

## **The complaint**

Mr C complains that The Royal London Mutual Insurance Society Limited has not added enough interest to a refund payment it made to him.

## **What happened**

Mr C had a pension policy with Scottish Life. Royal London is now responsible for the administration of this policy and I will refer to it throughout this decision.

Mr C carried out a review of his pension in 2021. He says he noticed a discrepancy of over £8,000 between the contributions he had made and the contributions Royal London said it had received. He contacted Royal London about this.

Royal London checked its records. It said he'd made a contribution in March 1999 which had exceeded his available tax reliefs for that year. Royal London said it had refunded the overpayment to him. It had arranged for two cheques to be sent to him in October 2000 – one for over £6,000 and the other for interest on this sum. Royal London said it had checked its records and neither of the cheques had been cashed. It agreed to reissue the payment to him. It sent him a payment made up of the original refund amount together with interest on this amount (calculated at Bank of England bank rate – sometimes referred to as Bank of England base rate) for the relevant period, up to the date of payment. Royal London deducted tax from the interest payment.

Mr C did not agree. He complained to Royal London. He said interest should be paid on the original refund amount at the same rate as he'd been able to achieve on his investments with building societies. He thought he should have received interest of around £7,000. He also said he hadn't been sent a certificate for the tax Royal London had deducted and, in any event, he didn't think it should've deducted tax from the interest it had paid him. Mr C said he'd spent many hours trying to get this issue resolved. He thought Royal London should pay him £20 per hour for 20 hours of his time.

Royal London investigated his complaint. It said it was satisfied that the original cheques had been sent to its regional office in 2000, but it couldn't be certain what happened after that.

The cheques had not been presented and as a result the funds had been put into its "orphaned monies" account and had appeared as a liability on its balance sheet. It had now paid the monies to Mr C together with interest. It also agreed to pay him £150 as a gesture of goodwill for its delay in responding to his enquiry.

Mr C referred his complaint to our service. Our investigator looked into his complaint. She firstly considered whether our service could look into Mr C's complaint given that the refund had originally been made in 2000, which was more than six years before he'd complained. It was also more than three years since our investigator thought Mr C ought reasonably to have been aware he had cause for complaint. She noted he'd been told in 2000 that a refund was due to be paid to him. So, she thought that under the Rules which applied to our service we could not look into that part of Mr C's complaint which was about why the refund cheque had not been sent to him in 2000.

Our investigator said our service could look into those parts of Mr C's complaint which related to what had happened in 2021 when Royal London had issued him with a cheque for the refund together with interest on that amount.

Both parties accepted what our investigator said about the parts of the complaint our service could look into.

After the matter was referred to our service Royal London accepted it had not issued a tax certificate for the amount it had deducted from the interest it had paid to Mr C. In the circumstances, it agreed to refund Mr C the amount of tax it had deducted (£743.15). Our investigator thought this was fair and reasonable. She also thought that Royal London's offer to pay Mr C £150 for the trouble and upset he'd experienced was fair and reasonable. She didn't think it should have to pay anything further.

Our investigator then considered the amount of interest Royal London had added to the refund amount. Royal London had agreed to send Mr C the full refund amount together with interest based on the Bank of England bank rate for the period. She didn't think that was fair. She thought Royal London should pay Mr C 8% simple interest on the amount of the refund for the period.

Royal London disagreed. It said it would not pay 8% simple interest on the amount of the refund. It thought it had acted fairly and reasonably when it paid Bank of England bank rate (compounded) for the period.

Because Royal London disagreed, the complaint was passed to me to decide. I issued a provisional decision in which I said:

***What I've provisionally 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'd comment at the outset that I agree with our investigator when she said our service could not look into that part of Mr C's complaint which related to the fact he said he hadn't received the original cheques issued in 2000. Royal London has provided us with a copy of a letter which it sent to Mr C in August 2000. Mr C has confirmed that he has found this letter in his own records. And, Royal London has provided us with a copy of the response it received from Mr C in September 2000.*

*In its letter, Royal London set out the reasons why it couldn't apply all of the monies, which Mr C had sent to it on 30 March 1999, to his pension. It said:*

*"The cheque can be used to pay for a carry forward of the remaining relief from 98/99 ....and the remainder can be refunded to you."*

*Mr C's response stated:*

*"I would agree that the simplest way to proceed would be for me to receive a repayment of the excess."*

*Mr C says he didn't receive the refund and Royal London cannot confirm that it was forwarded to him by its regional office. But, I am satisfied that more than six years has elapsed since the date when Royal London said it would issue the refund. And I'm also satisfied that more than three years has elapsed since the date when Mr C ought reasonably to have been aware he hadn't received a refund cheque from*

Royal London. So, I cannot look into this part of his complaint.

I can look into what happened in 2021. There is no dispute that Royal London has now paid Mr C the full amount of the refund he was due to receive in 2000. And it's paid interest on this amount – from which it had initially deducted interest. It has now also offered to pay him the gross amount of interest because it didn't issue the tax certificate to him.

I'd just comment in passing that the law does require a business to deduct income tax at the basic rate, from compensatory interest payments – whether the consumer is a taxpayer or not. So, I don't think Royal London did anything wrong when it deducted tax from the compensatory interest payment. But, it should have sent Mr C a tax certificate. It accepts it didn't do that and for that reason it has now offered to make an additional payment to him equal to the amount of tax it deducted. I think that is fair and reasonable.

The outstanding part of Mr C's complaint which has not been resolved relates to how interest has been calculated for the period between the date the refund cheque was originally issued and the date that Royal London made the payment to him.

Mr C thinks he should be paid interest at the rate of interest he was able to obtain on his building society accounts. Our investigator thought he should be paid 8% simple interest. Royal London has paid interest at Bank of England bank rate (compounded annually). I've thought about each of these approaches. I've provisionally decided that Royal London has acted fairly and reasonably when it used Bank of England bank rate. I'll explain why.

When the refund cheques which were issued in 2000 remained uncashed, Royal London ultimately treated these monies as "orphaned monies," retaining the liability on its balance sheet. That meant it treated the full amount as still due and owing to Mr C – even though the monies hadn't been paid over to him. I don't think it did anything wrong when it did that. And it has kept records for the period which meant that when Mr C did come forward to claim the monies, it was able to pay the full amount to him.

Public interest dictates that money ordinarily due to consumers should not unduly benefit businesses. That's why I think it was fair and reasonable for Royal London to pay interest on the refund amount when it made the payment to Mr C in 2021.

Mr C says he should get the interest he would have received had he put the money in building society deposits. But, for the reasons given earlier, my view is that Mr C ought reasonably to have queried why he hadn't received the refund at the time. If he had done so, he would have received the refund in 2000 and been in a position to have put it into a building society account, or used it any other way he saw fit. But his lack of action meant he was never able to benefit in that way. That's not Royal London's fault and I don't think it's fair and reasonable to say Royal London should now pay for those lost returns.

I also currently don't think it would be fair or reasonable to require Royal London to pay interest at 8% (simple interest). That rate of interest is sometimes awarded by our service when a business has wrongly or unfairly deprived a consumer of money that it owes. It's also the current rate of interest that applies where there is a judgment debt. But neither applies here. Royal London has always accepted that the refund is due and owing to Mr C – it's held the liability on its balance sheet since the date the cheques were issued in 2000. It didn't raise any dispute about making the

*payment to him when he contacted it in 2021. And I'm satisfied it would have paid the refund had Mr C queried it earlier - as he ought reasonably to have done. So I'm not persuaded it's appropriate to require Royal London to pay 8% simple interest.*

*I've then thought about the rate of interest Royal London has applied here. It's used the Bank of England bank rate which applied throughout the period. It's also paid Mr C compound interest. As mentioned above, during the period that the refund remained in its orphaned funds' account, Royal London retained this amount as a liability on its balance sheet - which was repayable on demand. Monies which are repayable on demand generally do not attract a rate of interest which exceeds central bank base rates. So, having considered everything here, I think Royal London acted fairly and reasonably when it applied the Bank of England's bank rate of interest to the refund amount. I don't require it to have to do anything more.*

*Royal London has already offered to pay Mr C £150 by way of compensation because it accepted it had delayed responding to his correspondence. I've noted that Mr C first asked Royal London to look into the discrepancy in his contributions in August 2021. It wasn't until November 2021, and only after Mr C raised a complaint, that it responded to his concerns and sent him a cheque for the refund, plus interest. In its response Royal London accepted it had caused delay and inconvenience. It offered to pay Mr C £150 as a goodwill gesture.*

*I can see there was a delay of just over three months responding to Mr C's query about the discrepancy. And although I can understand that Royal London would've had to check its historical records before it could revert to Mr C, it has accepted that its service could've been better. Having considered everything here, I currently think £150 is fair and reasonable compensation for the delay Mr C experienced. I don't require Royal London to have to do anything more.*

### **My provisional decision**

*For the reasons given above my provisional decision is that I intend to uphold this complaint, in part, about The Royal London Mutual Insurance Society Limited.*

*If it hasn't done so already, I intend to require it to take the following actions:*

- Because it didn't issue a tax certificate to Mr C, pay him £743.15 being the amount of tax it deducted from the compensatory interest payment; and*
- Pay Mr C £150 by way of compensation for the distress and inconvenience he experienced for what happened here.*

Royal London accepted my provisional decision. It said it had nothing further to add.

Mr C also responded to my provisional decision. In summary, he made the following points:

- Royal London had a duty of care to ensure that pension payments were promptly and properly made. It had left over £6,000 in unrepresented cheques for around 20 years without making any enquiries.
- The base rate of interest didn't seem appropriate for over £6,000 for circa 20 years.
- Mr C was the only person to have been proactive in the matter. Royal London had been slow to respond to queries and had been rude and unprofessional
- Mr C had already received a tax refund from HMRC in respect of the £743.15 which Royal London had deducted from the compensatory

interest payment. He said he didn't want a second tax refund from Royal London but he did want it to issue a certificate of tax deducted.

So, I now have to make 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 considered the responses to my provisional decision.

As I said in my provisional decision, and for the reasons set out there, I could look into what happened in 2021. But, I couldn't look into what had happened in 1998/1999. I also explained why I considered that it was fair and reasonable for Royal London to pay compensatory interest on the amount of the refund it owed to Mr C.

Mr C doesn't think that Bank of England bank rate is an appropriate rate for compensatory interest given the length of time (circa 20 years) and the amount of the refund. In my provisional decision I commented that public interest dictates that money ordinarily due to consumers should not unduly benefit businesses. And, I considered the different rates of interest that had been put forward by both parties. I explained why I was persuaded, on balance, that Bank of England bank rate was fair and reasonable in all the circumstances that applied here. And although Mr C doesn't think that's appropriate, he hasn't provided me with any new or different information that persuades me to change my view.

In his response to my provisional decision, Mr C said he'd already received a tax refund from HMRC for £743.15. So, in these circumstances, he didn't want Royal London to pay him a second tax refund payment but rather he wanted it to provide him with a statement certifying the interest it had paid to him and the amount of tax it had deducted. I think that's fair and reasonable. Royal London has now confirmed it will issue the certificate of tax deducted. So, I've amended the actions I require Royal London to take here to resolve this complaint.

### **My final decision**

For the reasons given above I uphold this complaint, in part, about The Royal London Mutual Insurance Society Limited.

If it has not done so already, I now require it to take the following actions:

- issue a certificate of tax deducted to Mr C, setting out the gross amount of compensatory interest it paid to him (£3,715.77) the tax deducted (£743.15) from that amount and the net payment it made to him. The certificate should include the date of payment; and
- Pay Mr C £150 by way of compensation for the distress and inconvenience he experienced for what happened here.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 22 May 2023.

Irene Martin  
**Ombudsman**