

Ombudsman's Determination

Applicant	Mr H
Scheme	Royal London Group Pension Scheme (the Scheme)
Respondent	Royal London

Outcome

1. I do not uphold Mr H's complaint and no further action is required by Royal London.

Complaint summary

2. Mr H has complained that Royal London unreasonably switched his investments out of the Scheme's With-Profits fund. Mr H says that he was not made aware that this would occur as he had passed his selected retirement date (**SRD**) but had not confirmed his intention to defer claiming benefits.

Background information, including submissions from the parties

3. Royal London's Late Vesting Account is an interest paying investment fund set up with the aim of securing a member's benefits from their SRD with a reduced risk of investment loss before making a retirement claim.
4. Mr H was invested in Royal London's With-Profits fund.
5. On 10 January 2017, Mr H telephoned Royal London and complained that his investments in the Scheme's With-Profits fund had been switched into the Late Vesting Account, without his consent, causing him to potentially lose expected bonuses.
6. On 1 February 2017, Royal London wrote to Mr H and said:-
 - It had been unreasonable to switch Mr H's With-Profits investment into the Late Vesting Account as the option to defer his SRD was not properly discussed when he had telephoned Royal London in 2016. So, the switch into the Late Vesting Account would be reversed and the SRD deferred for 12 months from 27 March 2016, which was Mr H's original SRD at age 65.

- Regarding the option to further defer his SRD, Royal London said, “Please be advised that if you wish to [defer retirement] for a further 12 months from 27 March 2017, then you will need to confirm this in writing to us in due course, and we would ideally need four weeks advance notice.”
7. On 8 February 2017, Mr H wrote to Royal London and confirmed that he would like to defer his SRD for one year from 27 March 2017, and that he intended to continue doing so in future years. Mr H also asked for Royal London’s contact details that he should use when making such requests.
 8. On 14 February 2017, Royal London wrote to Mr H and acknowledged receipt of his instructions. The letter also confirmed Royal London’s contact details that Mr H could use when deferring his SRD in future years.
 9. On 1 March 2017, Mr H emailed Royal London in response and said that his retirement benefits should remain deferred indefinitely.
 10. On 10 March 2017, Royal London emailed Mr H and confirmed that his SRD had been amended to 27 March 2018.
 11. On 26 September 2017, Royal London sent a retirement quotation, (**the 2017 Quotation**) to Mr L, setting out retirement options as he was approaching the new SRD of 27 March 2018. Regarding Mr H deferring his SRD, Royal London said:-

“Postpone taking your retirement income
You do not need to do anything with your retirement savings at the moment.
You can leave it with us and we will contact you again in three months.”
 12. A note in the 2017 Quotation also stated:-

“Important information on guaranteed annuity rates
Your plan includes guaranteed annuity rates.

This is a valuable option as it will usually give you a higher income than if you buy an annuity elsewhere...

What are guaranteed annuity rates?
The guaranteed annuity rates option in your pension was designed to make sure that you receive a minimum level of annuity income at retirement if current annuity rates are below the guaranteed annuity rates...”
 13. On 3 January 2018, Royal London sent a reminder letter to Mr H that he was approaching his new SRD of 27 March 2018. The letter also set out his options and contact details for any enquiries he may have. Regarding Mr H’s right to defer his retirement benefits, the letter stated:-

“Taking your benefits at a later date
If you want to change your retirement date, please give us a call.”

14. In February 2018, Royal London wrote to a group of members, including Mr H, and set out proposals for a scheme under which they could give up their Guaranteed Annuity Rate (**GAR**) entitlement in return for an uplift in the value of their pension fund (**the GAR Exchange Scheme**).
15. Royal London said that this was in response to new pension freedoms announced by the Government in April 2015, meaning that members could claim their benefits more flexibly, since purchasing an annuity was no longer the most common method.
16. On 6 March 2018, Royal London received a complaint from Mr H that it should not have offered the GAR Exchange Scheme to members with the aim of reducing liability to pay this benefit since many people were unaware of the value of GARs.
17. On 28 March 2018, Royal London wrote to Mr H on a separate matter and said:-
 - His With-Profits investment in the Scheme had not been claimed as retirement benefits and would consequently be switched into the Late Vesting Account. The value of the With-Profits investment had been calculated on his SRD before the switch. No bonuses would accrue on the resulting benefits but normal fluctuations in value associated with such index-linked funds would apply.
 - The Scheme's other unit-linked investment funds would remain available as alternative investment options. Mr H's future contributions would be invested in the Late Vesting account in the absence of any other investment instructions received from Mr H. Alternatively, Mr H could claim his retirement benefits at any time up to age 75.
18. On 11 April 2018, Royal London wrote to Mr H in response to his complaint of 6 March 2018 and said:-
 - The GAR Exchange Scheme was intended to give members who did not plan to purchase an annuity, the opportunity to use their benefits flexibly without losing the full value of their GAR entitlement.
 - The processes required under Part 26 of the Companies Act 2006 had been followed in proposing the scheme, and it would be subject to a High Court review to consider whether it was fair. Royal London's regulator, the Financial Conduct Authority (**FCA**), would also be allowed to raise any concerns it had about the GAR Exchange Scheme.
19. In July 2018, Royal London wrote to Mr H and confirmed that he could opt out of the GAR Exchange Scheme, in which case he would retain a GAR option. Alternatively, Mr H could accept the GAR Exchange Scheme, but he would need to provide evidence of having received financial advice on the matter.
20. Royal London also said that implementation of the GAR Exchange Scheme was subject to a majority of members voting in favour of it, and upon receiving approval following a High Court hearing on 12 November 2018 to determine whether the scheme was fair.

21. In January 2019, Royal London wrote to Mr H confirming that a majority of members had voted in favour of the GAR Exchange Scheme, and that it had been approved by the High Court. The letter also confirmed that Mr H had opted-out of the scheme, so he would retain a GAR option.
22. On 3 January 2019, Royal London sent Mr H a benefit statement confirming that his investment in the With-Profits fund had been switched into the Scheme's Late Vesting Account on 27 March 2018.
23. On 24 January 2019, Mr H telephoned Royal London and complained that he had no previous knowledge of the switch out of the With-Profits fund, so he would like it reversed and his investment reinstated in the With-Profits fund.
24. In reply, Royal London said that there was a 90-day period during which it would be possible for the switch into the Late Vesting Account to be reversed, and that this option remained open to Mr H.
25. On 7 March 2019, Royal London wrote to Mr H and said:-
 - During the telephone call on 24 January 2019, Mr H was told that there was a 90-day period during which it would be possible for the switch into the Late Vesting Account to be reversed.
 - Mr H's With-Profits investment had been switched into the Late Vesting Account on 27 March 2018. So, by the time of the telephone call, the 90-day period allowed for reversing the switch had expired, and it was no longer possible to reinstate the investment to the With-Profits fund. Consequently, the information provided during the telephone call was incorrect. An award of £150 to Mr H in recognition of this error was appropriate.
 - Letters had previously been sent to Mr H on 26 September 2017 and 3 January 2018 confirming that he was approaching the SRD and that action would be required. As no response was received to those letters, another letter was sent on 28 March 2018, correctly confirming the switch into the Late Vesting Account.
26. On 22 March 2019, Mr H wrote to Royal London and said:-
 - He had not received Royal London's letters of 26 September 2017 and 3 January 2018. However, Royal London repeatedly sent him correspondence regarding the GAR Exchange Scheme. So, although Royal London explained the GAR Exchange Scheme, it provided no information on the requirements to retain investments in the With-Profits fund beyond his SRD. He also held pension policies with several other companies and had no problems in deferring his retirement benefits with them.
 - Consequently, he had reached the conclusion that Royal London was trying to reduce its liability to pay out on any GAR claim from him. It should review the decision not to reinstate his investment in the With-Profits fund, since he would

have acted if he had received any correspondence relating to the consequences of not deferring his SRD.

- This point was especially relevant in view of his previous complaint in January 2017 regarding the unreasonable switch of his With Profits investment to the Late Vesting Account, which resulted in the transaction being reversed.

27. On 27 March 2019, Royal London wrote to Mr H and said that due to previous correspondence, he ought to have been aware of the requirements to retain his investment in the With-Profits fund. So, that investment would not be reinstated. Royal London also explained that the £150 award offered in the letter of 7 March 2019 was in recognition of the incorrect information provided during the telephone call on 24 January 2019, and not as an alternative to reinstating the investment in the With-Profits fund.

Mr H's position

28. In January 2017, after he had initially been switched into the Late Vesting Account, he had complained to Royal London that he should be reinstated to the With-Profits fund and defer his SRD. This was completed in March 2017.
29. He subsequently received Royal London's letter of 3 January 2019, confirming that his investments in the With-Profits fund had again been switched into the Late Vesting Account. In response he telephoned Royal London on 24 January 2019 and was told that this switch would also be reversed. On 7 March 2019, Royal London then wrote to him and said that this information was incorrect; the switch into the Late Vesting Account could not be reversed.
30. Royal London also said that two letters had been sent confirming that he was approaching the SRD, so a decision had to be made regarding deferring it for another year. Despite being sent to the correct address, these letters were never received. However, he had previously responded promptly to any correspondence received from Royal London regarding his investment in the With-Profits fund.
31. He had repeatedly received correspondence from Royal London regarding the GAR Exchange scheme but nothing regarding other issues including the requirements to retain investments in the With-Profits fund beyond his SRD. He also held pension policies with several other providers under which he experienced no difficulties in deferring the benefits on the basis that he could still retire early. So, in view of his GAR entitlement, he has concluded that Royal London was trying to reduce the additional liability to pay this benefit by switching his investments into the Late Vesting Account and reducing the value of his final pension fund at retirement.

Royal London's position

32. The letter of 28 March 2018 was a system generated reminder to Mr H following previous correspondence confirming that he was approaching his new SRD in 2018. Mr H's investments could only be retained in the With-Profits fund up to his SRD. At

that point his investment was valued based on the With-Profits fund's bonus and final bonus rate at the time. The calculated value was then moved into the Scheme's Late Vesting account. If Mr H had previously invested in other unit-linked funds instead of the With-Profits fund, this would still have been the case in accordance with normal procedures under the Scheme.

33. A GAR entitlement only becomes applicable if a member chooses to purchase an annuity through Royal London. The GAR Exchange allowed members to enjoy the new pension freedoms announced by the Government in 2015 to take retirement benefits in other ways than the annuity option. Mr H opted-out of the GAR Exchange scheme and therefore retained his GAR entitlement if purchasing an annuity with Royal London.
34. Mr H was aware of the requirements under the Scheme to retain his investments in the With-Profits fund. He also confirmed that he wished to defer his benefits indefinitely, but presumably up to the maximum age of 75. However, if Mr H subsequently decided to claim benefits early, the value of the benefits would have automatically reduced to reflect the resulting early retirement. By deferring his SRD each year Mr H would have avoided that outcome. This has been explained to Mr H following a complaint that he made in January 2017 regarding his With-Profits investment being switched out.
35. Although, Mr H did defer his SRD in 2017, he subsequently failed to follow the previously mentioned guidance on retaining his investment in the With-Profits fund. Then in 2019 Mr H complained again when his With-Profits investment was automatically switched into the Late Vesting Account because of his failure to follow the guidance.

Adjudicator's Opinion

36. Mr H's complaint was considered by one of our Adjudicators who concluded that no further action was required by Royal London. The Adjudicator's findings are summarised below:-
37. In January 2017 Mr H initially complained that Royal London had unreasonably switched his investments from the With-Profits fund to the Late Vesting Account. This resulted in the switch being reversed and Mr H's SRD being deferred for 12 months from 27 March 2016.
38. In an email of 1 February 2017 to Mr H, Royal London also said, "Please be advised that if you wish to [defer retirement] for a further 12 months from 27 March 2017, then you will need to confirm this in writing to us in due course...".
39. In January 2019, Mr H again complained to Royal London about his With-Profits investment being switched into the Late Vesting Account, having passed his SRD, and not claimed retirement benefits. Mr H was then told that the switch could be reversed. However, he subsequently received Royal London's letter of 7 March 2019,

stating that an error had been made during the call, and that it would not, in fact, be possible to reverse the switch. Mr H has said that he had not received two letters sent by Royal London on 26 September 2017 and 3 January 2018, confirming the SRD of 27 March 2018, and that action would be required before that date if he wished to defer his retirement further.

40. However, in his email to Royal London of 8 February 2017, Mr H had requested the amendment of his SRD to 27 March 2018 and said that he intended to continue with similar deferrals in future years. Mr H also asked for Royal London's contact details that he should use for this purpose. Then on 14 February 2017, Royal London acknowledged receipt of this instruction and provided the requested contact details.
41. In the Adjudicator's view this exchange of correspondence suggests that Mr H was aware of the requirement to update his SRD annually if he wished to retain his investment in the With-Profits fund, even if he did not receive Royal London's letters that were subsequently sent on 26 September 2017 and 3 January 2018.
42. Mr H did email Royal London on 1 March 2017 and asked for his SRD to be deferred indefinitely. However, on 10 March 2017 Royal London responded by confirming that the SRD had been amended to 27 March 2018. So, in the Adjudicator's view the onus was then on Mr H to contact Royal London if he was unclear regarding this point, but Mr H has provided no evidence of any such enquiry. Consequently, there is no requirement for Royal London to now reverse the switch of Mr H's investment from the With-Profits fund to Late Vesting Account that was processed on 27 March 2018.
43. It is not reasonable for Mr H to compare the terms by which he could defer his retirement under other pension schemes to Royal London's since other arrangements would likely have different procedures. In this case Royal London has correctly followed its own normal procedures for any member who had invested in the With-Profits fund and not claimed retirement benefits by their SRD.
44. Mr H ought to have been aware of this at the time. Further, Mr H exchanged correspondence with Royal London in February 2017 regarding his SRD. Consequently, in the Adjudicator's view, it is unreasonable for Mr H to claim that he received no correspondence from Royal London regarding his SRD and the requirement to defer retirement annually to retain his investment in the With-Profits fund.
45. Royal London has explained that the GAR Exchange Scheme allowed members to claim their retirement benefits flexibly without losing the full value of their GAR entitlement if not purchasing an annuity, since this was no longer the most common method. Members, including Mr H, could also choose to opt-out of the GAR Exchange Scheme to retain their GAR entitlement if they wished to do so, and Mr H took this option.
46. Before any member could accept the GAR Exchange Scheme, they were required to provide evidence of having received financial advice. Additionally, a High Court hearing was conducted to establish whether the GAR Exchange Scheme was fair,

and the FCA was invited to express any concerns it had on the matter before it was approved by the High Court. So, in the Adjudicator's view Royal London took prudent steps to ensure that the GAR Exchange Scheme was reasonable. There is no evidence that Royal London introduced the GAR Exchange Scheme simply to reduce its liability.

47. However, Royal London has offered Mr H £150 award in recognition of the distress and inconvenience caused to him by incorrectly confirming that the switch into the Late Vesting Account of 27 March 2018 could be reversed. In the Adjudicator's opinion the £150 award is sufficient recognition of this type of non-financial injustice.
48. Royal London accepted the Adjudicator's Opinion, Mr H did not, and the complaint was passed to me to consider. Mr H and Royal London provided further comments, which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mr H.

Mr H's additional comments

49. Since 2016 he has consistently informed Royal London of his intention to defer his retirement indefinitely and was aware that he would be required to claim benefits by age 75. He did not receive all the correspondence sent by Royal London even though he asked for his mail to be sent by Registered Post to ensure it was tracked and would arrive. So, he was unaware that he needed to defer his SRD to retain his investment in the With-Profits fund.
50. Royal London's letters regarding the GAR Exchange Scheme and his SRD would have come from different departments. So, it is unreasonable to conclude that he received all this correspondence.
51. Switching investments from the With-Profits fund to an interest-yielding fund such as the Late Vesting Account does not reduce risk of an investment loss for a member approaching retirement, especially during a period of historically low interest rates; this only benefits Royal London.
52. He was entitled to rely on the information provided by Royal London in the telephone call on 24 January 2019, during which it was confirmed that the switch into the With-Profits fund would be reversed. Royal London has said that it offered an £150 award in recognition of the distress and inconvenience caused by this error. This award reflects Royal London's acceptance that the switch could be reversed.

Royal London's additional comments

53. An investigation into Mr H's complaint of 10 January 2017 established that he had telephoned Royal London on 19 January 2016 and 19 February 2016. During these calls Mr H said that he would like to defer his retirement and asked if he needed to do anything to avoid losing any benefits under the Scheme. In response, Mr H was told that he would need to send a letter confirming his decision on retirement. However,

the options that were available to Mr H, including a potential switch into the Late Vesting Fund or deferring his SRA, were not explained to him.

Ombudsman's decision

54. Mr H has complained that Royal London unreasonably switched his investments out of the Scheme's With-Profits fund. Mr H says that he was not made aware that this would occur as he had passed his SRD but had not confirmed his intention to defer claiming benefits.
55. Mr H contends that since 2016 he has informed Royal London of his intention to defer his retirement indefinitely and was aware that he would be required to claim benefits by age 75. Mr H said that he did not receive all the correspondence sent by Royal London regarding his SRD, even though he had asked for his mail to be sent by Registered Post, so, he was unaware that he needed to defer his SRD to retain his investment in the With-Profits fund.
56. I note that on 1 March 2017, Mr H emailed Royal London and said that he would like his retirement benefits to remain deferred indefinitely. Royal London then replied on 10 March 2017 and confirmed that Mr H's SRD had been amended to 27 March 2018. This was in keeping with Royal London's letter of 1 February 2017 to Mr H which made it clear that if he wished to defer his SRD for a further 12 months from 27 March 2017, he was required to confirm this in writing.
57. Mr H then wrote to Royal London on 8 February 2017 and said that he intended to continue deferring his SRD in future years. Mr H also asked for Royal London's contact details that he should use in doing so. This correspondence clearly shows that Mr H was aware that he would need to defer his SRD on an annual basis to retain his investment in the With-Profits fund, following the complaint he had made on 10 January 2017, contesting a switch out. Consequently, I find that it is not reasonable for Mr H to now claim that he was unaware of the importance of deferring his SRD, even if he did not receive Royal London's letters that were subsequently sent on 26 September 2017 and 3 January 2018.
58. Mr H submits that switching investments from the With-Profits fund to an interest-yielding fund such as the Late Vesting Account does not reduce risk of an investment loss for a member approaching retirement, especially during a period of historically low interest rates. He said that this only benefits Royal London.
59. Mr H ought to have been aware of the requirement to defer his SRD in writing. So, it was for Mr H to contact Royal London to avoid a switch from the With-Profits fund to the Late Vesting Account if he considered that this would not be beneficial. I find that Royal London cannot be held responsible for Mr H's failure to do so in 2018 resulting in his With-Profits investment being switched into the Late Vesting Account on 27 March 2018. Royal London has followed its normal procedures in that respect.

60. Mr H has provided no evidence in support of his assertion that switches into the Late Vesting Account does not reduce risk of investment loss for a member approaching retirement, or that this is done only for Royal London's benefit. Mr H was, in any case, aware of Royal London's procedures, and could have taken appropriate action to avoid his investment in the With-Profits fund being switched into the Late Vesting Account.
61. Mr H has also complained that he was entitled to rely on the information provided by Royal London during the telephone call on 24 January 2019, that the switch into the With-Profits fund could be reversed. He contends that Royal London has said that it offered a £150 award in recognition of the distress and caused by this error but the award, in fact, reflects Royal London's acceptance that the switch could be reversed.
62. Royal London has acknowledged that its call handler made an error on 24 January 2019 by suggesting to Mr H that a reversal of the switch within 90-days of it being processed was possible. However, it ought to have been obvious to Mr H that the suggested 90-day period had expired by the time of the call, since the switch into the Late Vesting Account was processed on 27 March 2018, as confirmed in the benefit statement of 3 January 2019. Consequently, I find that it was not reasonable for Mr H to rely on the information provided to him by Royal London during the telephone call on 24 January 2019. Royal London is not bound to follow this incorrect advice.
63. Royal London has suggested that an award of £150 to Mr H in recognition of the distress and inconvenience caused to him by the error during the call error was appropriate. I note that Mr H has provided no evidence in support of his assertion that the £150 award offered by Royal London, reflects its acceptance that the switch should be reversed. I find that Royal London has correctly concluded that there is no requirement to now reverse the switch. Royal London's award of £150 to Mr H is sufficient recognition of the distress and inconvenience caused to him. Mr H should contact Royal London if he now wishes to accept the award.
64. I do not uphold Mr H's complaint.

Anthony Arter

Pensions Ombudsman
13 September 2022