

## The complaint

Mrs A's estate, represented by her children, complain that Mrs A was mis-sold an annuity by Royal London Mutual Insurance Society Limited (RL).

## What happened

Mrs A was diagnosed with lung cancer in May 2019.

In November 2019, she contacted RL about taking benefits from her pension. When she told RL about her cancer diagnosis she was informed that if she had less than a year to live she could take her pension as a tax-free cash lump sum. Mrs A told RL she would find out more about her life expectancy prognosis in February after her next appointment with her oncologist. She confirmed she had also spoken to Pension Wise. When RL asked about whether she had taken financial advice she said she was given information where to find an adviser but didn't feel she needed advice.

Mrs A's pension had a guaranteed annuity rate and she was sent a quote to show her what this would offer. RL didn't offer their own annuities any longer, so would get quotes from annuity providers on the open market and if their quotes were lower than Mrs A's guarantee, RL would make up the difference.

Mrs A's guaranteed annuity quote was on a single life basis and benefits would cease after she died. She was given a quote for around £7,800 in tax-free cash followed by an annuity of around £1,400 a year. Mrs A then had a telephone appointment with RL in December 2019 where they went through a medical questionnaire with her. They recorded details about Mrs A's cancer and treatment as well as other health issues.

Based on the information provided, RL could see on their systems that the best offer on the open market was an enhanced annuity due to Mrs A's poor health which after tax-free cash would pay over £5,000 per year. The quote wasn't guaranteed at this stage, but RL agreed with Mrs A that he would ask the provider for a guaranteed quote.

In January Mrs A called RL to advise that she had a scan and was worried about the results, so didn't want to make any final decisions on her pensions. It was agreed they would speak again after her appointment with her oncologist in late February when she knew more.

In early February, Mrs A called RL to ask what the options were if she wanted benefits to be paid to her family from her pension after her death. She was worried that if she died in the next five years, her pension would have not been fully used.

RL explained the available options to her. Mrs A was interested in the value protection option which would allow any pension not paid to her to be left to her beneficiaries as a lump sum. She was given a quote on this basis, however it was around £1,100 per year after tax-free cash. Given the significant difference, Mrs A said she'd probably would go with her initial quote as if she lived for another five years she would get her pension value back. But she explained she wanted to wait for her doctor's appointment in late February before she made her decision.

In early March, Mrs A informed RL she wanted to proceed with her quote on the original basis. She said she felt a bit more positive after her doctor's appointment.

New application forms and guaranteed quotes were arranged. The tax-free cash was paid and an annuity of around £5,600 was eventually set up in May 2020.

I understand Mrs A's health significantly deteriorated in November 2020 and in January 2021 she was given only eight weeks to live. She sadly died in March 2021.

Mrs A's daughter says when her health deteriorated her mother told her that there would be post-death benefits and that she should contact RL. When she found out after Mrs A's death there would be no further payment from the pension, she and her brother complained.

They feel Mrs A shouldn't have been allowed to purchase an annuity given her cancer diagnosis and very reduced life expectancy. Mrs A only received very little of her pension and they consider it's unfair and morally wrong that the annuity provider will keep such a large sum of their mother's pension. They also note that Mrs A took out her annuity during the Covid Pandemic and Mrs A was shielding at home and she was not able to see anyone for months. They think this needs to be considered as Mrs A couldn't have sought advice during this time as nobody was available.

Our investigator didn't uphold the complaint. He explained that RL provided a non-advised service and they provided Mrs A with all the information for her to make an informed choice.

Mrs A's estate disagreed and so the complaint has been passed to me for a final decision.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've reviewed the evidence available which includes call notes, annuity paperwork and call recordings between RL and Mrs A as well as medical information provided by Mrs A's estate and their own submissions.

Having done so I'm not upholding this complaint for the same reasons as the investigator.

I appreciate that Mrs A's children feel strongly about this complaint and understandably so, as I can understand it's been an emotional time for them. I appreciate that, in their view, RL took advantage of their severely ill mother when they sold her an annuity which they consider to be for the long-term. However, whilst I have full sympathy for their situation, I disagree that their mother has been treated unfairly and I'll explain my reasons below.

RL provided a non-advised service. This means they weren't providing Mrs A with advice on which pension option would be suitable in her specific circumstances. What they had to do was to provide Mrs A with clear, fair and non-misleading information so she could reach an informed decision. It was also clear Mrs A was vulnerable, so RL would be expected to take this into account and treat her accordingly.

Mrs A was informed on multiple occasions that RL wasn't giving her advice and they explained several times where to find information about financial advisers if she wanted to obtain advice. Mrs A confirmed she had spoken to Pension Wise, which is a free and impartial service, and that she felt she didn't need financial advice. This was her choice.

I appreciate Mrs A wouldn't have been able to see a financial adviser face to face during this

time as the country was in lockdown and Mrs A was shielding. However, the financial industry continued to work and Mrs A would have been able to seek advice if she wanted to over the phone. I don't think it's likely she would have considered this a problem given she spoke to RL and Pension Wise over the phone too and had detailed conversations.

Mrs A had received information packs about her pension in the past from RL setting out pension options and it's very likely Pension Wise would have explained these options to her again. Mrs A then decided she wanted an annuity.

From the calls I've listened to it's clear Mrs A understood that her pension quote didn't include any benefits for her beneficiaries after her death. And the quotes she received set this out clearly as well. Mrs A had been given an enhanced annuity quote of around £5,000 for a pension sum of around £23,000 (after the deduction of tax-free cash). A quote for a healthy person would likely have been less than £1,000 per year at the time. This is a significantly enhanced quote given her very poor health at the time and I'm satisfied her health and reduced life expectancy was taken fully into account. The annuity provider-which for clarity is not RL-agreed to provide a more generous annuity based on Mrs A's health questionnaire alone and without asking for further medical evidence. They were entitled to make that decision.

Mrs A understood that if she lived less than five years she wouldn't have made full use of her pension. She mentioned several times in the calls that if she knew she'd live another five years, she would immediately have proceeded with the quote. But she was worried she might die sooner and this is why she queried death benefit options in early February.

Adding such options, particularly when a significantly reduced life expectancy is assumed, can be expensive and when Mrs A was given a quote with value protection of under £1,200 per year, she thought the annuity without death benefits was more attractive.

Nonetheless she didn't want to proceed until she had seen her doctor in late February for her check-up. Following this, she decided to proceed on the quote which didn't provide benefits after her death. It was noted she now felt 'more positive'. I can only assume that at this point Mrs A likely thought and hoped there was a chance she would live longer than she eventually did.

I appreciate Mrs A's health unfortunately quickly deteriorated only a few months later and she sadly died less than a year after taking out the annuity. So with the benefit of hindsight, I understand her estate feels the wrong option was chosen. However, Mrs A received sufficient information about her pension to make an informed choice. I don't think RL acted unfairly or unreasonably here. Mrs A wasn't rushed into any decision by RL. Phone calls were calm and everything was explained in simple and easy to understand language.

Mrs A was invited to ask questions and she took her time to make a decision. Mrs A had been told previously that once the annuity was set up and the cooling off period had expired she couldn't change her mind if her circumstances changed.

There was no indication she didn't know or understand what she was doing. She was clearly taking her own health into account when making her decision and was waiting for her doctor's appointment to have an update on her health. And I think she understood the importance of her decision.

Annuities are insurance contracts and, like any other insurance, the provider is offering products based on their own risk assessment based on different factors. Mrs A was offered a significantly enhanced annuity as a shortened life expectancy was assumed based on Mrs A's health. It's correct that as Mrs A died shortly after she took out the annuity, the annuity

provider (which isn't RL) keeps the remainder of the pension. I understand this feels to Mrs A's estate like they are unfairly benefitting from their mother's life savings. However, if Mrs A had lived four years longer, she would have received pension benefits worth more than what she paid for. This is how the annuity market works.

And it's not different to other insurance where some people pay premiums for many years without ever needing to claim and some customers claiming large sums after only having paid minimal premiums.

I don't doubt Mrs A's daughter's testimony that when Mrs A's health deteriorated she told her there would be death benefits available from the pension. However, as I explained above, based on the evidence I've seen I'm satisfied that -at the time Mrs A made her decision to buy this annuity several months earlier- she understood that there was a risk she could die before she had received the full worth of her pension. And given the options of either securing the full pension if she died early in exchange for lower annuity payments during her lifetime or receiving much higher annuity payments, she decided on the latter.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs A to accept or reject my decision before 23 March 2023.

Nina Walter  
**Ombudsman**