

## **The complaint**

Mr W's representatives complain that Canada Life Limited didn't take account of his health conditions when they arranged an annuity for him. They also said that Canada Life didn't make clear to Mr W that he was able to shop around for a better deal with other providers under the 'open market option' (OMO).

Mr W's representatives would now like Canada Life to recompense him for the lost income they believe he would've been entitled to had they correctly highlighted his options at the time. For simplicity, I will refer to all submissions as being from Mr W.

## **What happened**

In August 2013, a representative from NatWest Bank sent a letter of authority to Canada Life, requesting an annuity illustration and the relevant OMO paperwork. Canada Life emailed the information to NatWest and also sent copies to Mr W. Two months later, additional annuity illustrations were requested from Canada Life, but this time, without the help of an adviser. Shortly after the request in October 2013, an application for a lifetime annuity, payable in advance (of £981.60 per annum), was submitted to Canada Life by Mr W.

After seeing a claim management company's advertisement in April 2023 about annuities, Mr W raised a complaint with Canada Life. In summary, he said that he was never advised that he was able to shop around under the OMO and, given the various health conditions that he had at the time, he should've been advised to explore an enhanced annuity which may have given him a higher annual income.

After reviewing Mr W's complaint, Canada Life concluded they were satisfied that they'd done nothing wrong. They also said, in summary, that as no advice had been provided to Mr W combined with the fact that they had provided detailed information to him ahead of him making a decision, setting out what his options were, they couldn't be held accountable for the decisions that he chose to make.

Mr W was unhappy with Canada Life's response, so he referred his complaint to this service. In summary, he repeated the same concern and that was Canada Life failed to put him in an informed position before he decided to proceed with the annuity with them.

The complaint was then considered by one of our Investigators. He concluded that Canada Life had treated Mr W fairly because from what he'd seen, there was sufficient evidence that Mr W was provided with information about the OMO and importantly, details of enhanced annuities.

Mr W disagreed with our Investigator's view and he said, in summary, that as he had multiple health conditions, it wasn't clear in his opinion from the documentation that he could be better off by shopping around.

Our Investigator was not persuaded to change his view as he didn't believe that Mr W had presented any new arguments he'd not already considered or responded to. Mr W then asked the Investigator to pass the case to an Ombudsman to review that outcome.

### **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.

I have summarised this complaint in less detail than Mr W has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts. Instead, I will focus on what I find to be the key issue here, which is whether the OMO was presented clearly to Mr W and whether Canada Life signposted the availability of enhanced annuities. And, having done so, I'm not upholding Mr W's complaint and I'll explain why below.

Before I go on to explain the reasons behind my decision, I will address Canada Life's view that Mr W's complaint should be time-barred because, they say, he has raised his concerns outside of the timescales allowed for this service to be able to look into his complaint.

I can't look at all of the complaints that are referred to me. The rules applying to this service say that I can't look at a complaint made more than six years after the event being complained about – or (if later) more than three years after the complainant was aware, or ought reasonably to have been aware, of their cause for complaint. Unless that is, the business being complained about agrees. This is Dispute Resolution rule 2.8.2R(2) – which can be found online in the Financial Conduct Authority's handbook. And in this case, Canada Life hasn't agreed to us considering Mr W's complaint.

Those rules are in place to protect both the consumer and the business. Mr W referred his complaint to this service in June 2023. So, it's clear that the complaint has been brought more than six years after the event that he is complaining about, which is the arrangement of the annuity in October 2013.

Even though Mr W complained more than six years after the event that he's now complaining about, this isn't the end of the matter. This is because the DISP rules can potentially provide Mr W with longer than six years to complain, as long as he complains within three years of when he was aware, or he ought reasonably to have been aware, that he had cause to. So, I've considered when Mr W was aware, or he ought reasonably to have been aware, that he had cause to complain.

I've thought carefully about whether there were any trigger events that should have helped Mr W realise that something may not be right with his annuity sooner, leading him to the point at which he ought to have known that he had cause for complaint. However, once the annuity was set up in October 2013, I can see no other points at which Mr W would need to either interact with Canada Life or have cause to question the 2013 transaction. So, it seems the point at which Mr W became aware that there might be a problem with his annuity was when he saw the CMC's advertisement in April 2023. And, as Mr W complained promptly thereafter, I find that his complaint has been submitted in time and can be considered by this service.

The main crux of Mr W's complaint is that he wasn't put in a fully informed position about what his options were prior to deciding to proceed with the annuity that he chose. He says that he wasn't told about the OMO, nor was it highlighted to him that someone with certain medical conditions (such as the ones he suffers from), might benefit from a higher income by shopping around for something called an enhanced annuity. I've looked very closely at the paperwork that Canada Life provided to Mr W ahead of him making the decision to purchase the annuity, and I can't agree with Mr W that he wasn't placed in an informed position.

Whilst it seems that Mr W initially sought financial advice from NatWest in August 2013 about his annuity options, it becomes clear shortly afterwards that he decided not to progress with their services because in October 2013, he dealt directly with Canada Life and there's no further evidence of the involvement of any other financial adviser.

As part of the pre-sales disclosure process, Canada Life provided Mr W with a leaflet that was created by the then regulator at the time, the Financial Services Authority (FSA). The leaflet was called *"No selling. No jargon. Just the facts about your pension – it's time to choose"*. The leaflet explained a number of important points; it set out that Mr W didn't have to convert his pension lump sum that he'd built up with Canada Life into an annuity with them – he could shop around as other providers might be able to give him a better income. In addition, it also explained that some consumers with certain medical conditions may also be entitled to a higher income through providers who offered enhanced or impaired life annuities. The leaflet then went on to signpost how Mr W could explore those options further by providing practical information on finding an independent financial adviser. Having considered the leaflet that Canada Life sent to Mr W, I think it's very clear that both the OMO and impaired life options were highlighted to him prior to him making a decision to commit his pension monies to the Canada Life annuity.

In addition to the FSA leaflet, Canada Life also sent Mr W a series of letters over the course of several months that also highlighted the OMO and enhanced annuities – those letters were issued prior to Mr W purchasing the annuity with Canada Life. In January 2013, Canada Life issued a letter to Mr W with the opening paragraph stating in bold text: *"By shopping around you may improve the income you get at retirement"*. On page two of the letter it states: *"Option 1 – Open Market Option – Shopping around. You do not have to buy your annuity from us. The Open Market Option (OMO) gives you the right to shop around and compare what we can provide against what other companies can. It is always worth checking as you may be able to get more from another company"*.

In the next section (Option 2), it states: *"Are you a smoker or do you have a medical condition? If so, you may be able to buy an annuity that pays more because of these factors. These are known as 'enhanced' annuities"*.

In June 2013, Mr W complained to Canada Life about being unable to take all of his pension fund as a lump sum. In their complaint resolution letter, Canada Life included the following paragraph: *"Remember, you do not have to buy an annuity from us. You should shop around to make sure you buy the right type of annuity for you"*.

In August 2013, Canada Life wrote to Mr W, setting out the options for his pension fund. Within the letter, it stated (in bold text): *"You do not have to buy an annuity from us, and you should shop around to make sure you buy the right type of annuity for you. The MAS booklet contains more information on how to collect different quotations from different annuity providers"*. The letter went on to state: *"Do you smoke? Are you on any medication or do you have a medical condition? – if so, you may be eligible for an enhanced annuity, which could pay you a higher level of income"*. The same letter then signposted the

government's independent website, [www.pensionsadvisoryservice.org.uk](http://www.pensionsadvisoryservice.org.uk), which could help Mr W determine which type of annuity was right for him.

As well as the letters that Canada Life sent to Mr W, they also provided him with a leaflet titled "*Your options available at retirement*". On page two under "*Option 4*", it highlighted the OMO and provided an explanation of what that could mean for Mr W. In bold text, it stated: "*We strongly recommend that you speak to your financial adviser before making a decision as the choice you make will affect your income*".

When Canada Life provided the annuity illustrations to Mr W, their letters referred him to the 'enclosed key features document'. Whilst a copy of that key features document was not provided by either Canada Life or Mr W to this service, I have found online a key features document (from the time) for the "Lifetime Annuity and Scheme Pension" plan that Mr W purchased. The document clearly states that the consumer does not have to purchase the annuity from Canada Life and can shop around. In addition, on page four of the key features document, it also covers enhanced annuities in detail, also explaining that if the consumer suffered from a range of different illnesses, they could benefit from a higher income. The document mentioned high blood pressure, which is also a condition that Mr W states he suffers from, in his complaint to this service.

So, I'm satisfied that Canada Life made Mr W aware on multiple occasions of the availability of the OMO, what that meant in practice, along with the fact that he may be able to secure a better income if he disclosed his medical conditions. In addition, whilst it appears that Mr W initially started the annuity purchase process through an adviser, he subsequently decided to buy the annuity himself without help from an IFA.

Canada Life isn't a financial adviser and as such, wasn't able to provide personalised advice to Mr W at the time. Their records demonstrate that they didn't direct Mr W to take a particular course of action over another. Canada Life's role was to provide enough information to Mr W to allow him to make an informed choice. Their literature made it adequately clear that there were annuity options that may have resulted in a higher income for him. I think the wording in Canada Life's letters was sufficient to have put Mr W on a path of discovery to at least explore other providers given the health conditions he explained he had at the time. Canada Life's letters also made it clear that he wasn't obligated to convert his pension with them into an annuity and he was able to shop around to get the best deal should he wish. In addition, Canada Life's literature also explained that if Mr W wasn't sure which option was best for him, he should contact a financial adviser for guidance but he chose not to. The onus was on Mr W to utilise the OMO and highlight his medical conditions, but again, he chose not to. So, I can't hold Canada Life accountable for Mr W's actions and as such, I'm therefore not upholding his complaint because I'm satisfied that he was placed in an informed position before he purchased the lifetime annuity.

### **My final decision**

I'm not upholding Mr W's complaint and as such, I do not require Canada Life Limited to take any action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 28 February 2024.

Simon Fox  
**Ombudsman**