

The complaint

Ms M's children and the executors of her estate complain that The Royal London Mutual Insurance Society Limited failed in their duty of care to a vulnerable customer when Ms M purchased an annuity in 2022. The complaint is led by one of Ms M's sons, Mr M.

What happened

Ms M requested an information pack about her pension on 27 April 2022. It was sent to her on 3 May with the strong encouragement to consult with a financial adviser before making any financial decisions based on the information enclosed. The letter included information on how to find a financial adviser. It also offered to call Royal London's customer service team if Ms M had any questions.

On 31 May 2022 Ms M called Royal London to say that she was under the minimum retirement age of 55, but she had been unable to work in her occupation. Royal London advised she might be eligible to take pension benefits under ill health provisions and sent her the relevant forms to complete on the same day. The form was completed by Ms M and her doctor and returned together with some medical reports on 12 July. The information showed that Ms M had anxiety, depression and was diagnosed with bipolar disorder and that she likely wouldn't be able to work again in her occupation.

On 15 July it was confirmed to Ms M in a call that she could take her pension benefits before the minimum pension age of 55 due to ill health (she was just under 54 at the time). The different options on how to take pension benefits (annuity, drawdown, cash lumps sums) were discussed and it was agreed to send Ms M information so she could review it and make a decision. Ms M indicated she would seek financial advice.

After speaking to Ms M again a couple of days later they arranged an appointment with Pension Wise for her for 21 July.

On 28 July Ms M signed a letter of authority to disclose policy details to a financial adviser (Money Doctor Financial Planning Limited). The adviser asked Royal London for Ms M's policy details on 1 August.

On 5 August Ms M called Royal London and asked them to resend her pension options pack. This was chased again by Ms M on 11 August. On 12 August Royal London sent her a benefits options pack which also included a pensions guide from Money Helper.

Ms M called on 8 September to make enquiries about taking an annuity and some tax-free cash. An appointment with the Royal London retirement team was arranged for the next day.

On 9 September Ms M spoke to Royal London about wanting to take an enhanced annuity. It was explained to her that Royal London didn't offer enhanced annuities. If she was over 55 they could refer her to their annuity bureau to look for an enhanced annuity on the open market. However, as she was under 55, they could only offer an in-house annuity with Royal London which wasn't enhanced. Ms M confirmed she wanted to go ahead with the in-house annuity. It was explained twice to Ms M that if she waited until 55 she could possibly get a

higher income with an enhanced annuity which she said she understood.

In the call Ms M was taken through the different annuity options. The option of a five-year guarantee period was explained to her and what this meant. It would guarantee the annuity income to be paid for five years even if Ms M died before then. Ms M declined this option. It was agreed she would be sent quotes for taking 25% tax free cash and a single life annuity, no guarantee period, paid monthly in advance. Ms M also wanted to see quotes for a level annuity and for an annuity with an annual increase of 3%. Royal London explained that she could have as many quotes as she liked at any time. Risk warnings were given and Ms M was told that once she had applied for the annuity she had a 30 day cancellation period.

In the call Ms M confirmed that she had spoken to Pension Wise. She also mentioned that she had extended discussions with a financial adviser and that she had spent a lot of time looking at her options.

Following the call, an application pack together with information about retirement options and choices was sent to Ms M. On 12 September Ms M signed the relevant application forms and chose the level annuity. On 4 October Ms M's benefit selection was confirmed. The tax-free cash lump sum was paid and the annuity started.

Ms M took her own life a year later. A complaint was raised that an annuity shouldn't have been sold to her given her medical history of severe mental health conditions and a previous suicide attempt earlier in 2022. Mr M says Royal London was aware of Ms M's vulnerability and ought to have insisted on support from a third party or family members to confirm her decision. Ms M's annuity stopped when she died.

Royal London didn't think they had done anything wrong with regards to the annuity sale. They offered an apology and £100 for their delays in responding to the complaint. One of our Investigators considered the complaint and didn't think Royal London needed to do anything else.

Mr M disagreed and so the complaint was referred to me for an ombudsman's 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've decided not to uphold the complaint.

I agree that Ms M was a vulnerable customer and Royal London needed to take appropriate care when dealing with her in order to treat her fairly.

The FCA published guidance for firms on the fair treatment of vulnerable consumers in 2021 which provides a helpful framework. However, there is no prescribed process for firms how to deal with every vulnerable consumer. It very much depends on the individual and the circumstances of the case.

Royal London say no specific health issues were discussed in the call of 9 September as Ms M wasn't applying for an enhanced annuity and the medical details provided for the ill health claim (which allowed pension payment before the age of 55) were only visible to the ill health team at Royal London. So when the annuity options were discussed on 9 September the annuity team wouldn't have been aware of Ms M's specific medical conditions. This might be the case, however Ms M had applied for an early pension due to ill health which in itself would indicate a vulnerability, even without further details. I also think the information

that Ms M had mental health issues should have been shared with the retirement team to ensure they could support Ms M as best as they could.

Ms M was taking out an annuity which was providing her with a guaranteed income for life. It wasn't for Royal London to decide if this product was suitable for Ms M. However, they had to give her clear, fair and non-misleading information and help to reasonably protect her from harm where appropriate and necessary. From what I've seen Ms M was given clear information about her annuity options both in writing and over the phone. She was engaged in the process and during the phone calls with Royal London she asked several questions and showed a good understanding about the options available to her. There was no indication she didn't understand what she was doing or that she was making uninformed or impulsive decisions. She was calm and considered in every conversation.

The first time she spoke to Royal London she asked for the options to be sent to her so she could review this in her own time. When she spoke to Royal London she again was clear on what she wanted and didn't want and she had obviously looked at her retirement options for some time. She also said she had spoken to Pension Wise and a financial adviser at length. Royal London had made the appointment for her with Pension Wise and they had received a letter of authority from a financial adviser. So I think it was reasonable for them to believe what Ms B was telling them and take some reassurance that Ms B had sought professional guidance.

Royal London should have specifically asked Ms M if she needed any additional support given her ill health or offered that she could have a third party or family member present when discussing her retirement options. However, given that she had already spoken to professional parties and had been thinking about her options for some time I think on balance she likely wouldn't have seen the need for this. And I don't think in the specific circumstances it would have been reasonable for Royal London to prevent Ms M from making a decision without a third party being present or someone independently confirming her choice.

I also note that even if the call handler on 9 September had been aware of Ms M's more specific medical history, the most recent reports which were provided to Royal London dated May 2022 said Ms M's risk of suicide or self-harm were low. So I don't think it would have been reasonably foreseeable that Ms M would die very shortly after taking out the annuity. There was also no indication in her medical records or in the communications with Ms M that she was incapable or struggling to make this financial decision at the time despite her mental health conditions.

I appreciate that it's disappointing and upsetting that Ms M paid around £290,000 towards an annuity and effectively only received a very small part of this back in annuity payments due to her early death. However, on balance, I don't think different actions from Royal London's would have changed Ms M's decision.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Ms M to accept or reject my decision before 27 May 2025.

Nina Walter
Ombudsman