

The complaint

X complains that HBOS Investment Fund Managers Limited (HBOS) have mis-administered his Personal Pension Plan (PPP) forcing him to purchase an annuity against his wishes and causing him losses. He wants to be able to take his benefits in the form of a lump sum.

What happened

X set up his plan in 2002 to take his tax-free cash sum and the then minimum allowable level of income under income drawdown. At the time the maximum age by which pension benefits had to be secured (through purchasing an annuity) was at age 75. The rules around income withdrawal have changed significantly since then and at some point X stopped taking income payments from his plan.

In July 2021 X emailed HBOS saying he wished to restart income payments from October 2021 of £6,426.29 per year, and this was arranged. HBOS says it sent X letters about his plan's retirement date in January and April 2022 giving details about his options at age 75 in June 2022. The plan was then worth around £62,000. HBOS has provided copies of these letters, which are correctly addressed but X says he didn't receive them. The letters confirmed the requirement to choose a retirement option by age 75. And that if HBOS didn't hear from X by then it would automatically buy an annuity for him in line with the policy terms, but that he could transfer to another provider before then.

HBOS didn't hear from X, but it didn't automatically arrange an annuity, instead it paid a further income payment of £6,868.01 in October 2022 after X's 75th birthday in June 2022, it says in error. HBOS wrote to X on 16 April 2023 confirming this. It said this payment would be treated as being deducted from his plan on his 75th birthday or he could return it. It said there were now three options for the plan. To fully encash it, transfer to another provider, or purchase an annuity with HBOS. But it said if the first two options weren't completed by 29 May 2023, only the annuity with HBOS would be available. X queried this, and HBOS wrote to him confirming that the terms and conditions were that the plan would end at age 75.

X asked about transferring his plan and HBOS sent him some forms for this on 15 May 2023. It appears X wanted to transfer to an existing pension he had with Scottish Widows. But Scottish Widows advised HBOS it couldn't accept a transfer and that X would need to see an IFA to set up a new drawdown plan for him if he wanted to use Scottish Widows. HBOS wrote to X confirming this on 27 June 2023.

X then asked about withdrawing his fund as a cash sum and HBOS sent forms about this on 7 July 2023. HBOS records then show that X enquired about annuity quotes on 16 August 2023. These needed to be backdated to June 2022. X chased the quotes on 6 September 2023, and these were issued to him on 18 September 2023. X then asked if his plan could be paid as a lump sum but not until April in the new tax year. He said he was told on the phone this was possible, HBOS doesn't have a record of that call but it wrote to X on 1 November 2023 confirming it couldn't defer payment into the new tax year and it needed to be made as soon as possible. It said if he didn't provide instructions "*within 8 working days*" an annuity would be arranged.

X says he didn't receive this letter and it appears no further action was taken by HBOS until he contacted it on 15 April 2024 asking for his plan to be paid as a lump sum. HBOS said this wasn't possible and no further extensions were available, it asked X to confirm on what basis he wanted the annuity set up.

X complained. HBOS upheld his complaint in part and paid him £300 in compensation for the inconvenience caused through not following its procedures correctly before X's 75th birthday. But it said it hadn't told him it could defer a lump sum payment until April 2024 and the only option now available was an annuity. In June 2024 X asked if he could take the annuity with another provider.

X referred his complaint to our service making a large number of points. He said he hadn't been told about the age 75 deadline in advance. He said various other arbitrary deadlines had been given without legal basis as there was no requirement for him to buy an annuity at age 75. He said delays had been caused in waiting for a PensionWise appointment and in HBOS issuing annuity illustrations, and he hadn't received the letter of 1 November 2023 giving the final deadline of eight working days. And that various letters from April 2024 about his complaint hadn't been delivered because they were incorrectly addressed.

Our investigator looked into the complaint, but he didn't uphold it.

Our investigator said HBOS had made some errors and caused some delays. But he said any delay in issuing the annuity quotes in 2023 hadn't materially impacted X. He said the letter of 1 November 2023 was correctly addressed and there was no reason to think it hadn't been sent. He said X's eventual request to encash his pension in April 2024 was made significantly outside any of the extensions offered by HBOS, of initially age 75 in June 2022, then May 2023, and then November 2023. He said it was common for pension providers to have cut off dates as pensions are intended to be claimed by a specific age, in this case 75. Our investigator said HBOS was free to choose how it wished to operate and given the policy conditions he couldn't comment on the reduced options available after age 75. He said the £300 compensation already paid for the errors that were made was fair.

X didn't agree. He said he'd been given no information *"about consequences/sanctions in the policy document"* and the deadlines were *"unilateral and arbitrary"*. He said the value of his pension had been frozen since June 2022, but he'd needed time to consider his options and a had been preoccupied with another pension plan. He said our investigator should listen to the calls with HBOS instead of prioritizing written correspondence.

Our investigator didn't change his mind, he said the letters sent before X was 75 were correctly addressed and it had granted extensions after then. He said any delay in the backdated annuity quotes being issued wasn't relevant as the deadline was extended to November 2023 with X then requesting full encashment to be deferred to April 2024. He said it wasn't reasonable to expect HBOS to offer an indefinite extension. He said HBOS would be able to confirm what annuity options were available.

X raised further queries about delivery of letters and on what legal basis HBOS had set deadlines. He said the delay in HBOS issuing the annuity quotes was relevant and was why the deadline was further extended and he'd been seeking alternative quotes at that time. Our investigator said whilst the requirement to purchase an annuity was removed in 2015 X's policy predated this and had different terms. But that X could have transferred before age 75 had he wanted to. He said HBOS was under no obligation to provide any extension but had done so. And had extended the final deadline for some months after it sent X annuity illustrations, so he had been given a reasonable time to decide what to do. X said it still hadn't been clarified that he had to purchase an annuity with HBOS and made a number of further points.

As X doesn't agree it has come to me to decide.

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 am not upholding the complaint.

I've taken onboard all the comments that X has made in coming to my decision but have focused below on what I consider to be the key aspects of his complaint. I understand the frustration that X feels, but I don't think HBOS has treated him unfairly. The terms of his plan were set out in the original policy schedule and document issued to him in 2002. These are very clear, saying;

"The balance of the fund not providing a tax-free cash sum must be used to purchase a pension annuity now or at any time before your 75th birthday."

X has also told our service that he received yearly statements from HBOS and historically triennial income reviews with one dated 20 October 2018 saying;

"It is no longer a legislative requirement to buy an annuity by age 75. However, currently this plan can only continue until age 75. At this point you have the option to buy an annuity with the remaining value, or if you wish to continue taking your retirement benefits plan, you may be able to transfer to another pension arrangements."

I think there is probably a slight mis quotation of this note, but I think the central meaning is clear, being that despite the new legislation X's plan would still terminate at age 75 and action was needed from him by then. X says neither pre-retirement letter was received but HBOS has shown copies which appear to be correctly addressed. And as most mail is successfully delivered it would be unusual for two correctly addressed letters sent months apart to both be misplaced. It isn't unreasonable to communicate via post as HBOS did and there is no requirement for it to use recorded delivery. X has also said he didn't receive the important letter dated 1 November 2023 confirming it wasn't possible to defer taking his benefits until April 2024. But he did receive other letters before and after this, so it does seem unusual that these particular letters weren't delivered.

But I don't think these letters were in themselves essential for X to know what was happening or for him to be able to arrange his affairs in good time. HBOS reasonably granted extensions over a considerable period of time, with deadline dates that X was aware of. So, I think he was given a reasonable period of time to act. In terms of the legal position, the 2015 pension freedom legislation was permissive or enabling, in that pension providers could adopt the new rules for existing plans if they wanted to, rather than it being something they had to do. Some providers decided not to adopt the new rules for older plans like X's, often because of the difficulty and cost of updating older administration systems for a comparatively small number of remaining plans. And providing other options like transfer to a new plan offering the pension freedom options are available, as they were here, I don't think that's unreasonable.

As I've said X was aware of the extensions granted. I think he had time to and could have transferred his plan elsewhere but doesn't appear to have provided correct instructions to accomplish that, which isn't HBOS's fault. He then wanted to encash the plan, but presumably for tax reasons, not until the new tax year, another six months away. The

timeline isn't entirely clear, but it seems the only point X actually ran out of options was around 10 November 2023. So, nearly eighteen months after the contractual end date of his policy. And I think he'd been provided with all the information he needed to make a decision once HBOS sent the backdated annuity illustrations to him on 19 September 2023. Illustrations it had originally asked him to request in April 2023, but which there is no record of him doing so until August 2023.

HBOS's records show its technical team confirmed in July 2024, that the only option now available was for an annuity to be arranged internally and backdated to age 75. This is what the policy provided for at outset in the absence of other instructions. None that could be acted on were provided by X despite the additional time he was allowed, so I don't think HBOS has treated him unfairly in following the terms of the contract with him. X had said he didn't think HBOS's annuity rates were competitive in 2023, but he did have time to seek alternatives. And provided it offers the same annuity rate it would give to any other customer this isn't unfair.

I asked HBOS whether an annuity had now been arranged. It said it had started the process but was awaiting confirmation from X over what basis he wanted the annuity set up on. And it hadn't chased him further pending our services' decision on his complaint. I think X should now confirm the preferred basis of his annuity and it is fair that HBOS back date this to age 75 at the policy value then. As I think X contributed to delays himself, I don't think it is fair to say that HBOS has deprived him of access to his funds. So, it isn't reasonable to tell it to add interest to the "late" payment of the annuity income although it may choose to do so if it wishes. I think the £300 compensation it has already paid is fair in the circumstances of the complaint and HBOS needn't do any more than it has.

My final decision

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 25 March 2025.

Nigel Bracken
Ombudsman