DRN-4728501

The complaint

Mr K has complained, through a representative, that The Royal London Mutual Insurance Society Limited (trading as Refuge Investments Ltd at the time) gave him unsuitable advice to transfer his pensions.

What happened

One of our investigators considered Mr K's complaint. The background and circumstances to it and the reasons why the investigator didn't recommend that it should be upheld were set out in his assessment. This was sent to both parties on 1 February 2024. But to recap, Mr K had previously been a member of an occupational pension scheme. The benefits from that scheme had been secured through section 32 buy-out policies in the mid-1980s.

In late 1988 Mr K was advised by Refuge to transfer the benefits from two section 32 polices that had been set up with different pension providers, to two separate personal pension plans. One transfer value was £4,997, and the other £1,737.

The investigator ultimately thought that, given the rates of investment returns that would have been considered reasonably achievable at the time, a recommendation to transfer wouldn't have been considered unreasonable when the advice had been given.

Mr K's representative didn't accept the investigator's assessment of the complaint. It provided copies of some contemporaneous documentation that it said showed the polices that Mr K transferred from had provided guaranteed benefits.

The investigator wasn't persuaded to change his opinion. He agreed that one of the plans provided a guaranteed annuity of £2,111 per year when Mr K reached aged 65. However he said given the growth rates that would have been considered reasonably achievable at the time and the prevailing annuity rates, he thought it would have been reasonable for an adviser to have anticipated that the pensions payable following the transfer would be a lot higher than those guaranteed by the section 32 policy.

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've come to the same overall conclusions as the investigator, and largely for the same reasons.

The advice to 'transfer' was from section 32 buy-out arrangements to personal pension plans. The advice was given in late 1988, and unfortunately there is only limited documentation available from the time.

As explained by the investigator, the documentation does show the original section 32 policy with the higher transfer value (£4,997) had guaranteed to provide an annuity of at least £2,111 at age 65. It provided a 50% spouse's pension on death after normal retirement date, and a cash lump sum of £1,587 on death before normal retirement date. The plan was 'with-profits', and so benefited from the bonuses associated with this type of with-profits plan.

The pension provider of the section 32 policy relating to the £1,737 transfer value has confirmed that its policy was a non-profit arrangement that provided a deferred pension payable at age 65 of £2,755. It said it provided a 50% spouse's pension on the member's death.

As I've said above, there is only limited information available from the time. However Mr K was in his mid-thirties. It would have appeared that Mr K had a long period to retirement date to build up further pension provision. Although I accept that the original section 32 policies did provide some guarantees, I think they were fairly modest. I don't think it would have appeared that Mr K would be relying mainly on the guaranteed pensions to fund his retirement.

As the investigator said, these transfers didn't form part of the regulator's industry wide review of pension business (as they were transfers from section 32 policies). But that the industry regulator had published 'discount rates' for use in loss assessments that formed part of the review. The investigator thought these could be used as a very broad indicator of what investment growth rates might have been considered reasonably achievable for a typical investor at the time the advice was given. In Mr K's circumstances here, the applicable rate was 12.6%. The investigator also noted that the investment growth rates provided by the regulator that Refuge had to use in providing illustrations of potential future returns at the time was 8.5 and 13%.

Given the term to retirement, if the transfer values grew at the 12.6% rate they would have provided fund values of around £156,000 and £54,000 at age 65. Annuity rates at the time were significantly higher than they are today. So even accepting that these figures don't take into account charges, and it's not straightforward to compare annuities on a like for like basis, it would have appeared there was a reasonable opportunity to significantly improve on the guaranteed pensions that would otherwise have been provided by the section 32 policies, even assuming that the investment returns that would be actually achieved were materially lower than the 12.6%. I accept that one of the section 32 policies was 'with-profits', and so would have benefited from any bonuses added to it. However this was, like the Refuge plan, subject to investment performance.

Although the section 32 policies did provide some guarantees, I think their value has to be considered in light of all the circumstances at the time. I don't think the transfer would have appeared to have presented significant risks, and presented a reasonable opportunity to improve on the benefits otherwise provided by the section 32 policies. Taking everything into account, I'm not persuaded that the advice to transfer was unreasonable given the circumstances at the time.

My final decision

Accordingly, my final decision is that I don't uphold Mr K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 7 May 2024.

David Ashley
Ombudsman