

complaint

Mr B has complained about the advice he got from Ashcourt Rowan Financial Planning Limited (Ashcourt Rowan) when he chose an annuity. He says that his medical background, including his family history, should have been taken into consideration when his annuity was set up.

Had he been properly advised, he believes he would have chosen an enhanced annuity. Mr B also complains that the adviser did not declare that he would receive commission and is concerned this payment may also have reduced his annuity income.

background

Mr B met with Ashcourt Rowan in early 2011 to discuss the best option available to draw his pension benefits. The adviser noted in a fact find that Mr B was a non-smoker and in a good state of health. It was also recorded that his BMI was normal.

The adviser produced some quotes for Mr B. These quotes included options with his pension plan provider and options on the open market. The quotes showed that Mr B could receive significantly more income if he chose an annuity using the open market option. The adviser recommended an escalating annuity given the comments Mr B had made about his life expectancy.

In February 2011 Mr B met again with his adviser after he had been sent the quotations. At this meeting Mr B said that he would prefer a level annuity not an escalating one. He also disclosed that his weight was more than he had previously stated but that his GP was not concerned about his general health.

The adviser issued Mr B with a financial planning report which explained his recommendation. Mr B signed both the report and the fact find document. The report also set out at the end the commission that would be paid to the adviser. Mr B was sent a quote by Aviva which set out the annuity he would get and explained the commission that would be paid to Mr B's adviser. Mr B's annuity was then set up.

In late 2014 Mr B complained to Ashcourt Rowan about the advice he had received in 2011. Ashcourt Rowan did not uphold his complaint so Mr B brought a complaint to this service. One of our adjudicators looked at Mr B's complaint. He recommended that it shouldn't be upheld. He explained that:

- The advice to take out an annuity appeared suitable.
- The annuity recommended provided Mr B with significantly more income than he was going to receive from his existing pension provider.
- Mr B's health was discussed.
- There was no evidence to suggest the answers recorded were not correct.
- The information Mr B gave the firm did not suggest the adviser ought to have asked further questions about his health.
- Mr B had signed the fact find and suitability report to indicate he was happy with the information noted. He could have raised objections at the time of the advice if he felt certain health issues had not been taken into account.
- A number of references were made (in the fact find) to the escalating annuity being more suitable, because Mr B expected to live beyond the average life expectancy. This would suggest that there was some discussion about Mr B's longer term health expectations.
- The commission had also been disclosed in the quotation issued to Mr B.

Mr B disagreed with the assessment. He felt very strongly that all the information he had sent this service had not been taken into account. He explained that he had 'fallen out' with the adviser and had wanted to get the second meeting over the done with as soon as possible. He again explained that no discussion about his health had taken place. As a result he hadn't been advised to have the most appropriate annuity.

my findings

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

Mr B has brought this complaint because he is concerned that the annuity he chose was not the most suitable annuity for him. This is because Mr B says that if his health situation and his family background at the time were explored by the adviser, this would have led to Mr B getting an enhanced annuity.

In investigating this complaint, I have carefully considered all the points that Mr B has made and the documents which were completed at the time of the advice that the firm sent us. As a result I am persuaded that the recommendation made was suitable at the time.

I am satisfied that the adviser and Mr B had a discussion about Mr B's health during the advice process. As part of that process, I can see that an enhanced annuity was considered but discounted.

The recorded information that Mr B gave Ashcourt Rowan doesn't indicate to me that enhanced annuities might have been a relevant consideration. Mr B signed the financial planning report to indicate that he agreed with its content. This suggests that at the time, Mr B accepted that what had been noted reflected the conversation that had taken place.

In the background section of that report Mr B is described as being "*in very good health*" and goes on to say "*Indeed, you have calculated your possible mortality statistically by reference to various internet sites and this shows that you will live to your later 80s – although this cannot be guaranteed.*"

The report also indicates that Mr B considered that he had a reasonable grasp of financial matters in general and that this was something which the adviser agreed with.

There are various references in the paperwork to discussions about Mr B's BMI and his view that, based on information he had researched, he was likely to exceed his normal life expectancy. Indeed the financial planning report says that an enhanced annuity has been discounted because Mr B has a normal body mass index, is not a smoker, is in good health and is not currently taking any medication.

It seems from the records I have from the time of the advice that an escalating annuity was recommended because Mr B had indicated he may exceed his normal life expectancy. Conversely an enhanced annuity would be suitable where the individual is suffering from a medical condition which is likely to significantly shorten their life expectancy.

If Mr B had reason to think that any health issues he (or his family) had suffered could have affected the annuity income he might receive, I would have expected him to raise this with the adviser. I can't conclude that this happened.

An adviser can only provide a recommendation based on the information that is disclosed to him. Mr B has explained that he had fallen out somewhat with the adviser prior to the second meeting and that he was not keen to prolong that meeting any longer than need be. However, this should not have been at the risk of not disclosing or discussing important information that might have affected the recommendation.

It seems Mr B didn't follow the recommendation of the adviser to take an escalating annuity. Instead he chose a level annuity. So I think at the time Mr B was involved in the selection of his annuity and was able to put his interests forward to the adviser.

Mr B has also raised concerns about the level of commission paid to the adviser. He wonders if that was the motivation behind the recommendation. I have considered this aspect of Mr B's complaint. The quotation from the annuity provider that was issued to Mr B stated within the section entitled "*how much will the advice cost*", "*For arranging your plan we'll make one commission payment to Ashcourt Rowan Financial Planning Ltd, your financial adviser, of £1354.07 immediately. It's been accounted for in the pension rate used*"

At the time of advice, the commission payment was disclosed to Mr B. The financial planning report which Mr B signed sets out in the terms of engagement that Mr B has selected the commission option. The amount of commission paid to the adviser is also set out in the report which Ashcourt Rowan sent Mr B and which included the recommendations.

I am also persuaded that the annuity which the adviser recommended was for Mr B's benefit as it gave him significantly more income from an annuity than he would have got if he had not used the open market option.

I realise that this is not the outcome which Mr B hoped for. But I cannot conclude that the recommendation was unsuitable or that the recommendation was motivated by commission. This means I am not upholding Mr B's complaint.

my final decision

I do not uphold Mr B's complaint against Ashcourt Rowan Financial Planning Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 2 November 2015.

Emma Ali-Noor
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