

The complaint

The estate of Mr T complained that The Royal London Mutual Insurance Society Limited (Royal London) has not distributed Mr T's pension benefits correctly. It believes that the benefits should have been distributed according to Mr T's will and contemporaneous letters he left indicating his wishes, rather than to his children.

It would Royal London to reconsider its decision and pay the pension benefits to the executors of his estate.

The estate is represented in this complaint by a solicitor who also acted for Mr T.

What happened

Mr T passed away in January 2023. Royal London was informed of his death and received a copy of his death certificate on 3 March 2023.

Mr T's solicitor subsequently wrote to Royal London on 27 April 2023, providing a complete bereavement Information Form and copies of Mr T's Will and letters left to Mr T's children explaining his reasons for excluding them from benefitting from the will.

Royal London replied to the solicitor on 15 May 2023. It said:

We will not take the handwritten letters into consideration and as the policy doesn't form part of the estate, from the information provided the Trustees consider his children, [names redacted] to be the potential beneficiaries.

The solicitor wrote again on 24 May 2023 to ask Royal London to explain why it had reached that decision. It went on to say:

We can confirm that we were handed the letters by Mr [T] and they were placed with his Will. Mr [T] was adamant that he did not wish his children to benefit in any way from his Estate hence the reason why they were excluded as Beneficiaries.

As you will note from the copy of Mr [T's] Will he had made provision in his Will for [their children]. Please can you explain why you will not pay the funds to [grandchildren] children instead of directly to [Children].

Royal London replied on 14 June to explain that:

The handwritten letters were not drafted and written into Mr [T's] official Will.

The value of this pension policy does not form part of Mr [T's] estate.

We confirm that Mr [T] was aware of this pension policy and was in contact with us regarding it and his retirement options and made no nominations for this policy.

The solicitor wrote once more on 17 July 2023, expressing dissatisfaction with Royal London's decision, asking for further information and raising a complaint.

Royal London responded to the complaint on 27 October 2023. It did not uphold the complaint. It explained:

The value of the claim on [Mr T's] pension is held within the Royal London Master Trust. This means the claim is payable at Royal London's discretion and does not form part of the estate. As a result, we are not taking into account the Will, which covers the estate only, and does not mention this pension. The letters Mr [T] wrote to his children also cover the Will/estate.

With a discretionary pension claim the first thing Royal London considers is if anyone was financially dependent on the person who has passed away. If there was no-one financially dependent (which there was not in this case), then we look to the closest surviving next-of-kin, which in this case are his two children [names redacted].

Unhappy with this response, the solicitor brought the complaint to this Service.

Our Investigator reviewed the information provided by both parties and formed the view that the complaint should not be upheld. Consequently, the case has been passed to me 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.

Having done so, I agree with our Investigator and do not uphold this complaint.

Having said that, I can appreciate that this will be disappointing to the estate of Mr T, so I will explain how I have reached my decision.

Firstly, I think it's important to reflect upon the role of this Service. Our role is to impartially review the circumstances of a complaint and make a decision on whether a business has made errors or treated a customer unfairly. Where it has, it is our aim to ensure that the customer is compensated fairly. This is an arbitration service, not a court of law, and as such there are clear limits on what we can and cannot compel a business to do.

In the circumstances of this complaint, it is important to note that Royal London has the legal responsibility for deciding how Mr T's benefits should be distributed. This includes both deciding who these beneficiaries should be and the share of the assets that each should receive. This is because Mr T's pension was held within the Royal London Master Trust.

Royal London correctly explained that death benefits from such a discretionary trust are not automatically distributed according to the terms of the Will but are paid at the discretion of the trustees, and after taking into consideration the policyholders wishes if they have made a nomination.

Having done so, it will make a decision and inform the beneficiaries of this decision. In this case, the estate was not chosen to be a beneficiary, as Royal London chose to give weight to the nomination form Mr T had previously completed rather than the terms of his will and the accompanying letters.

I've also considered the estate's view that if Mr T had been aware that his pension was held in a discretionary trust, he would have amended the death nomination form he had completed to exclude his children. While this may have been the case, unfortunately the only nomination form he completed asked that the death benefits were to be paid to his children and so I can't see that Royal London has done anything wrong here.

The notes on the form state,

a) Please indicate the proportion of benefit for each person, if more than one is nominated.

b) When deciding to whom any lump sum should be paid in the event of your death before retirement, Royal Liver Assurance Limited will fully consider the request you have made. Please note that the payment of any lump sum to any particular person will remain at the discretion of the Society.

c) If your circumstances change and you wish to complete any Nomination Form you should contact the Society.

d) The Nomination Form revokes any other nomination(s) previously completed in respect of this policy.

I'm therefore satisfied that Royal London had informed Mr T of the basis on which the benefits would be distributed. I can't see that it should have reminded him of that this basis or sought to ask him to update his nomination form. While this may have been useful in Mr T's case, I can see that for many other policyholders such an approach may be seen to be intrusive and upsetting, so I can't see that Royal London did anything wrong in this respect.

I've also reviewed the terms of the will and the accompanying letters. While I can see that they provide a clear direction to the executors of his estate, I am also satisfied that Royal London has correctly identified that these pension benefits do not form part of the estate. Consequently, by choosing to give greater weight to the death nomination form Mr T completed than to these documents, I can't see that Royal London has acted outside its authority as Trustee.

I appreciate the executors of Mr T's estate are very disappointed with Royal London's decision, but the policy benefits are paid entirely at Royal London's discretion. This Service cannot override the decision of the Trustees or compel them to distribute assets in a different way to the way they have decided.

From the evidence provided, I can see no errors in the process that Royal London has followed in determining how the assets should be distributed. As I stated earlier, these are issues that lie outside the remit of this service and can only be decided by a court of law.

Given this, and disappointing as it will be to the estate of Mr T, I can't see that Royal London has done anything wrong in how it has managed the distribution of assets from Mr T's pension benefits.

My final decision

For the reasons explained above, I do not uphold the estate of Mr T's complaint.

Royal London Mutual Insurance Society Limited does not need take any action to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr T

to accept or reject my decision before 25 September 2024.

Bill Catchpole
Ombudsman