

The complaint

Mr D complains that The Royal London Mutual Insurance Society Limited (Royal London) is incorrectly calculating the value of the benefits he would have had if he had contributed to his employer's defined benefits ('DB') occupational pension scheme. He says this is causing a financial loss.

What happened

Our Investigator thought the complaint should not be upheld. Mr D disagreed with the Investigator's opinion. The complaint was then passed to me.

I issued my provisional decision saying that Mr D's complaint should be not upheld. A copy of the background to the complaint and my provisional findings are below in italics and form part of this final decision.

What I said in my provisional decision

Mr D was given advice to contribute to a personal pension rather than join his employers DB scheme. This advice was given by a third party. The advice was reviewed under the industrywide personal pension review and found to be unsuitable for Mr D. I understand the review found that he should have been advised to contribute to his employers DB scheme rather than start a personal pension.

To compensate Mr D for this he was given a guarantee in respect of his future pension benefits. This guarantee says that the business would (amongst other things): 'ensure that the transfer value payable will be at least as great as that which would have been payable from the employer's scheme'. And the guarantee also says that it will 'ensure that you are not disadvantaged as a result of leaving or not joining the pension scheme relating to your employment.'

For the avoidance of doubt, Royal London is now responsible for the personal pension that was started. And it has taken on this guarantee and intends to adhere to the terms of it.

In August 2020, as he was nearing age 54, Mr D started to think about his retirement. He received standard pension projections from Royal London and some information about the pension guarantee. Very briefly, the information he received at this time was that the DB scheme would have provided a transfer value of £100,133.08 and a pension of £6,229.

Mr D complained about this information in August 2021. He said that he thought the amounts above were incorrect because Royal London had not calculated the pension, and other benefits he would have received had he remained in the DB scheme, correctly.

Royal London didn't uphold Mr D's complaint. In its letter of 8 November 2021, it said that it was in contact with the DB scheme's administrators to ensure it was calculating the potential benefits from the DB scheme correctly. It provided some information about how the calculations were performed and it also said that as the Benefit Guarantee only applies at retirement it wouldn't perform full calculations until this time.

Mr D didn't agree and brought his complaint to the Financial Ombudsman Service. One of our investigators considered it but didn't think that Royal London had performed the potential DB

benefit calculations incorrectly or provided an unreasonable explanation of how it was performing these.

On 21 November 2022 Mr D responded in detail to our investigator's opinion. I have read all of what he said in this letter. However, he also provided a second response on 31 March 2023 which superseded this earlier letter. In this Mr D says that the benefits he would have received from the DB scheme now seem to have been calculated largely correctly.

But he still feels that there is a lack of clarity around how, for example, any higher amount he has paid to his personal pension rather than the DB scheme will be taken into consideration. Or how any of the other benefits the DB scheme provided, such as the dependents pension would be factored in. Mr D went on to detail the information he thinks that Royal London should be providing at this point. He thinks my decision should be now, essentially, that Royal London should re-engage with him on these issues until he is confident it will adhere to the guarantee correctly.

Our investigator didn't change their opinion and so the complaint has been passed to me to make a decision.

What I've provisionally decided – and why

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

I've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time.

And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

I've provisionally decided not to uphold Mr D's complaint and I'll explain why.

Mr D has raised a large amount of issues over the course of this complaint and provided some detailed calculations in respect of how he thinks the pension he gave up from the DB scheme should be calculated. While I've carefully read and considered everything, I haven't addressed every point about this here. Instead, I've focused on what I see as the central issues of Mr D's complaint and the reasons for my decision.

Royal London has agreed to provide Mr D with the same benefits as his DB scheme would have provided at his age 65. This can take the form of a pension or a transfer value if this is what Mr D wants.

It has also provided some indicative calculations about the amounts his DB scheme would have provided in relation to the current value of his personal pension. And some other aspects of the guarantee. At the heart of this dispute is that Mr D hasn't entirely agreed with all of these. And I can see why Mr D has had some concerns about the way Royal London has been calculating some aspects of this.

But it's also clear that Royal London has been gathering information from Mr D's DB scheme trustees to inform and adjust these calculations over time. And it also may have taken into consideration some of the information Mr D has provided. Mr D doesn't disagree with the most recent calculation of how much his DB scheme would have provided.

The crux of Mr D's complaint is that he has suffered a loss due to this. But I don't agree with this. This is because the guarantee doesn't come into effect until around ten years (from the time of the complaint). So, he can't have suffered a loss at this point, as he isn't due to receive any benefit from the guarantee until his age 65.

So, I can't make an award on the basis that Mr D has suffered a loss now. And it wouldn't be reasonable to make an award that he may suffer a loss in the future as this may not be the case.

Particularly, as Royal London seems to be reviewing how it calculates the guarantee on an ongoing basis.

This is a reasonably complex DB scheme with what looks to be three methods of calculating the final benefits. And any information Mr D has received up to now about the guarantee is only indicative of what it will look like when he retires. And this will remain the case until he does reach age 65 and takes the benefits from the personal pension and the guarantee applies. And whilst the calculations so far are important, they aren't the full picture in respect of what Mr D may, or may not, receive when he retires.

And this also applies to the other benefits he may have received from the DB scheme such as a dependents pension and the difference in the contributions between the two schemes. This is something that needs to be considered nearer Mr D's retirement or, assuming he has dependents, if he were to predecease these.

Given all of this, I don't think it would be reasonable for me to require that Royal London correspond with Mr D in a certain way or about certain issues. Of course it does have to adhere to the terms of the guarantee and it should provide full information about how it has calculated it at this point. But I don't think it's reasonable for me to specify what this should be now.

Given all of the above I don't think that Royal London has acted incorrectly here.

Royal London, and Mr D, received my provisional decision. Royal London hasn't commented on my provisional decision.

Mr D didn't agree with my provisional decision. He said that, in summary:

- He wanted clarity on whether Royal London has explicitly said that it has taken on the pension review guarantee.
- Given that Royal London has made mistakes in the past it is possible it could make these going forward and so it should re-engage with Mr D now.
- Mr D reiterated some of the problems he's seen with the calculations that Royal London has made in the past, and how these may affect the benefit the pension review guarantee provides.
- Mr D could retire now and so it is important that the any errors are rectified as soon as possible.
- Mr D still feels that he has important questions unanswered, and he detailed what he would like Royal London to do to rectify this.

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.

Having looked at what Mr D has provided in response to my provisional decision I can see that he still doesn't entirely agree with how Royal London is calculating the DB scheme benefits he gave up in relation to the guarantee that he was given as part of the personal pension review. And he doesn't agree with my provisional decision. In particular, he thinks I should require that Royal London engage with him on specific issues. That said, overall, I don't think Mr D has raised any new points, or provided any material new information, after receiving my provisional decision.

I still don't think Royal London has done anything fundamentally wrong here, it has said the calculation it is doing in respect of the value of his DB scheme benefits is a work in progress. And it's reasonable to say it is aware of how Mr D now thinks it should be done. It is changing this calculation as it goes forward, if it thinks this is right.

Mr D has said that he could retire as he is now over 55. But he hasn't done this yet and he's not said when he is going to. I still think it's only when he has retired, and the guarantee becomes payable, that a loss can be established. Any calculations about the retirement benefits he may get can only be indicative before this.

And I still think it would be unreasonable at this point to issue a decision that says Royal London has to engage with Mr D in a certain way, or within a certain timeframe. Royal London seems to be aware that the calculations it has performed so far may not be entirely complete but it is taking steps to change this. This may not be entirely how Mr D wants it to proceed, but I don't think it has acted unfairly or unreasonably here.

Royal London does need to correctly pay the guarantee when this time comes. And I don't see why Mr D can't consider any actual loss he may have suffered (rather than a potential loss) at this time.

I don't think Royal London explicitly said to this service that it has undertaken to pay the guarantee. But it has taken on the responsibilities of third party which it took over. And it clearly intends to pay the guarantee which is why it is providing information about it.

Overall, I've reached the same conclusions I reached before, for the same reasons. I don't think Mr D's complaint should succeed.

My final decision

For the reasons set out above, I don't uphold Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 15 June 2023.

Andy Burlinson
Ombudsman