

The complaint

Mr I has complained that the advice The Royal London Mutual Insurance Society Limited gave him to transfer his pension from his defined benefits occupational pension scheme (OPS) to a section 32 plan was unsuitable.

What happened

One of our investigators considered Mr I's complaint. He sent his assessment of it to both parties on 11 January 2023. The background and circumstances to the complaint were set out in his assessment. But to recap, in 1992 the firm (a firm that Royal London has subsequently taken over) advised Mr I to transfer from his OPS to a section 32 buy-out policy. The transfer value was around £1,950. This represented three years of accrued service in the scheme.

Personal information gathered at the time recorded that Mr I was in his early twenties and was employed with an income of between £5,000 - £10,000 a year.

In January 2021 Mr I's representative complained about the suitability of the advice Mr I had been given to transfer. The representative said Mr I was told that transferring would provide him with '*...a better pension in retirement*'.

Royal London didn't uphold the complaint and it was referred to us. Our investigator didn't recommend that the complaint should be upheld. He said Mr I was advised some 30 years ago, and he'd considered the complaint against the industry standards that were in place at the time.

The investigator said there was limited documentation available from the time the advice had been given. But that a common motivation for transferring out of a defined benefit scheme was to potentially improve on the scheme benefits. He said the adviser would have needed to consider Mr I's circumstances, and whether he had the capacity to risk transferring his pension in order to seek a better performance from a personal pension arrangement.

The investigator said the adviser had to compare the illustration of future income from the proposed plan with those from the OPS. He noted in the illustration provided by Royal London it projected pension per year figures at rates of return of 8.5% and 13%. The investigator said the economic climate had changed significantly since the 1980s and 1990s. He said expected investment returns then were generally higher than were realistically expected today. But he said the rates used were the regulator's prescribed growth rates at the time.

The investigator said at the time of the transfer Mr I was in his early twenties with many years to go before retirement. He said investors could generally afford to have more exposure to investment risk the longer the term they had to invest. He said investments were less susceptible to dips in the stock market if they were held over the longer term.

The investigator said Mr I had only accrued three years' worth of benefits in the OPS. He noted the section 32 plan included some guarantees. The investigator thought the advice

to transfer a relatively small sum, at such a young age, and at a time when predicted growth rates favoured a transfer, was suitable advice.

Mr I's representative didn't agree with the investigator's findings. It said, in summary, that Royal London's primary duty was to provide comprehensive and sufficient advice. It said Mr I wasn't made aware that he had a final salary scheme and the advantages of that scheme. It said that in failing to provide proper advice Royal London had evidenced negligence.

The representative said although it agreed a common motivation to transfer was to improve on the existing pension benefits, it disagreed that it was reasonable for Royal London to believe that Mr I could be better off by transferring. It said although the rates of return may have been achievable at the time, they weren't guaranteed. The OPS would have had consistent growth in the absence of any external performance risks, it wasn't subject to external factors and was guaranteed. It said the recommended scheme was subject to charges which wasn't the case with the OPS.

The representative said that although Mr I was in his early 20s, single and with no dependents, that didn't mean he was in a position to make decisions based on limited information or take risks without being fully informed. It said Royal London would have known that Mr I's circumstances would change in the future due to different stages of life. So correctly advising and planning was important.

Royal London didn't provide any further evidence or arguments for consideration.

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 done so, I've come to the same conclusions as the investigator that the complaint shouldn't be upheld, and largely for the same reasons.

The advice was given over 30 years ago. And there is limited documentation available to show what was discussed and what information was given to Mr I. As the investigator said, the advice to transfer needs to be considered against the standards that were in force at the time that the advice was given. However ultimately, the firm's primary responsibility was to provide advice that was suitable taking into account Mr I's particular circumstances.

The illustration that is available from the time showed the projected pensions at age 60 at the two rates of return of 8.5 and 13%. The figures provided at these rates were £2,560 and £14,700. These amounts included a 50% spouse's pension and increases in payment at 3%. It said the GMP at date of leaving the scheme was £118, and this would increase to £2,646 at State Pension age.

Information from the OPS showed the benefits accrued at the date of leaving the scheme were a pension of £505 per annum. And a lump sum of £1,516. The pension amount included the GMP of £118. These figures were subject to revaluation up until Mr I's retirement date.

If these benefits were revalued up until age 60 they would have provided a pension of approximately £4,400 and a lump sum of £9,700 (using fixed rate revaluation on the GMP and assuming the additional pension increased in line with the Retail Price Index. I think it was reasonable for an adviser to assume this as around 5% at that time). For comparative purposes, if the lump sum and pension were combined and expressed as equivalent annual pension they would be broadly equivalent to a pension of £5,000 to £5,500.

Whilst there are a number of assumptions and the figures aren't exactly comparable, I think the significant point here is that even taking into account some leeway in the figures, the pension from the OPS sat around mid-range of the potential figures provided in the illustration for the section 32 plan, and well below the figure at the higher rate. In my opinion it would have been reasonably understood that the transfer provided a reasonable opportunity in financial terms to improve on the benefits provided by the OPS. And at worst, the section 32 plan guaranteed to provide the GMP at State Pension Age of £2,646.

Mr I was in his very early twenties. He had a long time to retirement, and I think he would reasonably have expected to build up some more pension provision between the date he transferred this pension and his retirement date. I don't think this would have been expected to be the only pension he relied on at retirement. And as the investigator said, the longer term to retirement also meant that he was able to ride out any dips in investment performance.

I accept what Mr I's representative has said about the benefits from the OPS being guaranteed, whereas those from the section 32 plan depended on investment performance. However, taking all the circumstances into account as I have described above, I don't think the transfer would have appeared to have been a particularly risky proposition at the time it was arranged. I think Mr I had the capacity to accept some risk in his circumstances, the transfer was a reasonable financial proposition, and I don't think it would have been expected that the three years' of service and pension arising from it would have made up the majority of Mr I's pension provision at retirement. Taking all this into account, in my opinion the advice to transfer wasn't unsuitable given all the circumstances at the time.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 2 March 2023.

David Ashley
Ombudsman