

The complaint

Mr W has complained, with the help of a professional third party, about the transfer of his personal pensions, previously held with The Royal London Mutual Insurance Society Limited ('Royal London') to a small self-administered scheme ("SSAS") in May 2014. Mr W's SSAS was subsequently used to invest in an overseas property development with The Resort Group ('TRG'). The investment now appears to have little value and Mr W says he has lost out financially as a result.

Mr W says Royal London failed in its responsibilities when dealing with the transfer request. He says that it should have done more to warn him of the potential dangers of transferring, and undertaken greater due diligence on the transfer, in line with the guidance he says was required of transferring schemes at the time. Mr W says he wouldn't have transferred, and therefore wouldn't have put his pension savings at risk, if Royal London had acted as it should have done.

What happened

Mr W says he was contacted by someone on behalf of First Review Pension Services ('FRPS') and offered a pension review. He agreed and a meeting subsequently took place at his home. Mr W says he was told that he should transfer the proceeds of the six pensions he held with Royal London and invest in the purchase of a property in a TRG development in Cape Verde as it was a very good opportunity for him. He says he was told the investment would perform much better than his existing pension. And he says the person he met with also said, with the investment being in property, this could be passed on to his dependents.

In November 2013, Royal London wrote to two businesses, Chase Goldman Intelligent Investments ('CGII') and AWM Financial Services ('AWM') acknowledging receipt of a letter of authority signed by Mr W. Neither of these businesses were authorised or regulated by the Financial Conduct Authority ('FCA').

Royal London said in the acknowledgment letter it hadn't enclosed transfer discharge forms as it was now able to transfer benefits when in receipt of a signed copy of the new providers application form and confirmation the new pension provider would accept funds. Royal London sent further information to AWM in December 2013, including transfer values for Mr W's pensions.

In January 2014, a company was incorporated with Mr W as director. I'll refer to this company as W Ltd. A SSAS was then set up and registered with HMRC on 21 March 2014. W Ltd was the SSAS's principal employer and Bespoke Pension Services Limited ('BPSL') was the administrator. BPSL was also not subject to regulation by the FCA.

BPSL wrote to Royal London on 1 May 2014 enclosing documents to allow Mr W's pensions to be transferred to the SSAS. The documents included a copy of the 'Scorpion' information leaflet (the longer booklet version) titled 'predators stalk your pension' – which gave information, including example scenarios, about pension liberation. This was signed on the front cover by Mr W to confirm he'd read the document and he was not party to pension liberation activity in any way.

Also enclosed was a letter signed by Mr W. This letter said he was aware there had been a rise in cases of pension liberation fraud and he was aware of the issues relating to this. The letter said Mr W wanted to confirm he was requesting a transfer to take advantage of investment opportunities, none of which were connected with pension liberation. And it stated he was not seeking to access his pension before age 55 and had not been offered a cash or other incentive to transfer.

On 7 May 2014 Royal London transferred the proceeds of Mr W's pensions held with it, to the SSAS. The total amount transferred was £72,931.29. I understand around £58,000 of these funds was subsequently invested in an overseas property development with TRG.

In 2020, Mr W complained to Royal London. Briefly, he said the investment in the SSAS was now illiquid and worthless. He thought Royal London ought to have spotted, and told him about, a number of warning signs in relation to the transfer. These included that the SSAS and W Ltd were only recently registered, Mr W had been cold called, no regulated advisers had provided Mr W with advice, Mr W had been advised by an unregulated business that he'd receive much higher returns with no risk but the proposed investment, based overseas, was unregulated and high risk and the SSAS administrator had only been operating for a couple of years. But Mr W said Royal London hadn't contacted him at all during the transfer process. Mr W said if Royal London had properly informed him of these warning signs, he wouldn't have transferred.

Royal London didn't uphold the complaint. It said it had received a genuine request to transfer signed by Mr W and he'd also signed a copy of the scorpion leaflet and a further letter saying he understood there had been a rise in pension liberation, but his transfer was not for this purpose. So, Royal London said it had no reason to refuse the transfer.

Mr W asked our service to consider his complaint. I issued a provisional decision last month explaining that I didn't intend to uphold Mr W's complaint. Below are extracts from my provisional findings, explaining why.

The relevant rules and guidance

Personal pension providers are regulated by the FCA. Prior to that they were regulated by the FCA's predecessor, the Financial Services Authority ('FSA'). As such Royal London was subject to the FSA/FCA Handbook, and under that to the Principles for Businesses ('PRIN') and to the Conduct of Business Sourcebook ('COBS'). There have never been any specific FSA/FCA rules governing pension transfer requests, but the following have particular relevance here:

- *Principle 2 – A firm must conduct its business with due skill, care and diligence;*
- *Principle 6 – A firm must pay due regard to the interests of its customers and treat them fairly;*
- *Principle 7 – A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading; and*
- *COBS 2.1.1R (the client's best interests rule), which states that a firm must act honestly, fairly and professionally in accordance with the best interests of its client.*

The Pensions Schemes Act 1993 gives a member of a personal pension scheme the right to transfer the cash equivalent value of their accrued benefits to another personal or occupational pension scheme if certain conditions are satisfied (and they may also have a

right to transfer under the terms of the contract). This right came to be exploited, with people encouraged to transfer to fraudulent schemes in the expectation of receiving payments from their pension that they weren't entitled to – for instance, because they were below minimum retirement age. At various points, regulators issued bulletins warning of the dangers of taking such action. But it was only from 14 February 2013 that transferring schemes had formal guidance to follow that was aimed at tackling pension liberation – the “Scorpion” guidance.

The Scorpion guidance was launched by TPR. It was described as a cross-government initiative by Action Fraud, The City of London Police, HMRC, the Pensions Advisory Service (‘TPAS’), TPR, the Serious Fraud Office (‘SFO’), and the FSA/FCA, all of which endorsed the guidance, allowing their names and logos to appear in Scorpion materials. The guidance comprised the following:

- An insert to be included in transfer packs (the ‘Scorpion insert’). The insert warns readers about the dangers of agreeing to cash in a pension early and identifies a number of warning signs to look out for.
- A longer leaflet issued by TPAS which gives more information, including example scenarios, about pension liberation. Guidance provided by TPR on its website at the time said this longer leaflet was intended to be sent to members who had queries about pension liberation fraud.
- An ‘action pack’ for scheme administrators that highlighted the warning signs present in a number of transfer examples. It suggested transferring schemes should “look out for” various warning signs of liberation. If any of the warning signs applied, the action pack provided a check list that schemes could use to help find out more about the receiving scheme and how the member came to make the transfer request. Where transferring schemes still had concerns, they were encouraged to write to members to warn them of the potential tax consequences of their actions; to consider delaying the transfer; to seek legal advice; and to direct the member to TPAS, TPR or Action Fraud.

TPR issued the guidance under the powers at s.12 of the Pension Act 2004. Thus, for the bodies regulated by TPR, the status of the guidance was that it provided them with information, education and/or assistance, as opposed to creating any new binding rule or legal duty. Correspondingly, the communications about the launch of the guidance were predominantly expressed in terms that made its non-obligatory status clear. So, the tenor of the guidance is essentially a set of prompts and suggestions, not requirements.

The FSA’s endorsement of the Scorpion guidance was relatively informal: it didn’t take the form of Handbook Guidance, because it was not issued under s.139A of the Financial Services and Markets Act (FSMA), which enabled the FSA to issue guidance provided it underwent a consultation process first. Nor did it constitute “confirmed industry guidance”, as can be seen by consulting the list of all such FSA/FCA guidance on its website.

I take from the above that the contents of the Scorpion guidance was essentially informational and advisory in nature and that deviating from it doesn’t necessarily mean a firm has broken the Principles or COBS rules. Firms were able to take a proportionate approach to transfer requests, balancing consumer protection with the need to also execute a transfer promptly and in line with a member’s statutory rights.

That said, the launch of the Scorpion guidance was an important moment in so far it provided, for the first time, guidance for personal pension providers dealing with transfer requests – guidance that prompted providers to take a more active role in assessing those requests. The guidance was launched in response to widespread abuses that were causing

pension scheme members to suffer significant losses. And the guidance's specific purpose was to inform and help ceding firms when they dealt with transfer requests in order to prevent these abuses and save their customers from falling victim to them.

In those circumstances, I consider firms which received pension transfer requests needed to pay regard to the contents of the Scorpion guidance as a matter of good industry practice. It means February 2013 marks an inflection point in terms of what was expected of personal pension providers dealing with transfer requests as a matter of fulfilling their duties under the regulator's Principles and COBS 2.1.1R.

What did personal pension providers need to do?

For the reasons given above, I don't think personal pension providers necessarily had to follow all aspects of the Scorpion guidance in every transfer request. However, I do think they should have paid heed to the information it contained. And where the recommendations in the guidance applied, absent a good reason to the contrary, it would normally have been reasonable, and in my view good industry practice, for pension providers at least to follow the substance of those recommendations. With that in mind, I take the view that personal pension providers dealing with transfer requests needed to heed the following:

- 1. As a first step, a ceding scheme needed to check whether the receiving scheme was validly registered.*
- 2. When TPR launched the Scorpion guidance in February 2013, its press release said the Scorpion insert should be provided in the information sent to members requesting a transfer. It said on its website that it wanted the inclusion of the Scorpion insert in transfer packs to "become best practice". The Scorpion insert provided an important safeguard for transferring members, allowing them to consider for themselves the liberation threat they were facing. Sending it to customers asking to transfer their pensions was also a simple and inexpensive step for pension firms to take and one that wouldn't have got in the way of efficiently dealing with transfer requests. So, all things considered, I think the Scorpion insert should have been sent as a matter of good industry practice with transfer packs and direct to the transferring member when the request for the transfer pack had come from a different party.*
- 3. I also think it would be fair and reasonable for personal pension providers – operating with the regulator's Principles and COBS 2.1.1R in mind – to ensure the warnings contained in the Scorpion insert were provided in some form to a member before a transfer even if the transfer process didn't involve the sending of transfer packs.*
- 4. The Scorpion guidance asked firms to look out for the tell-tale signs of pension liberation scams and undertake further due diligence and take appropriate action where it was apparent their client might be at risk. The action pack points to the warning signs transferring schemes should have been looking out for and provides a framework for any due diligence and follow-up actions. Therefore, whilst using the action pack wasn't an inflexible requirement, it did represent a reasonable benchmark for the level of care expected of transferring schemes and identified specific steps that would be appropriate for them to take, if the circumstances demanded.*
- 5. The considerations of regulated firms didn't start and end with the Scorpion guidance. If a personal pension provider had good reason to think the transferring member was being scammed – even if the suspected scam didn't involve anything specifically referred to in the Scorpion guidance – then its general duties to its customer as an authorised financial services provider would come into play and it*

would have needed to act. Ignoring clear signs of a scam, if they came to a firm's attention, or should have done so, would almost certainly breach the regulator's principles and COBS 2.1.1R.

The circumstances surrounding the transfer and Mr W's recollections

Mr W says he agreed to a review of his pension following a cold call. In his complaint to Royal London his representative said that the business that approached him was not authorised or regulated by the FCA, but that he hadn't understood the significance of that. At the time they didn't say which business approached Mr W. But in the subsequent complaint to our service he said he thought it was FRPS.

I haven't seen any evidence of FRPS being involved in this transfer. Its name doesn't appear on the documents I've been provided. Royal London received a letter of authority from AWM and CGII – again neither of which were FCA authorised. Royal London's contact notes indicate that CGII followed up with it by telephone a couple of times at the end of October 2013. But from the start of November 2013, it appears that it was AWM making the majority of contact with Royal London, until that is BPSL first wrote to it. In any event though, from the information I've seen I'm satisfied that it was an unregulated party leading Mr W through the transfer process.

Mr W says the person he met said if he transferred his pension, and invested in an overseas property development, he'd receive greater returns than his existing Royal London pensions would provide. He says he was taken through very positive projections of income and capital growth. And, with the investment being in property, Mr W says he was told this could easily be passed on to his dependents in the event of his death. He says he believed the adviser was acting in his interests and he wasn't offered a cash or other incentive to transfer. He also says he received no contact from Royal London about the transfer.

As I've mentioned, I can't see that FRPS was involved in this transfer. But otherwise Mr W's recollections appear to be plausible and consistent with the evidence I have seen relating to the transfer. For instance, I haven't seen anything to suggest he received a payment as incentive to transfer. And I've not seen anything to suggest Royal London contacted him or sent him the scorpion leaflet – indeed it hasn't suggested it did so.

Mr W signed a letter as part of the application, saying that he was aware of the rise in pension liberation, had carefully considered the request to transfer and decided he wanted to proceed for the investment opportunities this provided. The letter also stated he was aware of the risks of pension liberation and confirmed that he wasn't planning to access his pension before age 55 and asked Royal London to complete the transfer promptly. Indeed Mr W was already 59 when the transfer was completed. So, accessing his pension by taking an unauthorised payment before age 55 – which is what the pension liberation warnings were focussed on addressing – wasn't an option.

This letter appears to have been pre-prepared for Mr W to complete. But it is only a page long and expresses that Mr W is aware of what pension liberation is and that he wasn't planning to access his pension early.

Mr W also signed a copy of the longer scorpion leaflet saying he'd read it and again confirming he wasn't taking any part in pension liberation. This leaflet explained what pension liberation was, the risks involved, included example scenarios of what pension liberation could look like, the warning signs to watch out for and steps to take to avoid becoming a victim.

What did Royal London do and was it enough?

The Scorpion insert:

For the reasons given above, my view is that personal pension providers should, as a matter of course, have sent transferring members the Scorpion insert or given them substantially the same information. But I can't see any evidence that Royal London sent Mr W the Scorpion insert or the information it contained in another format.

But Royal London had evidence that Mr W had seen the longer, more detailed, Scorpion leaflet – a signed copy confirming this. And he'd also signed a separate letter explaining why he wanted to go ahead with the transfer, part of which declared that he understood the risks of liberation and was not seeking to release pension funds before age 55. Therefore, in this case, even though Royal London should have sent the Scorpion insert, I don't think that it would have made a material difference if it had. This is because the evidence suggests that Mr W was, more likely than not, already aware of the very risks that the Scorpion insert was intended to warn him of.

Due diligence:

In light of the Scorpion guidance, I think firms ought to have been on the look-out for the tell-tale signs of pension liberation and needed to undertake further due diligence and take appropriate action if it was apparent their customer might be at risk of pension liberation. I would just note though that the action pack for businesses published by the TPR at the time of the transfer here gave warning signs and a checklist of things to look out for in the context of "looking out for pension liberation fraud" (the heading under which this information was listed). And the transfer here took place before the guidance was given a broader scope to cover scams more generally.

With that in mind, I think that the information that Royal London had received would have reasonably reassured it that Mr W was not at risk of a pension liberation scam.

Royal London could have made further enquiries using the checklist provided. But here Royal London was aware that Mr W was 58 at the time the enquiries began and had turned 59 by the time the transfer application was submitted by BPSL. So, he wasn't in a position to access his pension before age 55 through an unauthorised payment and potentially incur significant tax charges. It also had documentary evidence that suggested Mr W was aware of pension liberation fraud and was not about to become a victim of it. Royal London had a signed copy of the Scorpion leaflet, saying Mr W had read this. So, he had been given the warnings the Scorpion insert would've provided. And it had the letter signed by Mr W that confirmed that he understood pension liberation fraud and was not intending to access his benefits early.

Mr W's representatives have said that they don't think Royal London ought to have relied on this information. They said it didn't know the circumstances under which this information was presented to Mr W and the letter was pre-drafted for him to complete. They said this was a sophisticated scam and the documents were presented by the unregulated parties involved, so it was unlikely they provided suitable context.

However, I don't think Royal London would, reasonably, have considered the nature of the paperwork indicated a scam was in progress. And I see no persuasive reason why it shouldn't have taken Mr W's signed declarations at face value.

In the circumstances I think it was fair and reasonable for Royal London to accept the information and consider the threat of pension liberation – which was the focus of the Scorpion guidance at that time – to have been discounted. So, I think it was reasonable for Royal London, in the specific circumstances of this transaction to proceed with the transfer.

Responses to my provisional decision

I gave both parties an opportunity to make further comments or send further information before I reached my final decision.

Royal London said it didn't have anything further to add that it wanted me to consider.

Mr W's representatives said that he disagreed with my provisional findings. In summary, they said they felt my decision was not consistent with how Royal London had acted in respect of another consumer's complaint, the TPR guidance or a decision by the Financial Ombudsman Service on another complaint. And the representative said I had not responded to specific points it had made in its response to the Investigator's opinion.

The representative disagreed with me that the July 2014 update broadened the types of situations pension providers were asked to look out for. Rather they said that Royal London and other businesses should have been looking out for warning signs of a wide range of scams from when the guidance was first published, rather than just signs of early release pension liberation scams. And they referred to FCA warnings about the use of SSAS's being used to house unusual investments to support that Royal London ought to have looked further.

The representative said there were a large number of warning signs of a potential scam that Royal London should've picked up on and investigated further. But said I hadn't commented on these in my provisional decision and had reached the conclusion that Mr W was not at risk of a scam, which they disagreed with. They also said that they didn't agree fully with my summary of what pension providers should have done, as they said Royal London should also, as a matter of course, have also checked Mr W's employment status.

They said it was unreasonable to rely on the letter Mr W had signed to say he wasn't liberating his pension as Mr W had been presented with a large number of documents which he wasn't taken through in any detail. And unwittingly procuring a signature was a common tactic in such scams.

Finally, they said that the two businesses that had contacted Royal London in November 2013, CGII and AWM, had nothing to do with the transfer. And that the starting point was a cold call Mr W had received from FRPS.

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.

Mr W's representatives have said that I have not commented on or answered specific arguments it made in response to the Investigator's opinion. The role of our service is to review and decide individual disputes on a fair and reasonable basis. And because of the informal nature of our service, I've summarised what has happened. If I don't comment on or refer to everything I've been sent or that has been said this isn't meant as a discourtesy or because I haven't thought about it. Rather it is because my decision will address what I consider to be the key issues in deciding what is fair and reasonable.

The representatives say CGII and AWM had nothing to do with the transfer and it was FRPS that cold called Mr W and initiated the transfer. Again, I've not seen copies of any correspondence involving FRPS. Its name doesn't appear on the letters I've seen, I can't see that Royal London sent it information about the pension policies and I can't see it was referred to in the subsequent correspondence with BPSL. As I've said, Royal London wrote

to CGI and AWM initially. And the contents of those letters – providing pension illustrations and information about how to transfer – appear, in my view, at odds with the representatives' arguments that those two businesses were not involved in the transfer. But in any event, this doesn't significantly impact the complaint. As I've explained, at the time of the transfer I can't see that AWM or CGI were regulated or authorised by the FCA. Nor was FRPS. So, ultimately, I'm satisfied that a regulated adviser wasn't involved here. And indeed, Royal London doesn't appear to have argued that one was.

Mr W's representatives believe I've interpreted TPR's guidance about what ceding schemes should be on the lookout for at the time incorrectly and too narrowly. And they don't accept this was broadened by the July 2014 update but rather that Royal London should always have been on the lookout for more than just early access to pensions.

When the Scorpion guidance was initially published in February 2013 the campaign referred to pension liberation fraud. And TPR talked about this being a transfer to a fund that allowed members to gain access to pension funds not by way of a regular payment at retirement which could be considered an unauthorised payment. That doesn't mean unauthorised payments were just confined to a scenario where someone was offered a loan or cash incentive to transfer before age 55. But these scenarios were the focus of the literature at the time, whereas the messaging in 2014 changed.

For example, the front page of the 2013 Scorpion insert has the following message: *"Companies are singling out savers like you and claiming that they can help you cash in your pension early. If you agree to this you could face a tax bill of more than half your pension savings."* So, it singled out early access to a pension, and cash incentives and enticements to do this as the area of concern. Whereas the front page of the 2014 Scorpion insert says the following: *"A lifetime's savings lost in a moment...Pension Scams. Don't get stung."*

The 2013 Scorpion insert goes on to say: *"Pension loans or cash incentives are being used alongside misleading information to entice savers as the number of pension scams increases. This activity is known as 'pension liberation fraud' and it's on the increase in the UK. In rare cases – such as terminal illness – it is possible to access funds before age 55 from your current pension scheme. But for the majority, promises of early cash will be bogus and are likely to result in serious tax consequences."* Again, the emphasis is on the promise of 'early cash' and 'early access' to pension benefits before the pension scheme age and the associated tax consequences that could follow. The 2014 Scorpion insert also warns about taking cash from a pension before the age of 55 but without a mention or emphasis on tax consequences. And it also warns about the dangers of *"one-off investment opportunities"* and the potential to lose an entire pension pot.

The 2013 Scorpion action pack for businesses was titled 'Pension Liberation Fraud' whereas the 2014 action pack is titled 'Pension Scams'. And the case studies in the 2013 action pack are solely about people wanting to use their pension in order to access cash before age 55, the repercussions of which were tax charges and the loss of some pension monies to high administration fees. The warning signs that were highlighted followed suit: "accessing a pension before age 55", "legal loopholes", "cash bonus", "targeting poor credit histories", "loans to members". Once again therefore the focus, and what TPR was emphasising that pension liberation was, was around enticements promising access to pensions before age 55. In contrast, the 2014 action pack included a case study about someone transferring in order to benefit from a "unique investment opportunity" which subsequently failed causing the consumer to lose his entire pension.

This shows that at the time of Mr W's transfer, transferring schemes were being directed to the threat posed by people wanting to take cash from their pensions in an unauthorised manner which was seen as being most likely when someone was under the age of 55. The

potential for people to lose money, and suffer tax charges, from suspect investments was commented upon but only in so far as it was seen as being part and parcel of someone taking an unauthorised payment from their pension, rather than being something to look for in isolation. That particular concern came more into focus later on.

I note that Mr W's representatives have pointed to FCA warnings that it thinks Royal London should also have been alive to, including warnings about SSASs being used to house unusual investments and people being offered 'free' pension reviews. I am aware of these warnings which the FCA first issued to customers on their website in late April 2014 – although the FCA didn't formally inform the industry of the more specific warnings to customers until September 2014. I recognise the argument, which is that the nature of pension scams was evolving, and businesses ought to have been aware of that. And I don't think all ceding schemes would have been completely unaware of any scam activity starting to evolve beyond pension liberation before the TPR guidance changed in July 2014.

But the TPR guidance was the only guidance in place for ceding schemes at the time. And I think it's fair to recognise that this wasn't updated until July 2014. And even then TPR didn't specifically point to the increased use of SSASs as vehicles for unregulated investments like the FCA had done.

With all of that in mind, I'm satisfied that it was reasonable for Royal London to have relied on the emphasis and focus of the February 2013 guidance, applicable at the time of Mr W's transfer, when considering his request and deciding whether further due diligence was required. And I don't think it fell short of its obligations based on the information it had.

Royal London had received a letter signed by Mr W saying he was aware of the risks of pension liberation, had carefully considered his request to transfer and was not doing so for any reasons of pension liberation. It had also been provided with a copy of the longer Scorpion leaflet, providing information about what pension liberation was and example scenarios, that Mr W had signed to say he'd read.

Royal London had to take a proportionate approach and balance any caution and due diligence with the fact that consumers were entitled to request a transfer. And I don't think delaying all transfer requests, such as Mr W's, in order to carry out extensive due diligence in every case would've been proportionate. Rather I think it was fair that Royal London made a judgement call based on the information available to it. And as I've explained, I think it was reasonable, based on the documents it was presented and Mr W already being over age 55, for Royal London to consider the risk of pension liberation, as it was described at the time, in this transfer to be low.

That isn't to say that the risk did not exist or that there weren't other warning signs that Royal London could've become aware of if it had asked further questions. But, for the reasons given previously, I think it was reasonable for Royal London, in the context of taking a proportionate response, to decide here that it didn't have good reason to delay the transfer and ask additional questions.

I note that Mr W's representative has also said that Royal London ought to have checked his employment status as a matter of course to make sure he had a right to transfer. And, the outcome of those checks, which would've shown that Mr W was not employed by the SSASs sponsoring employer, would, in the representative's view, have given Royal London concern. Notwithstanding that Mr W was employed, the obligations of Royal London at the time didn't include an obligation for it, as a ceding scheme, to check, as a matter of course, whether the transferring member was earning. So, I see no reason why Royal London would, or should, have probed this issue any further – particularly as there was nothing in the documentation from the time to suggest he wasn't earning.

Mr W's representatives believe it was unreasonable for Royal London to have relied on the transfer documents, sent in on Mr W's behalf, that he'd signed. They've said the letter he signed was pre-printed and written for him and not a genuine indication of his thinking. And they've also said Mr W was presented with a lot of paperwork to sign and wasn't taken through this.

I think a reasonable person in Mr W's position, having been contacted out of the blue by a business they were not familiar with and told that moving his pension savings was in his interests, would, even with very little financial or investment experience, take the time to familiarise themselves with the documents they'd signed and agreed to. More than that, I think it was fair for Royal London to assume Mr W had done so. I don't think Royal London would reasonably have considered the nature of the paperwork indicated a scam was in progress. So, I see no persuasive reason why it shouldn't have taken Mr W's signed declarations at face value.

Mr W's representative has pointed to what it believes to be an inconsistent approach between Royal London's handling of Mr W's transfer and its handling of another transfer, some of the details of which entered into the public domain following judgements by the Pensions Ombudsman and the High Court. Mr W's representative points out that Royal London unearthed a number of warning signs in that other transfer which prompted it to block it. The representative says that the circumstances of the two transfers are similar so it questions why Royal London did very little in Mr W's transfer but undertook a "more interventionist" approach in the other transfer. The argument is that Royal London's approach in the other transfer was the correct one, that it is illogical for it (and us) to endorse a different approach and that Royal London has, by its own standards, treated Mr W unfairly. It has also said that it thinks my findings are not consistent with another decision made by our Service.

I should make it clear that I've reached my decision based on the specific circumstances in Mr W's individual complaint. These are different to those in complaints and transfer requests made by other consumers. I'd expect a transferring scheme to assess each transfer request on its own individual facts. So that may well result in different outcomes based on what looks to be similar circumstances. That doesn't necessarily mean the business has acted unfairly or has fallen short of what it should have done. And, given the specific facts of Mr W's transfer, I'm satisfied – for the reasons given previously – that Royal London didn't need to undertake the detailed due diligence Mr W's representative have suggested, as it could reasonably consider the threat of the thing it had been told to lookout for, pension liberation, was low.

Summary

I understand that Mr W has lost out financially by investing in high-risk investments which were unlikely suitable for him. But the guidance that TPR had put in place at the time when Mr W's transfer request was made was focussed on the risk of consumers falling victim to a pension liberation scam. And for the reasons I've explained above, I think there was enough information for Royal London to reasonably discount the risk of that in the transfer request it received. So, while I know this is likely to come as a disappointment to Mr W, I don't think it would be fair or reasonable in these circumstances to suggest that Royal London ought to have delayed the transfer process to conduct further checks simply to further safeguard against an outcome type that it should have already reasonably discounted.

My final decision

For the reasons set out above I don't uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 27 August 2024.

Ben Stoker
Ombudsman