree a complaint is valid – then it is unlikely that we will require the business to pay more.

If you had not taken out an endowment mortgage, you would probably have had a repayment mortgage instead. So compensation is based on how much worse off you are now than if you had originally taken out a repayment mortgage. This means that the amount of compensation is not the same as any future "shortfall" that is now being predicted.

how is compensation calculated?

Calculating any compensation involves comparing the interest and premiums you have actually paid on your endowment mortgage with the interest and capital repayments you would have paid on an equivalent repayment mortgage.

The calculation also compares the current "surrender value" of your endowment policy (the amount you would get if you cashed it in) with the amount of capital you would have paid off by now with a repayment mortgage.

No compensation is due if you are not worse off – for example, if your endowment policy has grown in value and is now worth more than the capital you would have paid off an equivalent repayment mortgage.

what about the "shortfall"?

If your complaint is upheld, it means you should never have been sold the endowment policy at all. So the compensation is based on what your position would now be, if you had not been sold the endowment policy – and had taken out a repayment mortgage instead. Compensation is not based on what you
expected the endowment policy to be worth.

Although some consumers say that the business should meet any predicted "shortfall" – or that it should guarantee their policy will pay off the mortgage (often with a lump sum on top) – we hardly ever agree with this. When these policies were sold, consumers were usually given written information by the business explaining there was no guarantee that the policy would grow enough to pay off the loan.

if compensation is paid, what happens to the endowment?

Any compensation will almost certainly take into account the current "surrender value" of your endowment policy – on the basis that you should originally have been advised to take out a repayment mortgage, not an endowment mortgage.

But it is up to you whether you now want to swap to a repayment mortgage. You may wish to seek independent advice about this. We are not allowed to advise you what to do.

If you decide to keep the endowment policy, you do so knowing the risks. So you can't come back and claim extra compensation if the policy does even worse than you currently expect.

examples

Here are some examples of mortgage endowment complaints we have dealt with. Your own particular circumstances may be different. And the approach we take can differ, according to the individual facts of each complaint. But these examples may help you decide whether you want to take your complaint further – or if any offer already made by the business is reasonable.

case study A

Mr and Mrs A complained about the endowment policy the business had sold them in 1992, when they were both in their early 20s. They had since learned there was likely to be a shortfall of around £9,000 on the policy by 2017, when their mortgage was due to be paid off. They said the policy had been unsuitable for them because they had not wanted to take any risk at all with their home.

The business couldn't produce any paperwork from the time it sold the policy. But it said it had explained the risk associated with an endowment policy and the couple had been prepared to accept it.

We decided the policy was too high-risk an investment for Mr and Mrs A. They were cautious people, with no previous investment experience. So we told the business to pay them £2,940 compensation. This was the difference between their current financial position and the position they would have been in, if they had taken out a 25-year repayment mortgage back in 1992.

case study B

Mr and Mrs B said that when the business sold them a mortgage endowment policy, its representative had not made it clear that the policy was not guaranteed to pay off the loan. And he had not told them that the amount it would pay out depended on the stock market. The business said the couple were experienced investors who had been fully aware of what they had signed up for, and had been happy to accept the level of risk involved.

This was Mr and Mrs B's second endowment, and they had other investments. At the time of the sale they had told the business's representative that they were prepared to take medium-to-high risks with investments.

We decided that the sale of the mortgage endowment policy had been suitable for the couple, and we did not award them any compensation.

case study C

Mr and Mrs C complained when they found out that their endowment policy would not mature until four years after they were due to retire – and might not produce enough to repay the mortgage. They were worried that they would not be able to afford the mortgage after they retired.

The business was unable to produce any evidence to show that its representative had established the level of risk that Mr and Mrs C were prepared to accept. And it was unable to show that, before their representative sold the policy, he had discussed with them whether they would still be able to afford the policy after they retired.

We decided it was unlikely that Mr and Mrs C would have accepted the risk associated with an endowment policy, if it had been made clear to them. We also thought they would have been able to afford a mortgage spread over a shorter term, and they could have paid that off before they retired. We told the business to pay Mr and Mrs C compensation on the basis that it should have sold them a repayment mortgage spread over 21 years, rather than a 25-year mortgage endowment policy.

phone **0300 123 9 123**
8am to 8pm, Monday to Friday
9am to 1pm, Saturday
www.financial-ombudsman.org.uk

This factsheet for consumers is only a general guide. It is not legal advice. We look at each case on its own individual facts and merits. We will always give you the chance to query anything you don't understand or agree with.