

The complaint

Mrs H has complained that Royal London (RL) allowed her pension to be claimed fraudulently by a third party.

Mrs H is being represented by her daughter, Mrs C. As both have provided accounts of the time in question and information about the complaint, I will refer to both of them throughout this decision.

What happened

Mrs H held a private pension with RL for some years. In June 2016 RL received a letter from Mrs H requesting the encashment of her pension and for the lump sum to be paid to her in full.

RL has said it conducted a risk call with Mrs H at the time prior to sending her the retirement pack because the pension was deemed to be a post pension freedoms small pot claim. It has said the call took place on 19 July 2016 with Mrs H directly. And having been satisfied with the conversation it proceeded with the encashment request.

When the completed forms were returned to RL it found it didn't hold a signature for Mrs H so it wrote to her to ask her to send in some documents so her identity could be verified. These requirements were complied with and so RL completed the encashment of the pension in September. RL wrote to Mrs H to inform her of this on 5 September 2016. The letter also contained a cheque for monies made payable to Mrs H (using her full name). RL explained that even though the pensions encashment forms contained instruction that the pension was to be paid into a bank account in the name of Mrs H's husband, it couldn't do this because the bank account was not in her name.

Mrs H's daughter, Mrs C, has said that it was Mr H and his mistress that had fraudulently requested the encashment of Mrs H's pension without her knowledge. She has explained Mrs H suffers from mental health problems and has recently been deemed to have no capacity to handle her own financial affairs. She has said Mrs H was in an abusive marriage and Mr H and his mistress had a history of committing fraud.

Mrs C has also said her mother was forced to sign the forms to encash her pension which she did out of fear but she didn't know what they were for. And that her father's mistress pretended to be Mrs H when RL called to conduct the risk assessment.

Mrs C feels that RL should have been suspicious about the encashment request as the request letter was typed rather than handwritten and the original instruction asked for the monies to be paid into a different bank account to that of her mother. And she feels RL should have done more to protect Mrs H.

The complaint was assessed by one of our investigators who felt it should be upheld. He was of the view that the documents RL had requested to confirm Mrs H's identity and signature were easily available to Mr H at the time and so could have been submitted to RL by him. And that this along with the instruction to pay the pension into Mr H's bank account

should have prompted RL to make further enquiries into whether the request had genuinely come from Mrs H. Overall he didn't think RL had done enough to assure itself it was Mrs H who was requesting the encashment of her pension. So he suggested RL pay the crystallised value of the pension to Mrs H along with £150 for the distress and inconvenience RL had caused.

RL didn't agree with the assessment and remained of the view it had done all it could to verify Mrs H had requested the encashment.

I issued a provisional decision in January 2023 where I set out my reasons why I wasn't upholding the complaint. An extract of this is set out below and forms part of this final decision:

Before I explain my reasons, I must make it clear that I don't know if any fraud has actually been committed or that Mrs H was indeed in the difficult situation her daughter has described. However, if she was I have much sympathy for the difficulties she has experienced and for the situation she has found herself in. But it is important to note that this decision, and the final one that will follow, does not reflect my opinion of Mrs H's personal situation. As a neutral party this decision is limited to only the complaint in hand – whether Mrs H's pension was fraudulently encashed- and in relation to this I must decide whether RL was or should have been aware of the potential for fraud and therefore failed to protect her in the way it should have.

From everything I have seen in deciding this complaint I don't think RL did fail in its duty or procedures and I have seen nothing that gave RL reason to suspect anything fraudulent was potentially happening.

In my view RL followed its processes to verify that Mrs H was the one who had requested the encashment and that she was who she said she was. Because of the small size of her pension RL had to conduct a risk call and while RL hasn't been able to find the actual call recording it has provided a log of the questions asked and the answers received. Looking at this there appears to be no reason to suspect anything. It seems the questions were all answered correctly therefore RL had no reason to think something underhand was going on. If it wasn't actually Mrs H on the call at the time I can't see how RL would have known this as it wouldn't have known how Mrs H's voice sounded.

Another important point is that the forms were signed by Mrs H. And while Mrs C has said Mrs H was forced to sign them and didn't know what they were for I don't think it's reasonable that RL would have known any coercion was involved so this isn't something it can be held responsible for.

I appreciate what Mrs C has said that the typed letter requesting the encashment should have been viewed as suspicious but I don't think the presence of a typed letter indicates that fraud is being perpetrated. And I don't think it's reasonable for RL to have drawn any suspicion from this - most people type letters these days and the fact Mrs H didn't know how to do this again isn't something that RL would have known at the time.

In relation to the request to make the payment of the pension into the bank account of Mr H again I don't think this was a clear indication of fraud. While RL could have questioned this as it was slightly unusual it isn't beyond the realms of all possibilities that this is the way some people work. And in any event, it didn't make the payment into the account but instead sent Mrs H a cheque for the monies made payable only to her. So again, this diminishes the risk that Mrs H didn't know about this as she would have had to pay it into her account with some form of identification.

I know Mrs C has said she is unhappy with the types of documents RL required to verify Mrs H's identity, but these were on a list of documents RL considered were adequate to verify identity in general. So again I am of the view RL followed its procedures and it isn't for me to comment on the efficacy of those procedures as it is a matter of commercial policy.

Overall therefore I am not satisfied that RL did anything wrong or didn't do enough when processing the request to encash Mrs H's pensions.

I think RL checked what was required to assure itself the request for encashment was legitimate. And I've seen nothing to suggest RL would have known there was a risk of fraud without being told about the situation directly, which it wasn't.

Therefore if the pension was accessed fraudulently by someone other than Mrs H I don't think RL was in a position to know this as it wasn't told of Mrs H's situation at the time and in my view it followed all of its procedures to rule this out for any potential for fraud.

I appreciate this is a disappointing outcome, especially after the assessment upheld the complaint. But I trust my reasons for not upholding this complaint are clear and understandable.

No response to the provisional decision was received by Mrs H or Mrs C. And RL responded saying it had no further comments but agreed with the findings.

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.

As neither party responded with any comments I have no reason to depart from my provisional findings.

While I know the outcome is disappointing, especially after the complaint was upheld at the assessment stage, I remain of the decision that the complaint can't be upheld.

My final decision

My final decision is that I don't uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 17 March 2023.

Ayshea Khan
Ombudsman