

Ombudsman's Determination

Applicant	Mrs S
Scheme	Royal London Personal Pension Plan
Respondents	Royal London

Outcome

1. I do not uphold Mrs S' complaint and no further action is required by Royal London
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs S' complaint against Royal London is about its requirement that she receive financial advice before it can allow a transfer of her personal pension to another provider. Royal London say this is because she has safeguarded benefits and it cannot waive this requirement as Mrs S has suggested.

Background information, including submissions from the parties

4. Mrs S has a personal pension which is administered by Royal London. Her personal pension is an old contracted out SERPs arrangement which has a Guaranteed Annuity Rate. Her fund is valued at £44,000.
5. Mrs S requested to transfer her personal pension to Hargreaves Lansdown in 2017. Royal London stated that in order to transfer her pension to another provider, she would need to obtain financial advice.
6. On 22 July 2017, Mrs S wrote to Royal London to raise a complaint about the requirement for financial advice. Mrs S believed that the requirement for financial advice was disproportionate because her pension pot is relatively small and financial advice is expensive. Mrs S also commented that she had successfully transferred other pensions with other providers without the need for financial advice and had seen similar instances in the press. Finally Mrs S stated that she is currently unwell with liver cancer and does not feel that she has time to chase what she feels is her own money.

7. Mrs S states that she is content to supply Royal London with a form to waive their liability.
8. On 8 August 2017, Royal London responded to Mrs S' complaint. In its response, Royal London state that they are unable to waive the requirement for a policy holder to obtain financial advice because the new government legislation regarding pension freedoms released in April 2015, does not permit them to do so.
9. Royal London explained further that because Mrs S' pension policy contains safeguarded benefits and her pension is worth over £30,000, the DWP threshold, financial advice must be obtained. In addition, Royal London mention that the cost of financial advice is not something which they have control over and whilst it may be costly, this is not something they can alter.
10. Finally Royal London suggested that as Mrs S is in bad health, she may wish to apply for her pension to be released to her on the grounds of serious ill health. It explained that if the prognosis for her ill health suggests a life expectancy of less than twelve months then she may be able to receive her pension as a lump sum.
11. Mrs S did not accept this response from Royal London and brought her complaint to the Pensions Ombudsman.

Adjudicator's Opinion

12. Mrs 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 briefly below:-
 - Royal London state that the requirement for financial advice is set out in the new pension freedom legislation. The legislation referred to is the Pension Schemes Act 2015, Part 4, Chapter 2, Section 48 and it concerns independent advice in respect of conversions and transfer in Great Britain.
 - The legislation states that where a member of a pension scheme has safeguarded benefits and wishes to transfer their pension to another provider, they must obtain financial advice, the only exception to this being where a member's pension is below a certain amount. This amount has been set by the DWP at £30,000.
 - Safeguarded benefits for the purposes of this legislation refer to benefits which are not money purchase or cash balance benefits. They usually consist of defined benefits or guaranteed pensions which include Guaranteed Minimum Pensions or Guaranteed Annuity Rates.
 - Mrs S' pension has a Guaranteed Annuity Rate and is valued at £44,000 and as such obtaining financial advice is a necessary requirement if she wishes to transfer her pension to another provider.

- Pensions with a Guaranteed Annuity Rate are valuable in today's market because the annuity rate they offer is much higher than can currently be obtained. One of the aims of the Pensions Schemes Act 2015 is to protect benefits such as these whilst still providing flexibility to the pension holder. Financial advice in this instance makes sure that the member is aware of the valuable benefit they may be losing by transferring to another provider, who may not offer such a valuable rate.
 - Royal London had acted reasonably when complying with the legislation and requesting that Mrs S obtained financial advice.
 - Royal London had taken Mrs S' ill health into consideration when it had responded to her by suggesting that she may be able to receive her pension as a lump sum. This was reasonable in the circumstances.
 - Royal London had acted reasonably in the circumstances and no further action was required by it.
13. Mrs S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs S' representative, Mr S, provided their further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mrs S for completeness.

Ombudsman's decision

14. Mr S said that in the circumstances he did not feel that having to obtain financial advice when Mrs S was ill, was right.
15. I appreciate that the need for financial advice may not seem necessary to every individual and I can certainly sympathise with Mrs S' individual circumstances. However the requirement to obtain financial advice is set out in legislation which it is not within my remit to waive or change.
16. Royal London have complied with that legislation and is correct to have done so. It is my view that it has not acted in a way that constitutes maladministration and no further action is required by Royal London in relation to this complaint.
17. Therefore, I do not uphold Mrs S' complaint.

Karen Johnston

Deputy Pensions Ombudsman
4 October 2017