DRN-4727357

The complaint

Mr R makes the following complaint points about ReAssure Limited (ReAssure):

- He feels that ReAssure failed to honour its standard annuity rate/Guaranteed Annuity Rate (GAR) arrangement. And that he's suffered a financial loss which ReAssure is responsible for.
- He's unhappy with ReAssure's decision to no longer offer annuities to its customers. He feels this decision put his GAR benefits at risk.
- He considers that ReAssure allowed payment to be made to the annuity providers without requiring financial advice.

Mr R has made a number of other complaint points about a business I'll refer to as business L. But I'll only consider his complaint against ReAssure in my decision.

What happened

In 1990 Mr R opened an S226 policy with a provider I'll refer to as provider N, with transfers from a previous employer. The policy was made up of four parts, two of which attracted a GAR at retirement, and two which didn't. The policy was later taken over by ReAssure. ReAssure is responsible for this complaint.

ReAssure responded to a complaint Mr R raised about customer service on 7 January 2014. It referred him to the Pensions Ombudsman if he was still unhappy. Mr R had wanted to know what lump sum and annuity he might be entitled to, but felt ReAssure hadn't provided him with enough information to allow him to decide how to progress with his retirement benefits.

In its complaint response, ReAssure explained how Mr R's With Profits investment worked. And provided him with the transfer value of his policy and the maximum tax-free lump sum available. It said that Mr R could purchase an annuity with it, or could transfer his funds to another provider using the Open Market Option (OMO). But that if he chose the OMO, the GAR would be lost.

ReAssure said that if Mr R took an annuity with it, it would honour the GAR, even if its standard annuity rate was worse. It said that if Mr R took an annuity with ReAssure he would receive at least the GAR.

On 10 January 2014, ReAssure sent Mr R retirement quotes. It also provided a breakdown of his total transfer value (£59,146.80) into the part that would be eligible for GAR (£28,676.70) and the part which wouldn't (£30,470.10).

Mr R wrote to ReAssure in April 2014 to inform it that he intended to take a 25% tax-free lump sum at some point between late April and June 2014, depending on when the latest budget proposals would be implemented. And then leave the balance invested.

I understand that Mr R took financial advice around this time. And on 25 April 2014, his financial adviser wrote to him that it didn't recommend that he released the 25% lump sum from his policy, as the GAR led to a high critical yield.

The adviser's letter said that if Mr R took his intended actions, he'd be: "*waiving your entitlement to a guaranteed pension of £4,657.36 per annum which is payable at retirement age 65*".

I understand that ReAssure stopped offering annuities to its customers in early 2015. It set up a referral agreement with a business L.

I understand that in late 2015, Mr R contacted ReAssure as he wanted to claim his retirement benefits.

ReAssure wrote to Mr R on 2 October 2015 to tell him that his pension pot was worth £68,964.20 on 24 September 2015. It also wrote to him on 5 October 2015 to tell him that his pot was worth £66,624.70 on 5 October 2015. It sent full encashment forms on the same day. ReAssure said that it would need these forms to be completed, as well as a "Confirmation of Financial Advice" form because of the GAR.

The letter provided a breakdown of the £66,624.70 value into the two parts of the policy that contained a GAR and the two that didn't. It said the parts that would be eligible for GAR were worth £32,308.50 and the parts which wouldn't be eligible were worth £34,316.20. The letter stated that the values could change before Mr R took his pension benefits.

ReAssure said that it called Mr R on 26 October 2015 to tell him that it would need his adviser to complete the relevant paperwork before it could process his payment request. This was because his policy attracted GAR and was over £30,000.

I understand that Mr R contacted business L on 27 October 2015 as he wanted to get the advice ReAssure had told him he needed. He told the adviser that he intended to take his entire pension fund as cash. The adviser told Mr R that this might not be tax efficient. And said that GAR plans had valuable guarantees. He said he'd get up to date information on the ReAssure policy so that he could then advise him.

Business L's adviser recommended that Mr R took a lifetime annuity from the two parts of his policy that attracted a GAR. And that he took the lump sum he required, including tax-free cash, from the non-GAR parts and then used the remainder to provide further annuity income.

ReAssure wrote to Mr R on 27 October 2015 to tell him that his pension pot was worth £67,129.70 on 27 October 2015. It also wrote to him on 20 November 2015 to tell him that the transfer value for his policy was £67,638.00, £32,780.20 of which contained GAR benefits, and £34,857.80 of which didn't.

On 30 November 2015, ReAssure noted that Mr R wasn't happy that it no longer provided annuities, as he wanted to take an annuity with it.

ReAssure said it received a request to transfer Mr R's pension to business L and another annuity provider I'll refer to as provider C on 15 December 2015, with instructions of how the value should be split.

On 8 December 2015, provider C issued an annuity quote for an annual pension of £2,174.18. ReAssure has provided this service with internal calculations which show that the annuity available to Mr R using his GAR funds on this date was £2,174.16. The calculations also show that the cost of providing this level of annuity would be £44,120.40. And that Mr R's GAR funds weren't big enough to cover this cost. So ReAssure would need to top up Mr R's fund by around £11,000 in order to buy the annuity it had guaranteed.

On 29 December 2015, provider C issued an updated quote to business L. It said that the annuity should be for £2,197.59.

I understand that annuity rates had worsened between the original quote and the date Mr R's annuity was set up. An updated annuity quote later stated that the same purchase price would buy an annual pension of £2,117.64.

On 3 January 2016, Mr R's new annuity provider – provider C - wrote to him to confirm the start of his annuity. It said that gross monthly payments of £176.47 would be payable from 8 February 2016. This meant that Mr R would receive annual payments of £2,117.64.

ReAssure said it released £44,120.40 to provider C on 5 January 2016. It also wrote to Mr R on 8 January 2016 to say that it had paid provider C £44,120.40 to purchase an annuity for him.

Provider C wrote to Mr R to tell him that a £1,323.61 adviser charge had been deducted from the £44,120.40. And that the remaining £42,796.79 had been used to buy an initial annual pension of £2,117.64.

On 1 February 2016, Mr R wrote to business L to say that ReAssure had transferred £44,120.40 to provider C on 8 January 2016. A further sum had been sent to a different provider in respect of the non-GAR benefits remaining. He said that although the initial adviser charge had been paid on 13 January 2016, he hadn't yet received his 25% tax-free lump sum of £19,704.10.

Mr R's adviser wrote to him on 10 May 2016 to say that he should be receiving £2,197.59 each year from provider C, rather than the £2,117.64 that he was receiving. He said he was working with ReAssure to resolve this.

Mr R then made a complaint to business L about his annuity being too low. He also made some further complaints to it about the advice it'd provided.

ReAssure said it received an additional instruction about the annuity shortfall in June 2016. And on 22 June 2016, it wrote to Mr R to confirm that it had paid an additional £3,465.52, with a liability date of 15 December 2015, to purchase a further annuity for him. This meant that Mr R was now receiving an annual amount of £2,197.59.

Business L told Mr R that it'd known that the correct amount for the annuity should be £2,197.59 each year since December 2015. But that as annuity rates had reduced between then and the date the annuity was set up, an annuity which was too low was mistakenly set up, and this hadn't been picked up at the time. The adviser said that he'd arranged for further funds from ReAssure so that Mr R could receive the correct annuity payment. He also confirmed that as the non-GAR parts of the policy didn't include a guaranteed element, Mr R had correctly received the market annuity rate on those funds, and that this was far lower than the GAR.

Mr R then complained to both ReAssure and business L about the advice he'd received. ReAssure told Mr R that business L was responsible for the advice complaint. Mr R brought that complaint to this service after business L had issued its final response. But our investigator felt that it had been brought too late for us to be able to consider its merits.

Mr R complained to ReAssure and business L again in December 2022. He felt that ReAssure was responsible for a shortfall in funding his annuity.

ReAssure issued its final response to the complaint on 26 January 2023. It felt it'd met its obligations under the policy and provided payment in line with instructions received.

Mr R wasn't happy with ReAssure's response. So he brought his complaint to this service. His said his main complaint was he felt that if ReAssure had already purchased an annuity of £2,174.16 for £43,600 from provider C, he wanted to know why it had gone on to pay provider C a further £44,120.40 for a lesser final annuity of £2.117.64.

As part of Mr R's complaint was that he felt he wasn't receiving the correct amount of income from his policy, our investigator asked ReAssure to confirm the correct GAR that he should've received. He felt he should've received £91.10 per £1,000 of fund value.

ReAssure told this service that Mr R should've received a GAR of 66.60 as this was the rate for the level, monthly in arrears, 100% joint life annuity he'd requested. It said that the GAR rate Mr R had noted was on a different basis.

Our investigator felt that ReAssure had acted fairly and that it'd met its obligations under the policy conditions. She said that ReAssure was entitled to decide to stop offering annuities to its customers. And she didn't feel it should've been expected to contact its customers directly to let them know it'd made this change, as she felt anyone impacted would be made aware when they applied to take their benefits. She also didn't consider that this change had affected Mr R's ability to take advantage of the GAR. She said that ReAssure had evidenced that it had initially uplifted the fund value to meet the purchase price of the annuity based on the GAR. And that it had provided additional funding when it was identified that the income should've been higher.

Our investigator was satisfied that Mr R was receiving the correct amount of income. She also felt that ReAssure hadn't done anything wrong when it had allowed the annuity with provider C to be purchased without requiring additional documentation.

Our investigator told Mr R that we couldn't consider his complaints against business L separately because he'd already referred a complaint relating to its July 2016 final response letter to this service in July 2017. And that we'd confirmed on 1 August 2017 that Mr R's complaint had been referred to us outside the required time limits, meaning that we couldn't consider its merits.

Mr R didn't agree with our investigator. He told this service that he was undergoing serious medical treatment. He felt that ReAssure had provided this service with misleading information about the original policy documents. He still felt he was entitled to a higher level of guaranteed pension than he was receiving. And that he should've been eligible for a GAR of £86.25 per £1,000 of fund.

Mr R also felt that our investigator should've looked into more aspects of his complaint, including those about business L. He felt she'd left out the most important part of his complaint, which he said was the shortfall in funding point he'd raised. Mr R made further points relating to his unhappiness with business L. He also said that he felt he'd suffered a shortfall on his non-GAR funds, and that our investigator hadn't considered this yet.

Our investigator considered Mr R's submissions, but her view remained the same. She felt her opinion had covered all of the points ReAssure was responsible for. She said that she didn't cover Mr R's point that he'd suffered a shortfall with his non-GAR fund as she didn't think ReAssure was responsible for this issue. She said ReAssure's only obligation for the non-GAR fund was to transfer it as instructed.

As agreement couldn't be reached, the complaint has come to me for a review.

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.

Having done so, I'm not going to uphold it, for largely the same reasons as our investigator. I know this will be disappointing for Mr R. I'll explain the reasons for my decision.

Before I start, I'm sorry that Mr R has had health issues and I hope he's recovering.

I agree with our investigator that this service doesn't have the power to consider the complaint points Mr R has made about business L. And I also agree with her that there's no evidence that ReAssure is responsible for Mr R's complaint points about any potential shortfall with his non-GAR fund. Therefore I won't cover any of these points further in my decision.

I first considered Mr R's main complaint point – that he isn't receiving the level of annuity that he should be receiving given the GAR. And that ReAssure was responsible for this shortfall.

Is Mr R receiving the correct level of pension?

Mr R told this service that he felt that ReAssure first purchased an annuity of £2,174.16 for £43,600 from provider C. And then went on to purchase a further annuity of £2,117.64 for £44,120.40. Mr R also said that ReAssure had provided this service with misleading information about the original policy documents. He felt that he should've been eligible for a GAR of £86.25 per £1,000 of fund.

From what I've seen, the evidence shows that Mr R isn't correct about the amounts ReAssure paid for his annuities. ReAssure did follow the instruction to purchase an annuity from provider C of £2,117.64 for £44,120.40. But then once business L told it in June 2016 that the correct annuity hadn't been purchased, ReAssure made an additional payment of £3,465.52 so that Mr R would then receive the total correct amount of £2,197.59.

I've found no evidence that ReAssure purchased an annuity for £2,174.16 at any time. I've also found no evidence that ReAssure failed to follow the instructions it was given, or took any steps to try not to pay Mr R the correct amount under his GAR. And there's no evidence that ReAssure made a mistake which led to the initial annuity that was purchased being too low.

I can see that provider C did provide a quote for an annuity of £2,174.18 on 8 December 2015. But, as I detailed earlier, ReAssure has provided internal calculations which show that the annuity available to Mr R using his GAR funds was £2,174.16, and that this would cost £44,120.40. Therefore ReAssure arranged to top up Mr R's funds to the point that it could honour the guarantee. And it paid provider C £44,120.40. But I understand that annuity rates then got worse before Mr R's annuity was purchased. So an annual pension of £2,117.64 was purchased with the £44,120.40 ReAssure had paid.

However, provider C provided an updated quote to business L on 29 December 2015. It now said that Mr R should have an annuity of £2,197.59.

The evidence shows that ReAssure didn't find out that the pension was too low until June

2016, at which point it arranged to make a further annuity purchase for Mr R which ensured that it had set up the correct total annuity.

ReAssure has provided the GAR that Mr R should've received for the level, monthly in arrears joint life annuity he'd requested. This was £66.60 of pension for each £1,000 of fund. I calculate that for a fund worth £33,017 at the time of purchase, as Mr R held, the correct pension would've been 33.017 times 66.60, or £2,198.93. My figure is slightly different from that calculated due to rounding. But I'm satisfied that the correct amount under the terms of the policy was £2,197.59.

I acknowledge that Mr R felt that he should've been eligible for a GAR of £86.25 per £1,000 of fund. I understand why he has this number in mind – it was included as an illustration in his original policy documents. But the GAR rate Mr R thinks is correct was on a different basis from the annuity he actually selected. And I'm satisfied that the evidence shows that the rate ReAssure used – 66.60 – was correct for the type of annuity he'd chosen. And that Mr R is receiving the correct level of pension. Therefore I can't reasonably uphold this part of the complaint.

I next considered Mr R's point that he's unhappy that ReAssure decided to stop offering annuities to its customers. And that this decision put his GAR benefits at risk.

Did ReAssure's decision to no longer offer annuities put Mr R's GAR benefits at risk?

Mr R felt that ReAssure had made a sudden decision without prior warning to cease to offer annuities.

I can see that in its 7 January 2014 complaint response, ReAssure told Mr R that he could buy an annuity with it. So I can see why Mr R felt that the decision to stop had been fairly sudden.

Mr R wrote to ReAssure on 15 April 2016 after ReAssure had confirmed it no longer provided annuities. He said he was very surprised to read about this change. And asked ReAssure when it had made this decision, and whether it'd informed its customers by letter.

ReAssure responded to Mr R on 28 April 2016. It said it'd stopped offering new annuities to the vast majority of its customers in 2015 because it felt that business L could provide its customers with more options and potentially higher rates.

I agree with our investigator that ReAssure is entitled to make changes to the products and services it offers. ReAssure chose instead to introduce its customers to business L. And updated its retirement packs and website to confirm this change. I also agree with our investigator that I wouldn't expect ReAssure to have contacted its customers directly when it made this decision. I say this because I agree that anyone impacted would be made aware when they applied to take their benefits. From what I've seen, this happened in Mr R's case.

I say this because the evidence shows that Mr R found out that ReAssure no longer provided annuities directly on 30 November 2015, when he was in the process of selecting an annuity.

So although Mr R felt in April 2016 that ReAssure had made a sudden change, which he found surprising, I'm satisfied that he had already been informed about the change in a timely and appropriate manner.

I also acknowledge that Mr R felt that ReAssure's decision to stop providing direct annuities risked his GAR benefits. But the evidence shows that this wasn't the case.

ReAssure uplifted Mr R's fund value to meet the purchase price of the annuity it had guaranteed to pay him. This is why it first paid £44,120.40, and then a further £3,465.52, to ensure Mr R received the correct benefits he was entitled to under the policy.

I also note that business L told Mr R in its 13 July 2016 final response letter that he was always going to receive the level of guaranteed lifetime annuity he'd been promised irrespective of any arrangement between it and ReAssure. I'm satisfied that Mr R is receiving the promised amount of pension.

Mr R's initial adviser wrote to him in 2014 to tell him that he was entitled to a guaranteed pension of £4,657.36 each year. I've seen no evidence that this was the correct figure. And I'm unsure on what the adviser based this number. While I would understand if this had led Mr R to expect that more of his pension was guaranteed than was actually the case, the evidence shows that the correct amount of guaranteed pension is being paid.

I next considered Mr R's complaint that ReAssure allowed payment to be made to the annuity providers without requiring him to take financial advice.

Should ReAssure have required Mr R to take financial advice before setting up the GAR annuity?

When Mr R first took advice about his pension in 2014, ReAssure required him to complete documentation to release payment from the policy because the option he wanted to take would've meant that the valuable GAR benefit was lost.

However, when Mr R took advice from business L, he wanted to take an annuity with all of his GAR benefits. This meant that he wasn't at risk of losing any safeguarded benefits. In fact, he was taking an option which would lead him to receiving exactly the same benefits he would've received had ReAssure still provided annuities directly. Therefore he wasn't required to complete the documentation he'd been asked to complete in 2014 as nothing was at risk.

Therefore I don't consider that ReAssure did anything wrong when it accepted the transfer request without further confirmation of advice as none was needed.

I've also considered Mr R's comment that ReAssure has yet to provide a final response to his complaint. And that it's failed to respond to other communications he's sent since.

I'm satisfied that ReAssure did issue a final response to the complaint on 26 January 2023. And that after it had done so, Mr R brought his complaint to this service. Therefore, ReAssure wasn't required to provide any additional response to Mr R on this complaint, as this service was now considering it.

I'm sorry that Mr R isn't satisfied that he's being paid the correct amount of pension under his policy. But I'm satisfied that the evidence shows that he is being paid correctly. As I've found no evidence that ReAssure has acted unfairly or out of line with the policy conditions, I can't reasonably uphold the complaint.

My final decision

For the reasons explained above, I don't uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr R to accept or reject my decision before 11 June 2024.

Jo Occleshaw
Ombudsman