complaint

Mr M complains that he has lost out financially because the Anticipated Bonus Rate (ABR) Bank of Scotland Plc (BoS) recommended on his with-profits annuity was too high.

background

Mr M discussed his retirement needs with BoS in late 2004. He was going to be 65 the following year. BoS noted he had a shortfall in his retirement income of approximately £5,300 a year. It recommended a with-profits annuity with an ABR of 3.5%, giving him an initial income of around £5,560 a year.

One of our adjudicator's looked into Mr M's complaint. In summary she said:

- Mr M wanted a plan that potentially offered some protection against inflation.
- Selecting an ABR of 3.5% meant the initial income was enough to cover the shortfall in his retirement income. A lower ABR of 2.5% wouldn't have done.
- Mr M's attitude to investment risk was originally noted as cautious. However, he was willing to accept a level of risk to achieve potential future growth. His initial annuity income was 29% of his total retirement income.
- In her view a with-profits annuity with an ABR of 3.5% didn't seem inappropriate given Mr M's needs.

Mr M disagreed. He said, in summary, the adviser had pointed to average bonus rate being 6% over the last 10 years. But, there had been a distinct trend of decreasing bonus rates. He said although a 3.5% ABR gave him the initial income needed, it didn't make the advice suitable. The adviser should've been explaining the options and implications of the advice. He also said that he had later looked into changing the ABR to 2.5% but had been told by the provider that his income would fall by around £600 a year.

Our adjudicator said she thought the adviser had clearly set out the options available at the time of the advice. She therefore remained of the opinion that the advice didn't seem unreasonable.

As Mr M didn't agree, his complaint has been passed to me to consider.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have come to the same conclusion as the adjudicator and for broadly the same reasons.

Looking at Mr M's objectives and needs at the point of sale, I agree with the adjudicator that a with-profits annuity didn't seem unsuitable. BoS provided him with presales illustrations to show what he could expect to get if he had taken his benefits with the pension provider, or if he had arranged a conventional annuity.

It also provided him with illustrations and the key features document for the with-profits annuity. This showed the historic bonus levels the plan had returned, but also warned him that these were not guarantees of future performance.

At the time of the advice the future level of bonuses wouldn't have been known. There had been a decreasing trend in bonus rates during the 1990s, but the key features document showed that bonuses had begun improving again more recently. It wasn't possible to predict exactly how high bonuses would be in future. But, Mr M was able to select an ABR of up to 5% per year. So the rate chosen of 3.5% reduced the risk that his annuity would go down in future. I agree that Mr M had the capacity to take some risk as he was only doing so with less than a third of his total income.

The advantage of selecting a higher ABR was that the initial pension income was higher. The disadvantage was that future increases/reductions in income would be calculated with reference to the selected ABR, meaning lower increases/higher falls in income depending on the bonus rates declared. It wouldn't have been known when the plan was set up whether an ABR of 2.5% or 3.5% would be financially advantageous to Mr M. However, if a lower rate had been selected Mr M's initial income would've been lower than the shortfall in his retirement income. Selecting an ABR of 3.5% meant this shortfall was covered. It also provided him with about the same income as a conventional annuity, but with reasonable potential for future increases. It has meant that, to date, the annuity has given Mr M more income than a conventional annuity would've done.

There was a risk that if future bonus rates were less than the ABR his income would fall. But, I think this was made clear. And there was no guarantee about the future level of bonus rates. I don't think based on what was known at the time, 3.5% would've been seen to be unreasonable.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 February 2016.

Kim Parsons
ombudsman