

## Ombudsman's Determination

Applicant	Mr N
Scheme	Royal London Personal Pension Plan ( <b>the Plan</b> )
Respondent	Royal London

### Outcome

1. Mr N's complaint against Royal London is partly upheld, but there is a part of the complaint I do not agree with. To put matters right (for the part that is upheld) Royal London should pay Mr N £500 compensation for the significant distress and inconvenience caused to him by their admitted failing in this case.
2. My reasons for reaching this decision are explained in more detail below.

### Complaint summary

3. Mr N complains that in 2014, Royal London misled him about the date he had to repay the tax free cash and annuity he previously received from the Plan in order for him to then take all of his Plan benefits as a lump sum. He says that they told him to leave the matter until 2015 and to call back then. He contends that when he contacted Royal London in January 2015, they informed him that he could not now take all of his Plan benefits as a lump sum as he had not returned the Plan funds.

### Background information, including submissions from the parties

4. In February 2014, Mr N sent Royal London his retirement option form, requesting to take tax free cash of £7,053 and an annuity of £973 per annum.
5. On 17 February 2014, Royal London sent Mr N the tax free cash and set up the annuity.
6. Royal London wrote to Mr N on 1 April 2014 saying,  
  
"On 19 March 2014 the Chancellor announced some significant changes to pensions and the way in which you can take retirement benefits.  
  
....For people age 60 or over, from 27 March 2014:

If the total value of their retirement savings is £30,000 or less, they may be able to take the whole amount as a cash lump sum...

...the Chancellor also announced his intention to allow everyone age 55 or over the right to take their retirement savings as a cash lump sum from April 2015....This change is a proposal, it isn't yet law..."

7. Royal London have submitted a computer printout of telephone conversations they had with Mr N in April 2014. These stated :

**17 April 2014**

"[Mr N] phoned to say he spoke to someone Monday re: sending annuity payment back, & taking whole of the Plan next year, without having to send TFC back now. [Mr N] was expecting a call back. I said that I did not think we could say yet whether this could be done but I would check the current situation."

**Later on 17 April 2014**

"Spoke to Ang who said there is a meeting regarding this in a couple of weeks but we still may not know yes or no then. Spoke to [Mr N] again to let him know this. I said we would contact him in a couple of weeks with an update."

**29 April 2014**

"Rang [Mr N] to explain that we can't reinstate without full funds returning".

8. Royal London wrote to Mr N about his complaint on 8 April 2015 saying,

"Having reviewed the information to hand, I do not believe Royal London has acted properly by letting you know of the proposed pension changes announced after you had taken your pension benefits and give you the opportunity to reinstate your plan until the new rules apply."

9. In correspondence to this office on 14 July 2016, Royal London says:

- As they did not receive any further contact from Mr N, (following their telephone call to him of 29 April 2014), until April 2015, they could not now reinstate his Plan benefits and accommodate his request, as he had not returned the funds in full. In effect the annuity he had received had vested 12 months prior and therefore they were not in a position to accept the funds back. There would be tax implications to both Mr N and Royal London.
- There may be a solution for him post April 2017, when there may be changes made in respect of trading annuities.
- In order to try and resolve his complaint, Royal London are willing to pay Mr N £500 compensation for any distress and inconvenience caused for any misunderstanding arising from the incident in 2014.

## Adjudicator's Opinion

10. Mr N's complaint was considered by one of our Adjudicators who concluded that further action was required by Royal London. The Adjudicator's findings are summarised briefly below:
  - Mr N asserts that had he been informed by Royal London that he had to repay the tax free cash and annuity he received from the Plan in order to then take all his Plan benefits as a lump sum then he would have done so. He is in poor health, so he would have opted to do this. He says that he is still in the position to pay back the benefits he had received. However, there is no substantive evidence that shows Royal London told Mr N in 2014, that he should leave the matter until 2015 and to call back then to verify the position, as Mr N suggests. Further, there is clear evidence that Royal London contacted Mr N on 29 April 2014 confirming that they could not reinstate his Plan benefits without him returning the Plan funds. Therefore, there were insufficient grounds to conclude that Mr N was misled by Royal London in this regard.
  - Mr N contends that Royal London admit in their letter to him of 8 April 2015, that they had not given him the opportunity to reinstate the Plan. However, whilst Royal London say in the letter that they had not acted properly in their communication of the proposed pension change, they did not admit failing to inform him in 2014 that he had to return his previously taken Plan benefits by a certain date.
  - Under the circumstances, Royal London's offer of £500 compensation is reasonable.
11. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and therefore, I will only respond to the key points made by Mr N for completeness.

## Ombudsman's decision

12. Mr N says that he does not recall having a telephone conversation with Royal London on 29 April 2014, during which according to Royal London's records, they told him they could not reinstate his Plan benefits without him returning the full funds.
13. Royal London say that they have no recordings of the 29 April 2014 call. However, I think that it was more likely than not that the call in question took place. This is because; Mr N does not dispute that he had an earlier telephone discussion about the matter with Royal London on 17 April 2014. Details of this particular telephone call were shown on a Royal London computer printout similar to those for the 29 April 2014 call. I note that Royal London told him during this particular telephone discussion that they would contact him again in a couple of weeks to update him. This would tie in with date of the subsequent call of 29 April 2014 .

## **PO-9017**

14. In addition, it is my view that if Mr N had not heard anything further from Royal London, as he alleges, then the onus was on him to have at least called them within a few weeks following the telephone call of 17 April 2014, in order to get confirmation of the correct position.
15. Mr N asserts that Royal London gave no indication in their letter to him of 8 August 2015, that they had informed him of the need to repay the Plan benefits received before a lump sum could be paid. However, I note that the writer of the letter stated, "...you were fully aware that you could have returned all the benefits paid to you at that point so we can reinstate the plan...". I therefore disagree with Mr N's assertion in this regard.
16. Mr N says that Royal London had failed to ask asked him how he wanted his Plan benefits distributed on his death. However, as this was not raised as part of his complaint to this office, I will not comment on this matter.
17. I agree with the Adjudicator's Opinion that the £500 compensation offered to Mr N by Royal London is reasonable.
18. Therefore, I partly uphold Mr N's complaint.

## **Directions**

19. I direct that within 28 days of this determination Royal London shall pay Mr N £500 for the significant distress and inconvenience caused to him by their admitted failing in this case.

**Anthony Arter**

Pensions Ombudsman  
8 September 2016