

Ombudsman's Determination

Applicant	Mr R
Scheme	Royal London Personal Pension Plan (the Plan)
Respondent	Royal London (RL)

Outcome

1. I do not uphold Mr R's complaint and no further action is required by RL.

Complaint summary

2. Mr R complained that RL did not act on his request to initiate a pension contribution of £18,000 that he intended to make before the end of the 2019/20 tax year, and this led to a financial loss. He did not agree with RL's proposal that it was only willing to redress the loss if he made the contribution of £18,000.

Background information, including submissions from the parties and timeline of events parties

3. Mr R held two accounts (**Account 1** and **Account 2**) within the Plan.
4. On 21 February 2020, Mr R telephoned RL to discuss an internal transfer of funds from Account 1 to Account 2. This was to be carried out on a non-advised basis.
5. On 12 March 2020, RL emailed Mr R to acknowledge receipt of his transfer request and confirm that a transfer application pack was to be posted to him. This included an application form that had to be completed by Mr R for RL to process the transfer.
6. On 14 March 2020, Mr R responded by email to say that he had received the transfer pack and had attached the completed form. He asked whether his monthly contributions, which were going into Account 1, would now go into Account 2. He explained that he had another pension that he wished to transfer in. Lastly, he said he wanted to make a top up contribution before the end of the 2019/20 tax year, so requested the relevant documents in order to proceed.

7. On 30 March 2020, RL sent confirmation to Mr R that it had processed his transfer of £122,340.31, with an effective date of 16 March 2020. It did not provide answers to the other enquiries Mr R had included in his email of 14 March 2020.
8. On 14 April 2020, Mr R emailed RL to register a complaint. He said that RL's failure to respond to the queries he raised on 14 March 2020 meant that he missed the opportunity to make a payment into the Plan before the end of the tax year. This had put him at a financial disadvantage. He would not be able to carry forward the higher rate tax relief, because his salary had dropped to a level where this would no longer be possible. He was also unable to access information for Account 1, which he needed in order to complete his tax return; he believed this may have been a compliance breach. He asked what RL would do to compensate him.
9. Mr R then sent a follow-up email to request a reply to his complaint. He said he received an acknowledgement of his email on 14 April 2020. On 15 April 2020, he was asked to log his complaint via RL's secure message portal, which he did, but he received no further correspondence thereafter. He considered that RL had failed to follow its complaints procedure.
10. On 17 June 2020, RL emailed a response to Mr R. It apologised that it did not address the queries in his email of 14 March 2020, and that he had not received some of its correspondence after the initial complaint had been logged.
11. RL said that it upheld Mr R's complaint and as a gesture of goodwill, offered £450 in recognition of the inconvenience and disadvantage he had been caused. It acknowledged that he could have benefitted financially, if the contribution he attempted to initiate on 14 March 2020 had been actioned.
12. RL explained that Mr R being unable to access information for Account 1 was not a compliance breach. This is because when an account is transferred, the same level of access is not available. Account 1 had been fully exited when the transfer was completed. It advised Mr R that if he required specific information about Account 1, he would need to request this from RL.
13. On 22 June 2020, Mr R replied to say that he was unhappy with RL's offer of £450. He felt his previous correspondence had demonstrated his intention to make the contribution and he highlighted that he had made similar contributions of £18,000 in 2016, 2017, and 2019. He said that if he had been able to make his intended contribution, he would have received higher rate tax relief of £3,523.80. He believed he would then have achieved an investment gain on the contribution of approximately 7.5%, which he calculated to be an increase in value of £1,687.
14. Mr R explained that he was not in a position to use the annual allowance 'carry forward' to obtain the higher rate tax relief in the 2020/21 tax year. He said he had not chased his initial enquiry in March 2020, because it was not at the forefront of his mind at the time. This was at the outset of the Covid-19 pandemic, and he was starting a new job, as well as suffering with a trapped nerve in his neck.

15. On 9 July 2020, RL emailed Mr R to say it was looking into the concerns he had raised and would respond as soon as possible.
16. On 19 July 2020, Mr R made a one-off payment to reduce the outstanding balance on his joint mortgage.
17. On 21 July 2020, Mr R emailed RL to say that he had not heard anything about his complaint since 9 July 2020. He requested it be escalated to senior management.
18. On 23 July 2020, RL replied to say that Mr R's complaint had already been escalated to senior management and it would contact him in the near future.
19. On 27 July 2020, RL issued its response to Mr R's complaint (**the Complaint Response**). It apologised for the way it had handled the complaint and increased its offer for the trouble and upset caused to £750.
20. The Complaint Response attached the information that RL's Transfer Team should have provided to Mr R as part of a response to his enquiry of 14 March 2020. RL explained its assumption was that if his transfer request had been handled appropriately, its Transfer Team would have sent this to him on 2 April 2020. It said that if he still wished to carry out the pension transfer, he should complete the attached form. It would then consider whether there had been an investment loss as a result of the delay.
21. The Complaint Response also attached the paperwork that should have been sent to Mr R for his intended contribution to Account 2. RL committed to investigating whether the delay had led to an investment loss and said it would use 30 March 2020 as the effective date of the contribution. It advised that in order to consider the tax implications, it would need proof that Mr R was a higher rate taxpayer in 2019/20 and that his taxable income had dropped below the higher rate threshold in 2020/21.
22. The Complaint Response noted that Mr R had been paying net contributions of £32 per month into Account 1. RL provided the form for Mr R to complete if he wished to begin making regular payments into Account 2, and again committed to looking at any investment loss caused by the delay.
23. On 29 July 2020, Mr R replied to RL to set out that he did not consider the offer of £750 was adequate redress. He felt it was unreasonable that RL wanted him to make the contribution before it would consider any investment loss he might have suffered.
24. Mr R explained that he had attempted to mitigate his loss. His financial advisor had recommended that as he and his wife were looking to re-mortgage, they could take the opportunity to reduce their mortgage balance. He said this had proved to be a favourable decision and it meant that the money for the contribution of £18,000 was no longer available. He asked RL to reconsider its offer.

25. On 4 August 2020, RL responded to Mr R. It noted that his reason for not chasing up his enquiry of 14 March 2020 was due to the Covid-19 pandemic and other challenges he faced. However, it accepted that it had not provided a substantive response to the issues he had raised until 27 July 2020. It said its proposal of redress for the potential investment loss was contingent on the contribution being made. In the absence of this contribution, it could not calculate the investment loss or the tax implications. It also reaffirmed its offer of £750 in recognition of the distress and inconvenience that Mr R had suffered.

Mr R's position

26. The mistakes made by RL led him to a decision to reduce his mortgage that he may not otherwise have taken. His financial circumstances changed significantly because of the Covid-19 pandemic, but he did take action to mitigate his loss. He then closed Account 1 and Account 2 in January 2021 and transferred to another pension provider.
27. If his intended contribution had been made in March 2020, he would have received tax relief of £3,523.80. He would then have benefitted from an approximate 7.5% market gain on top of this, which he calculated to be worth £1,687.
28. In future it may be possible for him to carry forward unused annual allowance from previous tax years. As such, he is not asking RL to redress lost tax relief that he may recover at a later date but is requesting redress for his investment loss of £1,687.

RL's position

29. It accepts that it failed to respond to the queries in Mr R's email of 14 March 2020 until it issued the Complaint Response.
30. There was no record of Mr R following up his contribution request and he explained that he had more pressing concerns at the time.
31. If Mr R was to make the contribution, it would consider whether the delay had caused an investment loss and provide redress if necessary. Given he has confirmed that this is not possible, it is unable to make an assessment of his loss.

Adjudicator's Opinion

32. Mr R's complaint was considered by one of our Adjudicators who concluded that no further action was required by RL. The Adjudicator's findings are summarised below:-
- RL said that it did not respond correctly to Mr R's email of 14 March 2020, so it offered to investigate whether this caused a financial loss and provide redress if appropriate. This was on the basis that Mr R's intended pension contribution was made to Account 2.

- When RL's redress proposal was first made, Mr R said he was unable to make the contribution, but he still wanted RL to consider whether there had been an investment loss. RL did not agree and the Adjudicator's opinion was that this was reasonable.
- Mr R decided to use funds that may have been available for the contribution to reduce his mortgage balance. This decision was taken before RL had made its redress proposal. The Adjudicator considered that Mr R could have waited for RL's response on this matter, which would have enabled him to make an informed decision. The purpose of redress is to put a complainant back into the financial position they would have been in, had the requested action been taken. In Mr R's case, this position would have included a contribution of £18,000 to the Plan.
- The Adjudicator's view was that the £750 already offered by RL was sufficient recognition of the distress and inconvenience suffered by Mr R.

33. Mr R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr R has provided further comments which do not change the outcome. I agree with the Adjudicator's Opinion. Mr R's additional comments are summarised below:-

- It has been acknowledged that he could have benefitted financially, if his contribution was made as intended, so RL's error has caused him a financial loss. The initial days of the Covid-19 pandemic in March 2020 created the 'perfect storm' to invest. If his contribution of £18,000 was invested in late March 2020, he would have benefitted from a market increase of approximately 7.5%, which he calculated to be a gain of £1,687.
- RL has assumed that he was subsequently unable to make the contribution of £18,000, but he did contribute £9,500 to a pension he holds with a different provider.
- There has been a misunderstanding of his mortgage decision. He did not make a mortgage payment; he had a mortgage that was expiring and was able to secure a new deal with TSB. He had a tight deadline to make this decision, so did not have time to wait for RL's correspondence.
- The fact that he has closed his account is the reason why RL did not agree to redress his investment loss without the contribution being made. He was unhappy with RL's administrative errors and closed his account as a last straw. It is unacceptable that RL only offered to provide redress if he kept an account open, meaning he would need to have remained with RL to receive redress.
- He would consider re-opening an account with RL in order to facilitate a redress payment, providing the figure was given to him before the account was opened.

Ombudsman's decision

34. The purpose of redress is to put the individual back into the financial position they would have been in, had the correct action been taken. In Mr R's case, the requested action was a pension contribution of £18,000. At the point the complaint was referred to The Pensions Ombudsman (**TPO**), Mr R had not made the contribution. In his prior correspondence with RL, dated 29 July 2020, he said he was not in a position to make the contribution, but he has since suggested that the funds may be available.
35. Mr R's correspondence of 29 July 2020 highlighted that around that time, he had agreed a new mortgage deal. He has also provided evidence that he made a one-off payment to reduce the mortgage balance on 19 July 2020. He stated that this was a financially favourable decision.
36. Mr R said there was a deadline for the decision about his mortgage, so he could not wait for RL to respond to his complaint. I understand that there may have been a time constraint on the mortgage deal, but this would not be the responsibility of RL. When Mr R made his mortgage payment on 19 July 2020, RL had given an initial response to the complaint and committed to responding to his additional points about the financial loss. I find that RL's actions, specifically in relation to its consideration of and response to the issues raised by Mr R from 14 April 2020 onwards, do not amount to maladministration. It would have been reasonable for Mr R to have waited for the Complaint Response, issued on 27 July 2020, in order to understand RL's position on the redress he was seeking.
37. In making the mortgage payment, Mr R chose to allocate money, that could have been used for the contribution, to another purpose. When RL made its proposal of redress, Mr R was either unable or unwilling to make the contribution. He considered that RL should still provide redress for the investment gains that he calculated he has missed, even though the contribution, from which the gains would have accrued, has not been made.
38. Were RL to redress Mr R in this way, it would put him in a different financial position to the one he would have been in, had the contribution been added to his pension when requested. If the £18,000 is available to Mr R, by withholding the contribution, he would be seeking the investment gain, while retaining the funds to use according to his preference. I find that this would not be an appropriate method of redress, as Mr R would have the benefit of any investment gain and the potential use of the £18,000 outside of his pension.
39. Mr R considers it is unacceptable that RL only offered to provide redress if he kept his account open. I note that RL's position that Mr R would need to make the contribution of £18,000 for it to redress any investment loss, was confirmed in its correspondence of 4 August 2020. Mr R made the decision to close his account in January 2021. I find that Mr R was given a reasonable opportunity to receive redress for any investment loss and he took the subsequent decision to close his account. This was his choice and RL's position on redress had not changed.

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40. Mr R has said that he may be prepared to re-open an account and make the contribution of £18,000, in line with RL's redress proposal. My findings are based on the complaint brought by Mr R and his original position that he would not make the contribution. If he now wishes to revisit this position, he should discuss this directly with RL.
41. RL has offered Mr R £750 in recognition of the distress and inconvenience he has been caused. I find this to be a reasonable outcome. If the sum has not already been paid to Mr R, he should contact RL should he wish to accept its offer.
42. I do not uphold Mr R's complaint.

Anthony Arter

Pensions Ombudsman
5 January 2023