

## Ombudsman's Determination

Applicant	Mr Y
Scheme	Friends Life Pension Plan ( <b>the Plan</b> )
Respondent	Friends Life

## Outcome

1. I do not uphold Mr Y's complaint and no further action is required by Friends Life
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr Y has complained that Friends Life are insisting that he takes independent financial advice before he can withdraw all his pension benefits, from the Plan.

## Background information, including submissions from the parties

4. Mr Y received a retirement pack from Friends Life which explained the value of the Plan, as at 26 January 2017, was £19,342.66. The Plan had safeguarded benefits in the form of a Guaranteed Annuity Rate (**GAR**).
5. Mr Y informed Friends Life that he wished to withdraw all of his benefits from the Plan. However, Friends Life said he would need to seek independent financial advice before he could do this.
6. On 22 February 2017, Mr Y raised a formal complaint against Friends Life. He was aware that if the Plan was over £30,000 then, in accordance with the Pensions Schemes Act 2015 and with the Financial Conduct Authority (**the FCA**) Rules, he needed to seek independent financial advice. But as the value of the Plan was only around £19,000 he did not understand why he was being told by Friends Life that this was a requirement.
7. Friends Life responded to Mr Y on 3 March 2017, and said that as the value of Mr Y's Plan was in excess of £15,000 and had safeguarded benefits in the form of a GAR he needed to obtain financial advice.

8. Mr Y could not find anything on the FCA's website to confirm the stance Friends Life was taking. Therefore, he brought his complaint to the Pensions Ombudsman to be independently reviewed.

### **Adjudicator's Opinion**

9. Mr Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by Friends Life. The Adjudicator's findings are summarised briefly below:-
- If Mr Y wished to give up his safeguarded benefits by transferring to another pension arrangement, Friends Life is required to insist that financial advice be taken in order to transfer. The requirement is ultimately in place to protect consumers who may want to access their pension as a lump sum under the 'Pension Freedoms' permitted by the Pensions Schemes Act 2015, but in doing so, may risk losing valuable benefits such as a GAR.
  - It was reasonable to conclude that Friends Life had done nothing wrong in requesting that Mr Y seeks advice before transferring as he would be giving up the GAR on the Plan.
10. Mr Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr Y provided the following comments:
- he did not agree with that the Plan value could ever be over £30,000 because the GAR is low;
  - no financial advisers will agree to sign the forms; and
  - he is suffering from a respiratory disease and wants access to the money through the Pension Freedoms.
11. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr Y for completeness.

### **Ombudsman's decision**

12. Mr Y has complained that Friends Life say he is required to seek financial advice before it will allow him to withdraw all of his benefits from the Plan. He says he cannot find a financial adviser who will sign off his forms so he can withdraw all his benefits, from the Plan.

The Pension Schemes Act 2015 Section 48 Independent advice in respect of conversions and transfers: Great ,

(1) Where a member of a pension scheme has subsisting rights in respect of any safeguarded benefits, or a survivor of a member has subsisting rights in respect of any safeguarded benefits, the trustees or managers must check

that the member or survivor has received appropriate independent advice before-

- (a) converting any of the benefits into different benefits that are flexible benefits under the scheme;
- (b) making a transfer payment in respect of any of the benefits with a view to acquiring a right or entitlement to flexible benefits for the member or survivor under another pension scheme;
- (c) paying a lump sum that would be an uncrystallised funds pension lump sum in respect of any of the benefits.”

This clearly shows that a person needs to obtain independent financial advice, if the Plan holds safeguarded benefits.

- 13. I am satisfied that as the Plan has a GAR, which is a safeguarded benefit, that Friends Life are permitted to insist that Mr Y obtains independent financial advice before Mr Y is allowed to withdraw his benefits.
- 14. Mr Y has said he is suffering from health problems, so I understand why he wishes to withdraw all his benefits from the Plan, but before he can do this it is necessary for him to obtain proper financial advice.
- 15. Therefore, I do not uphold Mr Y’s complaint.

**Anthony Arter**

Pensions Ombudsman  
31 October 2017