DRN-4517618

Financial Ombudsman Service

The complaint

Mr C complains that The National Farmers' Union Mutual Insurance Society Limited ("NFU") failed to provide him with accurate information about the steps he would need to take in order to access his pension benefits using a flexible drawdown arrangement.

What happened

Mr C held pension savings with NFU. His savings were held across five different pension plans that had been started from 1980 onwards. Two of the plans offered Mr C a guaranteed annuity rate and do not form part of this complaint. The remaining three plans offered Mr C a guaranteed minimum level of income if he took his pension benefits as an annuity. But NFU also offered the opportunity to take the benefits from those plans as an equivalent fund value calculated as the cost of purchasing the guaranteed income annuity. So the value of that fund altered in line with changes to annuity rates.

Mr C turned 75 in December 2022. He was aware that he would need to make decisions about taking his pension benefits before that date, otherwise NFU would apply its default option and purchase annuities in line with the terms of the plans. So, in January 2022, Mr C started to discuss his circumstances with NFU.

In the initial meeting Mr C indicated that he thought it unlikely he would want to take his pension benefits in the form of an annuity. NFU explained to Mr C that, because his plans held guarantees, and were valued at more than £30,000, he would need to take financial advice before proceeding. But Mr C says it explained that, if he intended to keep the pension savings with NFU, he could take advice from the firm at a cost of approximately £300.

Mr C says that the conversations he'd had with NFU had made him think that transferring his benefits to a flexible plan with NFU before his 75th birthday in December 2022 would be relatively straightforward. So he didn't get back in touch with NFU until June 2022. By that time the advisor he'd initially spoken to had left NFU so it was arranged for a new advisor to take over Mr C's enquiries. Mr C spoke with that advisor in late August 2022. NFU accepts that Mr C was given some incorrect information at that time – that he wouldn't need to take advice if he transferred his pension benefits at the selected retirement age.

NFU says the incorrect information given to Mr C was corrected around a week later. And I understand that Mr C then started the process of engaging a financial advisor to assist him with his retirement plans. Mr C complained to NFU about the incorrect information he'd been given, and later accepted compensation of £100 for the inconvenience he'd been caused.

Mr C's financial advisor got in touch with NFU in November 2022. It later confirmed that Mr C had decided to transfer his pension benefits to a self-invested personal pension plan that he held with another firm. But when the transfers were due to complete, in early 2023, NFU told Mr C that the transfer value of his pension savings had fallen due to changes in the underlying annuity rates. At that time Mr C paused the transfer of his pension savings and complained to NFU that the incorrect information he'd previously given had caused a delay to the transfer and so resulted in the fall in its value. I understand that Mr C has now completed the transfer of his pension savings to the new provider.

Mr C's complaint has been assessed by one of our investigators. She didn't agree that any falls in the value of Mr C's pension savings were as a result of the incorrect information that NFU had given to him. But she thought the compensation Mr C had been paid for his inconvenience was insufficient. So she asked NFU to pay a further £100 to Mr C.

NFU accepted the investigator's recommendations. But Mr C disagreed with what she'd said. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr C and by NFU. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

I think it would first be helpful for me to set out my understanding of how NFU calculated the transfer value that applied to Mr C's pension savings. The three plans that are the subject of this complaint offered Mr C a guaranteed income amount at retirement. So unlike a defined contribution arrangement, that simply builds up a pot of pension savings that can be used by the consumer, Mr C's contributions were used to buy a guaranteed amount of income for his retirement.

When the plans were originally sold, the overwhelming majority of consumers used their pension savings at retirement to purchase an annuity. So the nature of the guarantees on Mr C's plan were a good fit for that approach. But, more recently, changes in pension legislation have opened the opportunity for consumers to use their pension savings in a more flexible manner – maintaining them as a lump sum invested to provide a flexible income when required during a consumer's retirement. So, in order to allow Mr C's pension benefits to be used in that way, NFU in line with many other providers calculated an equivalent value for the benefits that were due to him.

NFU calculated the equivalent value by reference to the current cost of purchasing an annuity equal in value to the benefits that were guaranteed to Mr C. So, rather than reflecting changes in the value of any underlying investments, the transfer value of Mr C's pension savings reflected changes in the underlying annuity rates. As annuity rates rose, the cost of purchasing the guaranteed annuity would fall. And that fall would be reflected in changes to the transfer value of Mr C's pension savings. In 2022, NFU says that its annuity rates increased four times - in January, May, July, and November.

But only one of those annuity rate increases resulted in a fall in the value of Mr C's pension transfer value. Other factors also affect the transfer value such as the age of the policyholder and their life expectancy, and any terminal bonusses that might be added to the pension plans. So I think it would have been far from clear to Mr C, at any time during 2022, when the most beneficial time to transfer his pension benefits would have been. That is only something we can see now with the application of hindsight.

There seems to be little dispute that NFU didn't always deal with Mr C's enquiries as effectively as it might have hoped. Pension legislation required Mr C to take regulated advice to transfer his pension benefits since they provided a guaranteed income and were valued at more than £30,000. And that advice would be required whether Mr C transferred his pension savings to another product provided by NFU, or to another provider. I share Mr C's concerns that the requirement to take advice was not made sufficiently clear to him by NFU.

But I don't share Mr C's conclusion that the poor information he received directly resulted in him not transferring his pension benefits until early 2023, and so their value being affected by changes in the underlying annuity rates.

As I've said earlier, some of the changes in value caused by Mr C delaying taking his pension benefits would have been positive. He first started talking with NFU in January 2022. So that was almost a year before he reached age 75. I don't think it would be unlikely that he might have concluded, or been advised, that delaying taking his benefits until his 75th birthday might see an increase in the guaranteed income to which he was entitled.

I have no way of knowing what Mr C might have done had he received more complete information from NFU at the outset. I am mindful that, quite rightly, Mr C took his time to ensure that he fully understood the decision he was making. But that doesn't help me in assessing what might have happened. I cannot, with any degree of confidence, conclude that Mr C would have immediately engaged a financial advisor and their advice would have been to start the transfer process well in advance of his 75th birthday. I think it at least as likely, particularly given Mr C appears to have had no pressing need for these funds, that any advice might have been to wait until later in the year.

Mr C's pension savings have now been transferred to a new provider. And although that transfer didn't take place until early 2023, NFU applied the annuity rates that were in force when Mr C turned 75 in December 2022. That meant he didn't lose out as a result of further increases in the annuity rate in early 2023. So on balance I don't think I can reasonably conclude that the transfer value Mr C was paid was materially different to what he might have received if the earlier information he received from NFU about the need to take advice had been more clear.

I share our investigator's conclusions that the payment NFU has already made to Mr C for the inconvenience he has been caused was insufficient. But, given I am satisfied that it would be unreasonable to conclude that Mr C would have transferred his benefits earlier had nothing gone wrong, I don't share Mr C's conclusion that a far higher payment would be warranted. So I agree with the investigator that NFU should pay a further sum of £100 (making a total payment of £200) to Mr C for his inconvenience.

I appreciate that my decision will be disappointing for Mr C. It is clear, with the benefit of hindsight, that him transferring his pension savings between July and November 2022 would have resulted in the highest transfer value. But I think that conclusion can only be reached now, and wouldn't have been apparent at the time. I'm not persuaded that there is sufficient evidence for me to conclude Mr C would have transferred his pension savings at that time had nothing gone wrong.

Putting things right

It seems to me that NFU initially failed to provide Mr C with sufficient, and accurate, information about the need to take regulated advice before transferring his pension benefits. So NFU should pay a further sum of £100 (making a total payment of £200) to Mr C for his inconvenience.

My final decision

My final decision is that I uphold a part of Mr C's complaint and direct The National Farmers' Union Mutual Insurance Society Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 9 February 2024.

Paul Reilly
Ombudsman