

The complaint

Mr W has two main areas of complaint with The Royal London Mutual Insurance Society Limited (Royal London).

Firstly, Mr W has stated his pension should have had a drawdown facility set up from its inception in 2011. In 2022, when trying to access the pension, Mr W became aware that the pension did not already have an active drawdown facility and accessing the pension meant the policy would have to be moved into a new income release policy. This led to delays and inconvenience.

Additionally, when communicating with Royal London about the splitting of his pension following a divorce, Mr W has stated he was laughed at, which caused embarrassment at a difficult time in his life.

What happened

Mr W's Royal London pension policy commenced in 2011. This was done after Mr W had received advice from a business I will refer to as "Firm A" throughout the remainder of this decision.

On 11 May 2022, when trying to deal with the splitting of his pension following a divorce, Mr W was forwarded an internal email from Royal London in which it could be seen staff laughing when discussing Mr W's issues.

Mr W immediately raised this as a complaint.

Royal London issued their response to this complaint the following day on 12 May 2022. Here they upheld the complaint and offered £500 by way of an apology.

This letter also dealt with another issue in which an incorrect document had been sent to Mr W's ex-wife.

Following this, on 7 June 2022, Royal London increased the redress payable by way of apology to £1,000.

In August 2022 further communication between Royal London and Mr W led to an additional complaint being registered. This was based on Royal London confirming that Mr W's existing plan could not simply have a drawdown facility switched on, rather he would have to go through a non-advised process to set up a new policy with an active drawdown facility.

On 4 January 2023 Royal London issued their response to the August 2022 complaint about the lack of a drawdown facility on the original policy.

Royal London explained that they had set the policy up as per the instructions given to them by Mr W's adviser at the time. Royal London stated that in 2011 Mr W was 52 years of age and given pension legislation at the time limited access to pension monies to those over 55, the pension could not have been set up with an active drawdown facility from outset.

Given Royal London had concluded that they had set up and administered the original policy as per the instructions they were given, they explained that no refund of their charges was considered appropriate.

The response also explained that Royal London considered the setting up of the new policy (to facilitate drawdown) had been completed in a timely manner. It was noted that from the completion of the appropriate pension sharing order on 29 July 2022, the new plan was up and running on 22 August 2022 – well within their usual 4–6-week timetable for such a process.

The response letter also cleared up a date protection issue which has not been forwarded to this service for further consideration.

Given it had taken Royal London from August 2022 until January 2023 to answer this complaint point, the letter did offer Mr W a further £500 to apologise for the delay.

Unhappy with the response, Mr W forwarded his issues to this service. The complaint points forwarded were as detailed above. Firstly, that Mr W believed the original policy should have had a drawdown facility already active and available, and secondly that in trying to deal with the splitting of his policy with his ex-wife, Royal London staff had laughed at him within internal emails.

Our investigator looked into things but did not believe any further action was required of Royal London.

With regard to the first complaint point, our investigator agreed with the outcome reached by Royal London and stated that as Royal London had not given the original advice regarding the policy any complaint about the advice should be forwarded to Mr W's advisers from that time – Firm A. Our investigator also noted Royal London's point that given Mr W's age at the time the policy commenced, pension legislation would have prevented an active drawdown account being opened at that time.

In respect of the second point regarding the email laughing at Mr W, our investigator agreed the email was inappropriate however considered the amount offered by Royal London to be sufficient.

Mr W did not agree and stated that he believed the redress amount in relation to the email should be doubled. Additionally, Mr W stated that Royal London had never informed him drawdown was not already set up despite the fees and commissions charged.

As no agreement could be reached the case has been passed to me.

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.

Firstly, I consider it clear that Royal London did not give Mr W any advice in relation to the original pension policy set up in 2011. Mr W himself has provided an extract of the client agreement between himself and his advisers at Firm A.

I was not present at the meetings between Mr W and Firm A, and as such I do not know what exactly was said, however, this complaint is only in relation to Royal London and as such the only concern I have is any errors or omissions by Royal London.

Mr W has stated that he believed the 2011 policy had been set up with a drawdown facility.

For their part Royal London have explained that at the commencement of the 2011 policy Mr W was 52 years of age. Given pension legislation at that time limited access to pension savings to those age 55 and over, Royal London have explained that it would not have been possible to set up a policy with an active drawdown facility at that time – to do so would have been against the pension legislation all businesses and consumers operated under at that time. Additionally, Royal London said that if Mr W had issues with the advice he had received, this complaint should be made to his advisers at Firm A.

Our investigator agreed with the arguments made by Royal London, and I have reached the same conclusions.

I do not consider it reasonable to hold Royal London responsible for the suitability, or otherwise for the policy set up on the advice of Firm A. In addition, whilst it subsequently became clear to Mr W that the policy set up in 2011 was not as per his recollections, I do not consider it reasonable to hold Royal London responsible for this.

Royal London did not give any advice to Mr W and cannot be held accountable for the statements of an unrelated third party (Firm A). Additionally, setting up a policy with an active drawdown facility would have been against pension legislation at that time. Given this I am not upholding this element of the complaint and am not asking Royal London to take any further action in this regard.

I note Mr W's response to the findings issued by our investigator in which he has stated that the lack of drawdown on the policy led to a delay of around three months when trying to split the pension with his ex-wife.

I fully accept that this must have been an added cause of stress at what must already have been a difficult time, however, as above I do not believe Royal London acted inappropriately in setting up the original policy in 2011, with it not being possible for Mr W to have an active drawdown policy at that time.

I also do not believe Royal London were responsible for informing Mr W that the policy did not have active drawdown already set up. Royal London did not advise on the policy with responsibility for explaining the policy and how it worked and ensuring it met Mr W's needs lying with Firm A.

I have finally gone on to consider the content of internal Royal London email forwarded to Mr W in error. These emails showed Royal London staff laughing at Mr W.

Royal London accepted that these emails were unacceptable, apologised for any distress caused and offered a total of £1,000 by way of compensation.

An original offer of £500 was documented in the complaint response dated 12 May 2022 with an additional £500 offered of 7 June 2022.

Mr W referred his complaint to this service on 21 March 2023, more than six months after the original 12 May 2022 complaint response – albeit within six months of the later (January 2023) response letter covering Mr W's additional issues around the lack of the drawdown facility.

Whilst the rules which govern the complaints this service can consider require a complaint to be referred to this service within six months of the response letter covering that specific complaint point, Royal London have agreed that this service can consider the issue around

the inappropriate email.

When considering the appropriate amount in circumstances such as this, where there has been no actual financial loss to a consumer's policy, but distress and inconvenience has been caused, each individual case is considered based on its own unique set of circumstances.

Whilst this is the case, The Financial Ombudsman Service does provide some guidance on what consumers and businesses can expect (including example case studies) on our website. This is to ensure consistent outcomes for all parties involved. Within their findings our investigator provided both Royal London and Mr W with the link to where this guidance can be found on our website, as such I have not included it again here.

Having considered the content of the offending email, Royal London's response to the complaint made, and our investigators findings on the issue, I have reached the same conclusion as our investigator.

It is undoubtedly the case that the content of the email was unacceptable, and that its timing (when Mr W was in the midst of a divorce) would only have heightened the distress caused.

However, Royal London responded to this complaint point quickly with their first response coming within 24 hours. Additionally, they apologised for the error, explained that the team member responsible would be provided with additional training as a matter of urgency, and ultimately offered a total of £1,000 by way of compensation.

I have noted Mr W's commentary regarding the findings issued by our investigator requesting that the redress amount be doubled, however for the reasons detailed above I have decided that the £1,000 already paid is fair.

I am upholding this complaint as Royal London clearly made an error; however, I am not instructing Royal London to take any further action as I consider the £1,000 already paid as sufficient to cover the distress caused.

Putting things right

As The Royal London Mutual Insurance Society Limited have already paid redress that I consider reasonable, no further action is required of them.

My final decision

I am upholding this complaint.

However, as The Royal London Mutual Insurance Society Limited have already made a redress payment I consider reasonable, no further action is required.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 17 August 2023.

John Rogowski
Ombudsman