

Ombudsman's Determination

Applicant	Dr E
Scheme	Just Annuity Policy (the Policy)
Respondent	Just Retirement Limited (Just Retirement)

Outcome

1. Dr E's complaint is upheld and to put matters right Just Retirement, shall pay Dr E £500 in recognition of the distress and inconvenience she has suffered in dealing with this matter.

Complaint summary

2. Dr E initially complained that Just Retirement delayed in providing an annuity, provided inaccurate calculations and failed to release her fund on cancellation of the Policy. Dr E later said that she was also concerned on the level of service she received from Just Retirement.

Background information, including submissions from the parties

3. Dr E decided to use the proceeds of four pension arrangements (held with three pension providers) to purchase an annuity. Based on a quotation from Just Retirement, Dr E selected it as her annuity provider and applied for the Policy in November 2018.
4. Dr E indicated that she had health problems and requested an enhanced annuity, which would provide her with a higher income. To justify the enhancement, Just Retirement required blood pressure readings, which had to be confirmed by Dr E's General Practitioner (**GP**). Just Retirement also requested Dr E's GP records.
5. On 4 December 2018, Just Retirement requested the pension funds from the three providers.
6. Between 11 and 20 December 2018, Just Retirement sought confirmation of Dr E's recent blood pressure readings from her GP. As they were inconsistent, Just Retirement decided it could not fully confirm the previous annuity rate, so it sent Dr E new annuity figures.

7. On 27 December 2018, Dr E telephoned Just Retirement about the annuity rate. She said that her independent financial adviser (**IFA**), who works as part of a financial adviser group, had informed her that the annuity rate had increased above that quoted for the enhanced annuity, but the correspondence she had received was different. Just Retirement realised around this time that an incorrect annuity rate had been applied to the Policy, so it corrected the rate on 8 January 2019.
8. On receipt of the revised Policy, on 10 January 2019, Dr E telephoned Just Retirement. She said she was unhappy with the increase in the annuity as it had only gone up by 0.01% and was not the same as the original, higher quotation. She said she had not been contacted by Just Retirement, or her IFA to explain this change.
9. In light of the problems encountered by Dr E, Just Retirement agreed to stand by the annuity rate used in the original quotation. Just Retirement rewrote the Policy on 11 January 2019, applying the original rate. The Policy commenced, and benefits were paid to Dr E.
10. On 17 January 2019, Dr E telephoned Just Retirement to cancel the Policy due to the delay caused by inaccurate calculations. Just Retirement received the cancellation form on 21 January 2019. This was within 30 days from Dr E receiving the policy documents, so within the cancellation period.
11. To enable the cancellation, Just Retirement had to:
 - recover payments made under the Policy to Dr E;
 - recover the charges incurred by the IFA in advising Dr E, and met from the purchase price of the annuity; and
 - return the purchase price to the original pension providers.
12. Dr E returned the income payments and pension commencement lump sum paid from the Policy on 4 February 2019.
13. An exchange of communications followed, between 14 February and 15 March 2019, where Just Retirement sought to recover the adviser charge from Dr E and the IFA. In the process, it told Dr E she could repay the adviser charge directly. This was incorrect. Just Retirement corrected this in writing on 29 March 2019.
14. Just Retirement eventually received the adviser charge back on 1 May 2019.
15. While waiting for the Policy to be cancelled, Dr E raised a complaint against Just Retirement regarding the adviser charge and a further delay to accessing her pension. In her email to Just Retirement of 21 February 2019, she said:

“My Pension Fund has not worked for me now for about 10+ weeks. Further delay will show Just Retirement has not taken my original complaint seriously and has not taken steps to mitigate my pension from further loss”.
16. Just Retirement upheld Dr E’s complaint and offered her £150 for trouble and upset.

17. Following Dr E's cancellation request in January 2019, Just Retirement wrote to the original pension providers to return the purchase price. Two of the three providers would not accept the return. So, Dr E found a new pension provider. As the adviser charge had not been returned, the transfer to the new provider could not happen until 7 May 2019.
18. Dr E said the financial adviser group has compensated her for any losses she might have suffered by the delay in paying the adviser charge. She would like Just Retirement to acknowledge that the level of service it provided to her was poor. It calculated her annuity incorrectly and also provided frequent incorrect information about the repayment of the adviser charge.

Adjudicator's Opinion

19. Dr E's complaint was considered by one of our Adjudicators who concluded that there had been maladministration on the part of Just Retirement. The Adjudicator's findings are summarised below:-
 - Just Retirement cannot be held responsible for the period where it was waiting for information from Dr E's GP. This was outside of its control.
 - Just Retirement provided Dr E with incorrect annuity figures in relation to the Policy and applied an incorrect annuity rate. It also provided her with incorrect information in respect of the adviser charge. In the Adjudicator's view, this amounted to maladministration.
 - As maladministration had occurred, the normal course of action would be to try and put Dr E back into the position she would have been in had the mistake not occurred. The financial adviser group compensated Dr E for any losses she might have suffered by the delay in paying the adviser charge. So, it was the Adjudicator's view that Dr E has been compensated for any financial loss that she may have suffered.
 - Just Retirement required the returned adviser charge so that the Policy's purchase amount could be transferred in full to the new provider. This was not within its control and even though it gave Dr E incorrect information during the process, it was the Adjudicator's view that this was an attempt to try and speed up the cancellation process.
 - It is evident that Dr E suffered significant distress and inconvenience as a result of the service provided by Just Retirement. In recognition of this, Just Retirement sent her a payment of £150. Dr E rejected the payment as she did not consider it an adequate amount to resolve her complaint. It was the Adjudicator's view that the level of distress and inconvenience Dr E suffered as a result of Just Retirement's actions was significant. This was because it had provided Dr E with incorrect information and incorrect annuity figures. So, the

Adjudicator did not consider the offer from Just Retirement to be adequate and recommended an award of £500.

20. Just Retirement did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.
21. Just Retirement and Dr E provided further comments which do not change the outcome.
22. Just Retirement said that:-
 - £500 is an excessive amount of compensation.
 - While mistakes were made, it put these right quickly. The incorrect annuity rate was corrected by giving Dr E the amount originally quoted, rather than the one based on the medical information. This meant she had an annuity rate that was higher than she was actually entitled to.
 - Dr E has already been compensated in respect of the adviser charge and as it did not hold back any payments or stop her annuity from being paid, it did not deprive her of any money. So, Dr E has not suffered any loss as a result of its mistakes.
 - Based on the guidelines of the Financial Ombudsman Service (**FOS**), giving Dr E a higher annuity rate and offering £150 is fair.
23. In response to the additional comments from Just Retirement, Dr E said Just Retirement:-
 - Had no clear contact with her IFA to facilitate the return of the advisor charge.
 - Contacted the wrong pension provider during the transfer process; despite her providing details of the correct pension provider.
 - Sent her an incorrect P60, as it did not take into account the returned payments as the annuity had been cancelled.
 - It is not clear whether Just Retirement transferred the full amount of the purchase price to the new provider, inclusive of the adviser charge. So, any further loss from the returned adviser charge should be covered by Just Retirement.
24. Just Retirement disagreed with Dr E's latest assertions. It confirmed that the P60 was sent as part of the automatic process as the Policy was still in force at the end of the tax year. It disagreed that it had contacted the wrong provider and said it had contacted Dr E's new IFA regarding the transfer. Finally, Just Retirement confirmed that it needed the adviser charge returned before it could make the transfer to the provider. As her previous IFA had already compensated Dr E for this, it does not agree that it should compensate her further as the matter is between Dr E and her IFA.

Ombudsman's decision

25. It is evident that following the Adjudicator's Opinion, further matters have been raised by the parties. I will address Just Retirement's position first.
26. Based on the available information, Just Retirement made two errors: sending an incorrect annuity quotation to Dr E; and incorrectly informing Dr E that she could repay the advisor fees herself. While it has argued that it put Dr E in a better financial position than she was entitled to by using the higher annuity rate, I agree with the Adjudicator's opinion, that its actions would have caused significant distress and inconvenience to Dr E. Its decision to use the higher annuity rate was made before Dr E's decision to cancel the Policy, so, it did not address the additional distress and inconvenience she experienced as a result. Just Retirement made an award of £150, based on the guidelines of FOS. My guidance on redress for non-financial injustice is not based on FOS' guidelines, I find that Dr E has suffered significant distress and inconvenience. So, I make the necessary direction at paragraph 32 below.
27. Turning now to Dr E's recent assertions. As the delay in transferring the Policy's purchase amount to the new provider was caused by the delay in returning the adviser charge, I do not agree with Dr E. Just Retirement transferred the full purchase amount after receiving the adviser charge, it cannot be held responsible for paying the difference based on the IFA's calculation of her loss.
28. I accept that Dr E expected more from Just Retirement while she was waiting for the Policy to be cancelled. However, as it made the cancellation requirements known to both Dr E and her IFA, I do not find it was Just Retirement's responsibility to actively pursue the IFA until the adviser charge had been returned.
29. I have not seen evidence that Just Retirement contacted the wrong pension provider during the transfer process. I accept Just Retirement's explanation on this.
30. I do not find that receiving a P60 after the Policy's cancellation amounts maladministration. So, no loss flows from this.
31. I uphold Dr E's complaint.

Directions

32. Within 14 days of the date of this Determination, Just Retirement shall pay Dr E £500 for the significant distress and convenience she has suffered.

Anthony Arter

Pensions Ombudsman
16 March 2020