

The complaint

Mr R complains that Legal and General (Portfolio Management Services) Ltd (L&G) failed to notify him about an important change to his pension, leading to a significant financial loss. And that it incorrectly interpreted his rights under that pension. He feels he has unqualified rights to take his pension benefits from age 55.

To put things right, Mr R wants L&G to pay him the two years' of pension income he feels he's lost. Alternatively, he'd like it to allow him to take his pension at age 55.

What happened

Mr R has a WorkSave pension with L&G, through his employer. The government stated its intention to change the normal minimum pension age (NMPA) from 55 to 57 for people born after a specified date. As this change could affect Mr R, he contacted L&G in July 2021.

Mr R said that when he'd set up his pension, he'd chosen to have a default retirement age of 55. He'd read in the press that existing schemes which allowed members to access their benefits at age 55 might be able to continue to do so, after the new legislation came in. So he wanted L&G to tell him if he'd still be able to access his pension from age 55, given the new NMPA of 57.

L&G replied to Mr R later that month. It said that based on the proposals in the government consultation, it currently believed that his pension scheme would be able to offer a Protected Retirement Age (PRA) of 55 to its membership. But it said that as the draft legislation had yet to be released it couldn't offer any guarantees or certainty of the conditions required for this protection.

L&G went on to state that it would be in a better position to advice on the specific rules which might impact Mr R's scheme once these changes were further clarified by the government.

Mr R contacted L&G in May 2024 to ask it to confirm whether or not he could still access his pension at age 55. L&G replied the same day to confirm that Mr R's scheme didn't have protection. Therefore the minimum age to claim the pension would be 57 with effect from 2028.

Mr R complained to L&G on 16 May 2024. He felt that the government rules were clear that a right was protected if the right to take the pension at age 55 was unqualified. He felt that as he'd been able to choose to retire at age 55 without permission from anyone, this meant his right was unqualified. He therefore felt that L&G had incorrectly interpreted his rights. And wanted to know on what basis it'd arrived at its decision that he now couldn't take his benefits before age 57.

Mr R also felt that L&G should've notified him about the fact that his rights were going to be changed. He felt that if it'd done so, he'd have been able to move his pension to another provider with protected rights.

L&G issued its final response to Mr R on 22 May 2024. It didn't think it'd done anything

wrong. It noted that the change to the NMPA had been driven by government legislation. It said that as there was still over three years before the change came into effect, it would communicate to its members nearer to the time of the change.

L&G said there was no PRA on Mr R's scheme. And that therefore the earliest Mr R could claim his pension would be age 57. It noted that there were schemes which allowed members to access their benefits before NMPA that did have a PRA. And that Mr R could transfer to another scheme at any time as long as the new scheme would accept his type of plan.

Mr R replied to L&G. He confirmed that there were two aspects of his complaint:

- He felt L&G had failed to explain why it'd concluded he didn't have a PRA. He felt that as he'd previously been freely able to access his pension at age 55 L&G needed to explain how it'd arrived at its decision.
- He felt it'd been reasonable to expect L&G to write to all scheme members impacted by the change. He felt that if it'd written to him in good time, he would've been able to set up a new fund with a protected age of 55. He felt the communication he'd received was poor. And noted that his portal still showed that his retirement age was set to age 55.

L&G replied to Mr R. It said that his pension didn't give him unqualified access, and that it didn't have a PRA. It said that to qualify needed specific paperwork to be completed, according to scheme rules. It said that the scheme rules stated:

You can take money from your arrangement any time after you reach Normal Minimum Pension Age. When you want to do this, let us know and we will send you information about your options.

L&G said that it hadn't made the decision to change the NMPA. It said the government had done this, and that it had no control over the change. It also said that it would contact all members before 6 April 2028 to advise them on the steps they'd need to take. But it said that as some parts of the legislation still needed to be finalised, it would do this nearer to the time.

L&G acknowledged that age 55 still showed as Mr R's Nominated Retirement Age on his portal. It said this was set up in line with existing legislation.

L&G said that in order to secure a plan with a PRA with another company, Mr R would've needed to have enrolled in it before November 2021 – the HMRC deadline. It said that it, along with other providers, hadn't been given adequate notice to inform their members about this. It asked Mr R if he could provide details of another scheme he would've transferred into at this time. It said if he'd already enrolled in a scheme with a PRA with another provider, he could still transfer his L&G pension into it if that provider would accept it.

Mr R was still unhappy with L&G's response. So he brought his complaint to this service in June 2024. Mr R said that he'd planned to draw his pension from age 55.

Our investigator didn't think the complaint should be upheld. He didn't consider that Mr R's scheme had the characteristics that would've allowed Mr R to continue to take his benefits from age 55 after the NMPA change. He also didn't think that L&G had failed to communicate with its members about the change. He felt that L&G's position that it would write to its affected members before 6 April 2028, given there were still areas within the legislation that were being finalised, was reasonable.

Mr R didn't agree with our investigator. He made the following points:

- He felt that L&G should've provided a warning about the imminent changes to the NMPA.

Mr R said that the draft legislation on the change had been issued on 20 July 2021. And that the legislation was then enacted on 17 November 2021.

Mr R felt that L&G must've been part of the consultation which had taken place before July 2021. He felt it knew that the change was going to be implemented in July 2021. And that this meant it'd had three months to tell its members about the change. He therefore felt that L&G should've told its members about the position so that they could take action and find an alternative scheme with protected rights. He said that because it didn't, he'd missed his chance to transfer to a scheme within which he could've retained a retirement age of 55.

- He still felt he had unqualified rights to take his pension from age 55. He said that if he could draw his pension aged 55 by completing some forms then the right existed.
- Mr R felt that he'd met all of the eligibility requirements for a member to have a PRA under the scheme.

As agreement couldn't be reached, the complaint has come to me for a review.

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'm not going to uphold it. I know this will be disappointing for Mr R. I'll explain the reasons for my decision.

I first want to explain the NMPA, which is a regulatory requirement.

NMPA

The government introduced the NMPA in 2006. It was set to be 10 years before state pension age. As such, it was increased from age 50 to age 55 in 2010, in line with state pension age changes at that time. And in 2014, the government announced its intention to increase the NMPA again to age 57 in 2028. This was timed to coincide with the rise of state pension age to 67.

Although the headline change was made relatively clear from the start, the details of the change were not. L&G said that it'd sought legal advice on the matter before it could issue any communication.

I went on to consider what L&G told members of the WorkSave plan about the NMPA. I've been provided with the April 2024 version of the "Key Features of the WorkSave Pension Plan" booklet.

Key Features of the WorkSave Pension Plan booklet

This states:

The normal minimum pension age (NMPA) is the earliest age at which most people can start

taking money from their Personal and Workplace Pensions. Currently, it's age 55, but from 6 April 2028, the NMPA will increase to age 57.

But, there are a few exceptions:

- *If you have a Protected Pension Age, you may still access your pension earlier.*
- *Retiring due to ill health.*

Mr R told this service that this booklet wasn't the original document he was given. And that it doesn't reflect the scheme rules from when this product was inception a long time ago. He felt that L&G had re-written this document after the legislation changed.

I've considered Mr R's points here. But I'd expect L&G to update its booklets from time to time to reflect legislation changes. And while I acknowledge that Mr R would've been given a different version of this document, I've not been presented with any evidence that this version doesn't reflect the scheme rules from when the product started.

I say this because the scheme rules simply state that a member can access their pension after they reach NMPA. They don't state an actual age like 55 or 57.

Based on the wording of the scheme rules, and in the absence of any evidence to the contrary, I think it's reasonable to assume that the scheme rules at the time Mr R started his WorkSave pension contained similar wording. I say this because scheme rules are usually written in a way that ensures that legislative changes don't require immediate updates. Therefore I'd expect the rules to have used "NMPA" rather than state a specific age.

I next went on to consider whether or not Mr R should've had a PRA.

Should Mr R have a PRA of 55?

Mr R felt that before the legislation change, he'd had an unqualified right to take his pension from age 55. He felt that the scheme rules included provision to pay benefits at age 55.

There's also been some confusion caused by the mention of the completion of forms – I don't think this has a direct bearing on the outcome of this case. I say this because I'm satisfied that it wasn't possible under the rules of Mr R's scheme for him to have completed a form in order to gain a PRA of age 55.

Based on the evidence that's been presented, I'm not persuaded that Mr R did have the unqualified rights he thought he had to take his pension from age 55. I say this because under his scheme rules, he was only ever permitted to choose to take his pension from the current NMPA. I can see that Mr R believes that as he'd been allowed to select age 55 as his normal retirement date, this must mean that he had a PRA of 55. But this isn't correct.

Mr R was allowed to select age 55 as his normal retirement date as, under the legislation at that time, the NMPA was age 55. But when the legislation changed the NMPA to age 57 for people born after a certain date, including Mr R, that meant that he couldn't take benefits from this pension until age 57.

I can also see that L&G's system still has Mr R's Nominated Retirement Age set at age 55, his chosen retirement age. L&G acknowledged this in its 24 May 2024 response to Mr R. It explained that this was currently in line with existing legislation.

I understand why it would be frustrating for Mr R to see his Nominated Retirement Age still

set at the age he wanted to retire at, while at the same time being told that he couldn't retire at that age. Despite that, I don't think that L&G has acted unreasonably.

I say this because L&G has explained that it will contact members with Nominated Retirement Ages below the NMPA before 6 April 2028 to advise them of their options. But it's not yet ready to do that.

I consider this is a reasonable position to take, given how far away the change is for most people. Mr R himself is currently 10 years away from the old NMPA and 12 years away from the new one. Therefore, although I do understand why he wanted earlier communication from L&G, I'm satisfied that L&G's position is reasonable.

I have also considered Mr R's point that L&G could've taken further steps, in the brief window he identified between July 2021 and November 2021, to have alerted its members to the possibility of taking action to find an alternative scheme with protected rights. He feels that L&G had plenty of time to advise its customers about the change, but that it chose not to. He felt this was because it was in L&G's best interests to retain its customers' investments for as long as it could. Mr R also felt that if L&G had notified him before November 2021 about the fact that his rights were going to be changed, he'd have moved his pension to another provider with protected rights.

L&G said that the NMPA change was a regulatory requirement, which wasn't due to come into effect until 6 April 2028. It said that as such, it was preparing for the change. It said this included planning communication to its members, which would consider appropriate timelines before the change became effective.

I've carefully considered what both parties have said on this point. Having done so, I agree with our investigator that L&G wasn't in a position to write to Mr R and other consumers between July and November 2021, as it hadn't been given all the necessary information. And I've seen no evidence that instead, L&G decided not to communicate information as it was in its own interests to withhold information from its customers.

Overall, while L&G did suggest to Mr R in 2021 that his WorkSave pension might provide him with a PRA of 55, it didn't guarantee it. L&G said it was seeking legal advice on the matter before it could communicate more widely to its members. So I consider that this response was reasonable at this time.

L&G then confirmed on 14 May 2024 that Mr R's plan didn't have that protection. And that therefore, the NMPA in that plan would move to age 57 in 2028.

L&G further explained what the criteria for a PRA of 55 were. It said they were based on the scheme rules. And that if those rules provided members with an unqualified right to take benefits at 55 or 56 on 11 February 2021, those members would continue to have a PRA of 55 or 56 after the change. But if it didn't, they wouldn't.

From what I've seen, Mr R's scheme rules didn't provide him with an unqualified right to take benefits at age 55 or 56. So there was no PRA in Mr R's scheme. Instead, the minimum pension age changed to whatever the legislation said the NMPA was.

I know Mr R will be disappointed that his NMPA has changed. But based on the evidence I've seen, I've not found that L&G has done anything wrong. So I can't reasonably uphold the complaint.

My final decision

For the reasons I've set out, I don't uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 31 October 2024.

Jo Occleshaw
Ombudsman