complaint

Mr J complained he was forced into taking an annuity with Reliance Mutual Insurance Society Limited (Reliance) when he wanted to take a lump sum and says he wasn't given the right information on his options at the time.

background

Mr J had a personal pension plan with Reliance. The question of when it was started has been one for this service.

In March 2009 Mr J contacted Reliance who confirmed that the pension rules were changing from April 2010. Reliance explained one of the changes was that the earliest retirement age would change from 50 to 55.

Mr J told Reliance he wanted to take his whole pension plan at 50 as cash and that he'd been told he could. Reliance said this wasn't possible before the age of 60, even if his plan had a small enough value for him to meet the requirements to be paid the full sum. Reliance explained that the maximum amount he could take at the age of 50 was 25% of the plan value as a tax free lump sum. The remainder of the plan would be used to provide a regular income for the remainder of his life, in other words, an annuity.

In May 2009 Mr J called to ask for a statement as he wanted to take his pension in January 2010.

Mr J wrote to Reliance in September 2009 telling them he wanted the full value of his plan paid to him when he turned 50 in January 2010.

Later in September 2009 Mr J called Reliance about taking benefits. After they explained he was able to receive 25% of the value as a lump sum, Mr J said he'd been told he could take the full amount. Reliance explained that because he was going to be 50 and not 60 he could only have 25% and the remainder would have to be paid as an annuity. Reliance went on to answer questions about how the annuity and lump sum could be paid and when. Reliance told Mr J that quotes sent then wouldn't be accurate and said it was best to contact them in a couple of months when the figures would be more accurate before they were finally calculated at his birthday.

In October 2009 Reliance sent Mr J a retirement pack. It included a key facts document and illustration if benefits were taken with Reliance and a cancellation notice. Also included was a pension instruction form for Mr J to choose his options. Those were explained to him in the cover letter. They were in summary.

- Buying an annuity with Reliance or using the open market option to buy an annuity or income product with another provider. This could include up to 25% to be taken as an immediate tax free sum.
- To delay taking benefits from his pension.
- A full lump sum payment if his fund was less that £17,500 but he had to be aged 60 or above.

At the start of January 2010 Mr J called Reliance to say he was about to be 50 and wanted to take his pension. He was told again that only 25% could be taken as a cash sum. Mr J told Reliance that the information they'd sent him had many pages. He was told he needed to complete the forms sent to take benefits.

Mr J wrote to Reliance Mutual in February 2010 and said he wanted to claim the 25% sum of his pension and had enclosed the pension instruction form. It confirmed that Mr J wanted to take the [maximum] 25% cash sum and an annuity was selected to be paid out half yearly on a level basis to be guaranteed for 5 years.

Reliance wrote to confirm they'd accepted his annuity purchase on an execution only basis. They explained this meant he hadn't asked for or been given any advice from them about this annuity. This letter also set out Mr J's right to cancel his choice of the cash sum and annuity within a certain period and explained he'd have to re-pay any money paid to him if he chose to cancel.

Mr J didn't cancel and went on to receive a lump sum of around £415 and started receiving an annuity of £59 a year, paid every 6 months.

At the start of January 2015 Mr J complained to Reliance. They replied explaining they were looking at his complaint and setting out their understanding of it. Reliance explained they thought Mr J's complaint was that they had got the new pension rules wrong because they'd told him he couldn't have his annuity as a lump sum as it was already "in payment" (being paid). Mr J also complained that Reliance should've written to him and told him of the new changes so he could make changes to his arrangements.

Shortly after this letter was sent Mr J called Reliance and highlighted further matters he was unhappy about. In summary he complained that:

- When the rules about pensions changed Reliance should've written to him and told him he could take his full plan value as a cash sum.
- Mr J wanted the money paid to him as soon as possible.
- His plan maturity date was when he was 50.
- When he started the plan he was told he could take the full plan value at the age of 50.
- He hadn't been sent a pack explaining his options when he came to take benefits.
- He'd been wrongly told on the phone he could only take his annuity in the way he was before it started.
- He only signed the annuity form because he was told there were no other options.

Mr J said he thought it was in a call to Reliance shortly before he reached 50 that he'd been told he had no other options.

Reliance rejected Mr J's complaint in March 2015 and their letter set out their findings and that they were unable to pay the remainder of his pension fund as a cash sum. They sent him copies of the original plan documents with their response and highlighted the parts they said answered his complaint. They told him could complain to this service.

In March 2015 Mr J replied to Reliance that in his call where they'd mentioned the pension changes they'd also told him he could take all his benefits as cash.

In April 2015 Reliance wrote to Mr J. They set out their summary of the conversation in the phone call of March 2009, which is summarized above. Reliance sent a copy of their letter from February 2004 which gave a plan value but didn't mention any options on taking benefits. Mr J had said he thought this was the letter which said he could take the full plan value as a cash sum.

Reliance's response of April 2015 went on to explain they couldn't find any other call records than those outlined in their previous letter, or any letters that said the whole plan could be taken. They outlined their view of information provided about when cash sums could be taken and what level. They asked Mr J to send through a copy of the letter Mr J said he'd got where he was told he could get the full value paid to him and they enclosed a pre-paid envelope for him to use. I understand nothing was sent to Reliance.

Reliance rejected Mr J's further complaint and reminded him of his right to come to this service. Mr J had first contacted this service in February 2015 and Reliance had been told a complaint had been made. Once Reliance had finished their response an adjudicator at this service was able to investigate Mr J's complaint. She didn't uphold it and gave her reasons. The adjudicator also explained she'd listened to the calls Reliance had been able to identify and the contents agreed with the summaries sent by Reliance.

Mr J didn't agree with adjudicator's view of his complaint and said there were mistakes and he wanted his case reviewed by an ombudsman. Mr J highlighted these points in answer to the adjudicator:

- The policy did not start in 1997 but in 1984.
- When he signed the documents they said he could take the full fund as a lump sum.
- He'd not written to Reliance.

Mr J asked for copies of the original documents to be sent to him. This was done and Mr J was asked to provide any response or further submissions by the end of July 2015. Nothing has been received. Reliance didn't have any further submissions.

my findings

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

I understand Mr J feels his policy started in 1984 but all the documents including the financial review at the time the plan started and the plan schedule show this was in 1997.

The financial review and plan application forms were completed about Mr J and his wife in 1997. The details given at the time were that Mr J had no existing pension arrangements and he was self-employed with no scheme available. As a result of the review the Reliance personal pension plan was recommended and then set up. I do see the form shows Mr J had started his work in 1984 and wonder if that has led to some confusion.

Several of the forms have been signed and dated by Mr J in 1997. I know the adjudicator has sent copies of all documents to Mr J and nothing more has been said about this. From what I've seen I think the plan started in 1997.

These documents including the application form and key features document as well as the plan schedule have a chosen retirement date of 2017. I've seen this was also confirmed in at least one of the phone calls with Reliance in 2009. This would be when he'll be 57, which is also the age Mr J told the adviser he wanted to retire at when the planning document was filled in. So I think the plan was set up with a retirement age of 57.

I've seen from the original plan documents that benefits could be taken as early as the age of 50. This is what Mr J was able to do but there were limits on what was available when benefits were taken early. This plan booklet goes on to explain on page 16 under the heading *"Tax-free cash sum"* that when a benefit is first taken from the plan there is the option of taking up to 25% of the total value as a tax free lump sum.

I appreciate Mr J thought the documents he was given when he started his plan said he could take the full fund value as a lump sum. This isn't what's set out in the original documents and I've seen nothing sent by Reliance (documents or call records) showing Reliance changed this information and told him he could the total plan value at 50. This includes my careful reading of the letter of February 2004 which Mr J thought said he could take all his plan value at the age of 50. This letter gives a plan value but doesn't talk about all benefits being taken as a cash sum. The information given by Reliance shows that Mr J was told on a number of dates in 2009 that he couldn't take the full fund value only 25%. I can also see the retirement pack and information sent out in 2009 details that the full plan value can only be taken in full from the age of 60 and if the value was less than £17,500.

Even if something has been overlooked and if Mr J had been told he could take his full plan value as a cash sum in 2010 this wouldn't have been right and he wouldn't have been able to under the rules in place at the time. From what I've seen I don't think he was told that he could. Reliance seems to have consistently told Mr J correctly what his options were at the time.

Since Mr J's annuity was put into payment, the rules about pensions have changed. The changes don't affect Mr J as he was already receiving his annuity by the time the more recent pension changes came into force. I don't think there was any duty for Reliance to write and tell Mr J about these changes as they didn't apply to him.

The key features document given to Mr J when the plan started explains in summary that after plan choices have been made and once the period for cancellation has passed there can't be any changes to what has been set up.

Reliance didn't provide Mr J with advice when he chose his annuity. It did give him the relevant and from what I've seen correct information on taking his benefits during phone calls and when the retirement pack and information was sent out. Reliance also explained the rules were changing in 2010. Mr J was told the earliest retirement age would change from 50 to 55 and when he said he wanted all his plan value as a lump sum Reliance correctly explained this wasn't possible until he was 60 and it would depend on the plan value. This was repeated in the documents sent to Mr J.

I've looked at the information sent to Mr J in October 2009. There are quite a few pages but I think they're clearly laid out to show what they are about in different sections. The cover letter starts by directing Mr J to the enclosed factsheet from the regulator about his options and to other places where he could get more information. I'm not aware of Mr J seeking independent advice.

I understand Mr J says he didn't receive a retirement pack but I've seen he returned the pension instruction form when he made his choice in February 2010. This form was sent out with the pack in Oct 2009 so I think it's more likely he did receive it. I've also seen that Mr J told Reliance in January 2010 that the information they'd sent had many pages. I think this also makes it more likely the pack was sent out. I can see that Mr J didn't contact Reliance to chase them to send him a pack.

I think the information sent to Mr J in October 2009 clearly set out the options available to him at that time and this included options other than those he chose.

Mr J said he feels he was forced to sign the forms and take an annuity because he had no other option. Mr J contacted Reliance on a number of dates and was certain he wanted to take benefits when he was 50. It was explained to him that he couldn't have the full plan value as a lump sum when he was 50 but that 25% could be paid. Mr J knew this when he chose his benefits and his letter telling Reliance he wants his 25% cash sum shows this.

When Mr J completed the pension instructions form he made a number of personal selections and choices from the options available and the way he filled it in makes it clear that he was reading the forms he filled in.

Mr J is right that his choices were limited to the extent that if he wanted the 25% cash sum when he was 50 then the remainder of the plan value at that time did have to be used to buy an annuity. Mr J didn't have to set this up with Reliance though and this is clear in the information sent to Mr J.

I think Mr J made his own decision to take the benefits he chose to take at the time he chose to take them and don't think he was forced into any of these actions by Reliance. It's clear that Reliance were acting on Mr J's instructions.

In response to the adjudicator's view Mr J said he'd not written to Reliance. I've looked at the correspondence Reliance believes was sent by Mr J. All the recent correspondence has Mr J's current contact details and a signature that resembles that on his complaint form to this service on them. The contents also reflect opinions Mr J repeated on the phone. I think there is enough for me to reasonably decide these communications did come from Mr J.

my final decision

I don't uphold Mr J's complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr J to accept or reject my decision before 9 November 2015.

Louise Wilson
ombudsman