

## **complaint**

Mrs W complains that Better Retirement Group Limited (Better Retirement), formerly Annuity Direct, advised her to use an anticipated bonus rate (ABR) of 5% when setting up her with-profits annuity (WPA). She says she has lost out financially as a result.

Mrs W is represented by her husband, Mr W.

## **background**

In November 2000 Mrs W contacted Annuity Direct to find out if she could get a better annuity deal than her existing provider was offering. It wrote telling her about her annuity options, including the highest guaranteed annuity it could find on the open market. It said she might want to consider a WPA due to her age (mid fifties), if she had concerns about how inflation may impact on her income. Annuity Direct sent her a WPA illustration using an ABR of 5%.

Mrs W set up her WPA on that basis. However, because bonus rates have fallen since that time, she has seen her annuity payments go down.

One of our adjudicators looked into Mrs W's complaint and didn't uphold it. In summary, he said:

- It wasn't unreasonable for Annuity Direct to give Mrs W an illustration using a 5% ABR based on its understanding of with-profit bonus rates at the time.
- The letter sent to Mrs W said she could go "*higher or lower*" with her starting income and gave a balanced view of the advantages and disadvantages of various ABRs.
- It gave adequate warnings about what might happen to her income if the ABR chosen was not supported by future bonus rates.
- It wasn't possible to say, in any event, whether a higher or lower starting income would give Mrs W more income over the lifetime of the WPA.

In response Mr W said he didn't think all the points he had made had been properly considered. In summary, he said:

- Mrs W couldn't have considered other ABR's as no other quotations were provided.
- Annuity Direct suggested an ABR of 5%. But failed to take into account that bonus rates were already in decline and the whole bonus rate wasn't used to determine the annuity income. It was important to distinguish between additional and regular bonuses.
- A 5% ABR was not "*sensible*".

Our adjudicator didn't change his view. He highlighted a statement from Annuity Direct's letter, which said that Mrs W could choose any ABR between 0 and 5%.

As Mrs W didn't accept our adjudicator's view her complaint has been passed to me to consider.

## **my findings**

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

inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence and the wider circumstances. Having done so, I have come to the same conclusion as the adjudicator, and for broadly the same reasons.

Annuity Direct gave Mrs W an illustration for the highest annuity income it could find for her on the open market, on a guaranteed basis, as well as an illustration for a WPA with an ABR of 5%.

Within the letter it said *“I am unable to advise you on the suitability of the with-profits annuity, as you have not indicated your attitude to risk or your overall investment portfolio on your client profile”*. It continued:

*“I have obtained quotations on the anticipated bonus rate of 5%, you could go higher or lower. The maximum anticipated bonus you can have is 6%. However, I feel this may be too high”*.

I don't think Annuity Direct advised Mrs W to take out the WPA with a 5% ABR. So, I have looked at whether it gave her enough information to allow her to make an informed choice about the annuity she was taking out. I think that it did. I say this because although it told her if she decided to take a WPA she might want to take an ABR no higher than 5%, it gave her enough information to decide whether this was the right option for her. It warned her that if the ABR was set high, this could lead to her getting a lower income if bonus rates fell. And it explained the different annuity options available to her, and the reasons why she might choose one over another.

Annuity Direct didn't provide her with quotations for ABR's at lower rates. Mr W says his wife would've chosen a lower ABR if presented with alternative illustrations. However, I think based on the information she gave Annuity Direct it was reasonable for it to work on the basis that her starting income should be kept close to the amount she was going to get if she took out the guaranteed annuity. The difference in the figures quoted was around £400 per annum less for the WPA with a 5% ABR. I think had Mrs W been prepared to accept even less income from the outset, she could have told Annuity Direct this, and asked for further quotes.

Mr W says Annuity Direct should have made Mrs W more aware of the importance of the regular bonus rate, rather than the overall bonus rate, and told her about the steady decline in with profit bonus returns. I appreciate that Mrs W is disappointed with the level of bonuses paid and how this has affected her annuity income. Bonus rates had been in decline, and it is disappointing that economic conditions and investment returns have generally been poorer than expected. However, I don't think based on what was known at the time it was unreasonable for Annuity Direct to suggest an ABR of 5%. And I don't think it likely Mrs W's decision was affected, and she has lost out, by it not explaining the difference between the regular and overall bonus rate.

### **my final decision**

For the reasons given, I do not uphold Mrs W's complaint against the Better Retirement Group Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 13 November 2015.

Kim Parsons  
**ombudsman**