

Ombudsman's Determination

Applicant	Mr S
Scheme	The Target Life Pension Plan (the Plan)
Respondent	Abbey Life Assurance Company Limited (Abbey Life)

Outcome

1. I do not uphold Mr S' complaint and no further action is required by Abbey Life.

Complaint summary

2. Mr S has complained that Abbey Life is applying an unreasonable early exit charge to the benefits he would like to transfer out of the Plan.

Background information, including submissions from the parties

3. When the Plan commenced, in 1987, Mr S selected age 60 as his Normal Retirement Date (**NRD**), which is in February 2023.

4. A statement issued to Mr S in December 2017 said:

"Each month that you pay contributions, Target Pension Managed Bonus units are added to the plan. The full value of these become available to buy benefits at your retirement date. If you take retirement in the 5 years before this date, a proportion of the units will be payable. If you take retirement more than 5 years before your retirement date, no bonus unit value will be payable."

- Section '4(v) Bonus units' of the Plan terms and conditions says:

"On the Selected Pension Date the Company shall be deemed to have credited to the Policy such a number of Accumulation Units of the Bonus Fund stated in the Schedule as shall be equal to the aggregate of the following..."

5. Mr S' financial adviser made enquiries about transferring-out the benefits in the Plan, and complained, on behalf of Mr S, upon learning that the bonus units would not be payable more than five years before the NRD.
6. Mr S' representative views this as an unfair 'exit charge' and argues that the Plan terms should recognise the 1% cap on exit charges, introduced to pension legislation in 2017.
7. Mr S' representative has argued that, as the Government permits retirement from age 55, the Plan terms should allow for Mr S to take unreduced benefits from the Plan at the same age.

Adjudicator's findings

8. Mr S' complaint was considered by one of our Adjudicators, who concluded that no further action was required by Abbey Life. The Adjudicator's findings are summarised below:-
 - It is not that Mr S will be 'penalised' for leaving the Plan before age 60, but that he will not be rewarded with the Bonus Units, as these are intended to reward policyholders who remain in the plan until the selected retirement age.
 - The terms state that bonus units are realised at the selected retirement age.
 - Mr S selected age 60 as his retirement age, and there is no provision within the terms and conditions that allows the selected retirement age to be altered.
 - There is no evidence that Abbey Life is applying an unreasonable early exit charge.
9. Mr S did not accept the Adjudicator's findings and the complaint was passed to me to consider. I agree with the Adjudicator's findings and will therefore only respond to the key points made by Mr S for completeness. In response to the Adjudicator's findings, Mr S' representative said:

"You state that there is no evidence that the normal retirement age can be altered, however there is no evidence to say that it cannot and as the law of the land has changed, then the such terms should be updated according with government legislation."

Ombudsman's decision

10. Abbey Life has explained that bonus units are funded through refunding charges previously applied to the Plan. This suggests that the bonus units are applied as a reward for loyalty, to members who retain their pension benefits in the Plan until a defined time, as agreed at the outset.

11. Mr S' representative considers the non-application of bonus units to be a penalty, and views this as an exit charge imposed by Abbey Life. However, this is not correct; the two factors are in fact distinct.
12. The terms of the Plan set out that bonus units will be applied at the selected retirement age, which is 60 for Mr S.
13. There is no provision within the terms for the NRD to be amended, so I do not find Abbey Life at fault for not allowing Mr S to alter this date now.
14. The annual statements explained that bonus units are only applied at the NRD, or five years before, at staggered proportions for each year.
15. There is no evidence that Abbey Life would be acting outside the terms of the Plan if it were to not award bonus units to Mr S' benefits upon transfer before his NRD. I do not find that Abbey Life is applying an early exit charge by not applying bonus units, so I do not find that it is in breach of the 1% exit charge cap.
16. I do not uphold Mr S' complaint.

Anthony Arter

Pensions Ombudsman
13 August 2019