DRN-4313600

The complaint

Mr G has complained to Sun Life Assurance Company of Canada (U.K.) Limited, trading as Sun Life Financial of Canada, about guarantees he said he was given by its adviser about the pension income he could expect when establishing his pension policy in 1998.

What happened

Mr G met with an adviser representing Lincoln National (now Sun Life, and I'll refer to the business as Sun Life from hereon in) in June 1998 and established his personal pension plan to save for his retirement.

As part of the sales process, Sun Life provided Mr G with projections for his retirement income based upon predicted growth rates for the fund value he might expect at age 55 and assumed annuity conversion rates which would be used to translate that pension fund into an income.

In December 2022, Mr G received an annual statement from Sun Life in which it set out that his predicted annual income in retirement would be more than £2,000 pa lower (£576 pa) than the lowest predicted amount (£2,600 pa) from the illustrations provided in 1998. But this was despite the fund value being higher than the lowest projected fund value in those illustrations.

Mr G complained, saying that he was unhappy with this, and that the adviser had told him at the point of sale that he could ignore the lowest projected returns as the higher rate was always achieved. Mr G added that the income offered didn't represent value for money as he would never see the value of his policy returned.

Mr G further said that receiving the news about the lower income had been incredibly stressful as it meant that he would face significant hardship when he retired.

Sun Life declined to uphold the complaint, however, saying that the projections weren't guaranteed and that there were several factors over the years which meant that financial market performance had been impacted, affecting the value of its customers' pension plans.

Dissatisfied with the response, Mr G referred his complaint to this service. It was assessed by one of our investigators who didn't think that the complaint should be upheld. He said the following in summary:

- The personal pension plan statement issued in December 2022, which showed a current fund value of £32,106 and a predicted value at age 55 of £38,700, meant that the plan was likely to outperform the lowest growth projection (£35,500) provided in 1998.

- Whilst he said he had no reason to doubt Mr G's version of events in terms of what the representative had said to him in 1998 about the income he could expect, as there was no record of the face to face discussion, the available documentary evidence didn't support that position.

- The documentation had, however, been clear that the illustrations weren't guaranteed, and that the fund value and resulting income in retirement was dependent upon factors such as inflation, financial market conditions and interest rates. He was therefore satisfied that the illustrations hadn't promised anything in terms of the ultimate fund value or retirement income.

- The growth rates used in the illustrations were a reasonable prediction based upon forecasts at the time and Sun Life couldn't reasonably be held accountable for any shortfall in market performance.

- He understood why Mr G didn't think it made sense that the predicted income was over £2,000 less pa than predicted in 1998, despite the likely fund value being higher than the lowest prediction. But this was determined by annuity rates in place at the time of the quotation, and in the 1990s these had been much higher than they were at the time of the more recent personal plan statement. And this had been set out in the illustration.

- The investigator noted Mr G's surprise, as expressed in a phone call between them, that he needed to purchase an annuity with the fund value. But the investigator said that, whilst the pension plan had been designed with annuity purchase in mind, there may be other options available to Mr G if he felt that the quoted annuity didn't represent value for money.

In a further telephone call between Mr G and the investigator following his assessment, Mr G said that he still didn't understand why the projected annuity income was lower, despite the likely fund value being higher.

Mr G said that he felt that he'd never been told that he needed to buy an annuity with the fund value and that he hadn't been informed of the open market option. The investigator explained that an annuity was only one of his likely options, and that the open market option is something which would have been brought to his attention as he neared his retirement age.

Mr G also said that he was dissatisfied with the reduced fund value he'd been offered to transfer the pension elsewhere, to which the investigator said that this would need to be the subject of a separate complaint as and when that amount was offered.

And Mr G further said that he was very unhappy that Sun Life could rely upon one word in the illustration and tell him that he was entitled to less than had been projected in 1998.

The investigator reiterated his view that the illustrations had been clear in that the figures weren't guaranteed.

However, as agreement couldn't be reached on the outcome, the matter's been referred to me for review.

What I've decided – and why

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

In doing so, I've firstly assessed the quality of the literature provided to Mr G in 1998 to determine whether this was sufficiently clear to reasonably make him aware that the growth rates and annuity conversion rates weren't guaranteed.

The literature needs to be considered in the context of the expectations which existed at that time, and the regulator in 1998 required that specific rates of projected growth be used – in this case 6%, 9% and 12%, but also that the illustration factor in the provider's own charges.

It was also expected that providers use wording in the illustrations which made it clear that the upper, mid and lower projections were not maximum or minimum amounts, and that they weren't guaranteed. They also needed to be accompanied by a "key features" document which set out the main attributes of the pension plan.

As to the former, I'm satisfied that the wording contained in the illustrations set out clearly that the amounts weren't guaranteed. For example, I've noted the following comments:

"This is an illustration only and is based upon the Company's normal terms and does not form part of the contract."

and

"These figures are only examples and are not guaranteed – they are not minimum or maximum amounts. What you get back depends on how your investments grow."

and

"Your pension income will depend on how your investments grow and interest rates at the time you retire."

You could get back more or less than this."

Then, regarding the key features document, I can see that this was referenced as "accompanying" the illustration, and so I think it's more likely than not that this was provided.

As with the investigator, I've also noted Mr G's comments about what he was told by the representative at the time, but whilst I do take this into account, I think the wording around the lack of guarantees ought reasonably to have placed Mr G in a sufficiently well informed position that returns weren't certain.

But I also think it's fair to say that growth expectations in the 1990s were more optimistic that they were from the early 2000s onwards, hence the higher growth percentages used for the low, mid and high projections.

I do, however, acknowledge and understand Mr G's confusion over the lower annuity amount which he was quoted in the more recent statement he received in December 2022. I agree that it's difficult to reconcile the projection provided in 1998 – that he could expect an income of £2,600 pa from a fund value of £35,500 – with the projected income of £576 pa quoted in 2022 from a prospective fund value of £38,700.

On the face of it, I agree that this seems to make little sense. But there are several factors at play here, one of which is the annuity rates – the conversion rate of the pension fund into an annual income – which were used in the projections in 1998 and those which were assumed in 2022. Annuity rates were lower in 2022 than they were assumed they might be when the illustration was produced, at which point they were set out as being 7.34% for the lower projection, 9.15% for the mid band projection, and 11.03% for the higher band projection.

But I couldn't fairly or reasonably hold Sun life accountable for the generally accepted assumptions used in 1998 not being borne out by reality since, either in terms of the growth assumptions, or the annuity rates which might be in place when Mr G came to take his pension income.

I do think it’s also worth noting that the annuity quoted in 2022 of £576 pa assumed an escalating pension of 2.5% pa and a 50% spouse’s pension, along with a real terms spending power reduction of 2.5% pa in line with assumed inflation between then and 2024. This would render an annuity lower than if it’s taken on a level, single life basis, and without the spending power reduction of including inflation. The illustration from 1998 was silent on whether such factors were included, but this could account for some of the difference.

I note that Mr G has also raised issues around not being told that he would need to take an annuity from his pension and that he was unaware of the open market option. As to the first point, in 1998 there was only the option of taking 25% tax free cash and then an annuity with the remainder of the pension fund. This didn’t change until 2015 with the introduction of the “pension freedoms”. These meant that, in most situations, a policyholder could then take the pension fund as a lump sum if they chose, and weren’t bound by the need to convert it into an annuity.

I’ve noted that Mr G has said that the £576 pa from the prospective fund value of £38,700 represents poor value for money. And so, given the prospect of being able to transfer his pension to another provider which might offer the pension freedoms, even if Sun Life doesn’t on this particular policy, then Mr G should have the flexibility he seeks of being able to draw the pension fund down however he wishes.

As Mr G approaches his retirement date, Sun Life will need to provide him with a “retirement pack” which will set out his options, one of which will be to transfer to another provider.

Regarding the £8.33 “exit charge”, Sun Life has confirmed that when Mr G reaches 55, the earliest that he can access his pension benefits, there will be no exit charge on the plan.

My final decision

For the reasons given, my final decision is that I don’t uphold the complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr G to accept or reject my decision before 24 October 2023.

Philip Miller
Ombudsman