

The complaint

Mr R has complained, with the help of a professional third party, about the transfer of his personal pension to a Qualifying Recognised Overseas Pension Scheme ('QROPS') in Malta in July 2014. The QROPS was subsequently used to invest in a managed portfolio and Dolphin Capital Loan Notes. Mr R says these investments are now highly likely to have little value and so he has lost out financially as a result.

The Royal London Mutual Insurance Society Limited has since become responsible for this complaint, although Mr R's personal pension was held with a different business. For ease of reading, I'll just refer to Royal London throughout my decision.

Mr R 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 R 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

On 22 February 2014, Mr R signed a letter of authority ('LOA') for Royal London to release information to Global Partners Limited ('GPL'). The LOA also said GPL would act as Mr R's independent financial advisers until he cancelled such authority. GPL was a trading name of Tourbillon Limited, a business based and regulated in Gibraltar, which was at the time shown on the Financial Conduct Authority's ('FCA') register as authorised in the UK with passporting rights.

Royal London provided the requested information, including an illustration of benefits and pension transfer pack, to GPL on 19 March 2014.

On 29 May 2014, Harbour Pensions Limited ('Harbour') wrote to Royal London enclosing an application to transfer Mr R's pension benefits to the Harbour Retirement Scheme ('HRS'), a QROPS based in Malta. Harbour was authorised by the Maltese Financial Services Authority to act as a retirement scheme administrator.

Amongst the documents provided was an LOA authorising Royal London to deal with Harbour, signed transfer discharge and HMRC forms, confirmation from HMRC that the HRS was entered onto the QROPS list in April 2013 and certified proof of Mr R's identity. The identification documents were certified by someone representing 'Servatus' on 15 May 2014. This was the same date the relevant application documents were signed.

I've also seen a copy of the HRS application form, although this does not appear to have been provided to Royal London as part of the transfer application. In the section of this form about professional advisor fees, 'Servatus' was named as Mr R's advisor. I understand 'Servatus' was Servatus Limited, regulated by the Central Bank of Ireland and shown as having passporting rights authorisation on the FCA register.

Royal London required another form to be completed. Its records indicate this was confirmed to Harbour with the document sent to Mr R. Mr R signed the relevant discharge form on 19 June 2014. And Harbour returned this to Royal London in July 2014.

Royal London wrote to Mr R on 17 July 2014 confirming it had received all of the necessary documents and a cheque had been issued to his new pension provider for the value of the pension, which was £42,742.80. Mr R was 52 at the time.

Approximately £38,500 of the funds transferred into the QROPS were subsequently sent to SEB Life International ('SEB'). SEB was regulated in Ireland and able to offer certain products and services in the UK. SEB appears to have acted as investment manager for Mr R's pension with the money invested in an SEB Asset Management Bond. Approximately 30% of the funds were invested in a managed investment portfolio and 70% with Dolphin Capital. Dolphin (now called German Property Group) was a German business which offered high yielding Loan Note investments offering over 10% investment returns per year. Its underlying business was described as the renovation of derelict properties to provide residential accommodation. Dolphin is now in insolvency proceedings in Germany having collapsed in 2020 owing significant amounts to investors. There has been a total loss on all non-matured Loan Notes.

In February 2020, Mr R complained to Royal London. Briefly, his argument is that Royal London ought to have spotted, and told him about, a number of warning signs in relation to the transfer. These included that he'd been cold called, there were a number of unregulated introducers and advisors involved, Mr R hadn't received regulated advice, the transfer involved investment overseas and this was in an unregulated, high-risk area.

Royal London didn't uphold the complaint. It said the requirements of it at the time were different to now and it had checked that the receiving scheme was recognised by HMRC. Royal London said there were no factors to suggest pension liberation was a risk – which is what the Pension Regulator's ('TPR') 'Scorpion' guidance warned against at the time. And it said Mr R had acknowledged HMRC declarations about the risks of transfers to a QROPS. So, Royal London believed it had done what was required of it at the time.

The complaint was referred to the Financial Ombudsman Service and considered by one of our Investigators, who was unable to resolve the matter informally. The case was also then considered by another Ombudsman who issued a provisional decision saying that they thought the complaint should not be upheld. Mr R did not accept that decision. The other Ombudsman did not reach a final decision and is no longer in a position to review the complaint. So, it was passed to me to decide. I issued a provisional decision in January 2025 explaining that I didn't intend to uphold Mr R's complaint. Below are extracts from my provisional findings, explaining why, which form part of my final decision.

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.*

An overseas pension scheme is defined in HMRC regulations as being one which is subject to specified regulatory and taxation restrictions in the country of establishment. To become a QROPS it must also be:

- *Recognised, meaning in short that it meets specified tests applied by HMRC, including on minimum retirement age and the application of tax relief.*
- *Qualifying, meaning it must notify HMRC that it is a recognised overseas pension scheme; provide appropriate evidence of this; undertake to adhere to HMRC's requirements; and not be otherwise excluded by HMRC from being a QROPS.*

Overseas schemes that have notified HMRC that they qualify to be a QROPS are included in a published list on HMRC's website.

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, which is either registered with HMRC for tax purposes or is a QROPS. And indeed, 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 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 booklet 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 legal rights.

That said, the launch of the Scorpion guidance was an important moment in so far as 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. 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.*

2. *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.*
3. *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.*
4. *These were additional requirements over and above what a ceding scheme would always have needed to when processing a QROPS transfer. Those requirements included checking whether the QROPS was on HMRC's published list, and ensuring the necessary HMRC forms were completed.*
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 – what does the evidence suggest happened?

Mr R told us he wasn't receiving updates about his personal pension, so he began thinking about moving it to a new provider, with the aim of seeking better returns. He was looking online and decided to follow an advert. That led to a meeting at his house. He couldn't recall which business he spoke to, although he recalled the name 'Portia Finance' and mentioned he thought they may have been based in Liverpool.

There isn't a business matching the name 'Portia Finance' on the FCA register. And there is only one business on the register, registered in Liverpool, which has a somewhat similar name (Portia Insure limited – which was recorded as an appointed representative of another principal business). There is however no mention of 'Portia' in any of the written documents relating to the transfer. And so, I can't confidently say that Portia Insure Limited was involved. We have though, in other similar complaints, seen mention by customers of 'Portia Finance' or a similar variation of that name. So, I don't have reason to doubt Mr R that this might have been one of the business names he might have heard during the transfer process.

Mr R said he wasn't offered any incentives to transfer or told he could access his pension funds early and he was expecting his pension to be invested until age 65, which he believed he discussed with the person he met. Mr R says while he didn't feel pressured he noted the meeting was quite short. He says he was presented with paperwork to sign which was taken away to send off to the providers. Mr R commented that, with hindsight, he should have read the paperwork but didn't. He can't recall what was said about the regulatory status of the business but he says he wasn't aware that his money was going to be transferred overseas and he thought he was transferring to another UK based pension. Although he later received

documents from a company in Malta, and then just assumed that business would deal with his pension when he came to draw money from it.

Mr R's representatives described the circumstances differently when initially bringing the complaint – in particular saying that Mr R had been cold called and offered a free pension review. But I don't have reason to doubt what Mr R told our Investigator about what happened – that he was looking into his options for his pension due to some dissatisfaction with Royal London and that the contact regarding the transfer was due to him researching this online.

While Mr R has said he was looking at his options and to improve the returns on his pension, he doesn't appear to have had any prior connection with the QROPS. And he hasn't indicated he intended to move overseas – either to Malta, where the QROPS was registered, or anywhere else. And I think it is unlikely he'd have sought to transfer his benefits to the QROPS on his own – indeed he's said he thought he was transferring to another UK based pension. So, on balance, I think it was the discussion he had with the business he spoke to after his online research that led to the transfer.

It isn't clear when the face-to-face meeting Mr R has described took place or which business this was with. Again, Mr R has said that he recalled the name 'Portia'. But none of the documents mention this business. Mr R signed an LOA in February 2014 for GPL – which confirmed this business as his independent financial adviser. So, I think it was likely GPL that he first spoke to. But the application to join the HRS refers to 'Servatus' as his adviser. I note though Mr R has said he didn't read the documents he signed – so is unlikely to have been aware of the HRS application referring to Servatus as his adviser.

The initial transfer documents which Mr R signed were dated 15 May 2014. That was the same day that Mr R's ID was certified by Servatus. But Mr R has said he was just told where to sign. So, the dates could therefore have been added at a later point to align. And so, the only documents that I can say were likely sent directly to Mr R (allowing him the chance to review them independently) were the LOA – which specifically named GPL as his advisor and the 'Overseas Transfer discharge form' that Royal London sent him to complete in June 2014 – which didn't name an adviser. On balance therefore I think it is likely that, at the time, Mr R understood he was being advised by GPL (potentially in conjunction with 'Portia').

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.

Royal London has said it was not issuing the Scorpion leaflet as a matter of course with all transfer packs at the time of Mr R's request. Rather it has indicated that it only issued this when it "had concerns about the provenance of the receiving scheme" – which it said wasn't the case here, given the presence of the receiving scheme on HMRC's QROPS list. So, it hasn't argued that it sent Mr R the Scorpion leaflet here.

Due diligence:

When the Scorpion guidance was initially published in February 2013 the campaign referred to pension liberation fraud. TPR talked about this being a transfer to a fund that allowed members to gain access to pension funds in an unauthorised manner. Unauthorised payments weren't 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. The Scorpion guidance was not updated until the end of July 2014 – after Mr R's transfer from Royal London had completed.

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. It 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." So again, the emphasis is on the promise of 'early cash' and 'early access' to pension benefits before pension age and the associated tax consequences that could follow. The 2013 Scorpion action pack for businesses was also titled 'Pension Liberation Fraud'.

So, at the time of Mr R's transfer, transferring schemes were being directed to the threat posed by people wanting to take cash from their pensions in an unauthorised manner – pension liberation – which was seen as being most likely when someone was under the age of 55. Therefore, in light of the Scorpion guidance, Royal London ought to have been on the look-out for the tell-tale signs of pension liberation when it received Mr R's request to transfer. But it also had to take a proportionate approach and balance any caution and due diligence with the fact that consumers were entitled to request a transfer.

The action pack for businesses listed some warning signs that firms should be on the look out for. And suggested if any of these applied, businesses could use a more detailed checklist, included in the action pack, to help structure due diligence.

Royal London's due diligence appears to have been limited to checking that the receiving scheme was on HMRC's QROPS list. This step ensured that the transfer payment both qualified as an authorised payment for tax purposes and also satisfied Mr R's statutory right, and potentially other legal rights, to transfer. But in the circumstances, I don't think due diligence being limited to this is unreasonable as I don't think any of the warning signs that the action pack said to look out for in the first instance would have been evident to Royal London (and ultimately weren't present).

The application to transfer was received in May 2014. The receiving scheme had been registered with HMRC in April 2013 – over a year previously. So, it wasn't a newly established scheme. There is also nothing to indicate that the receiving scheme was previously unknown to Royal London. And in any event, I think it could've taken reassurance from the HRS being on the QROPS list.

None of the documents provided to Royal London gave any detail about Mr R's motivations for transferring. But Mr R has said that he'd been looking into options for his pension and found the business he spoke to online – so he wasn't approached unsolicited. While he has said the meeting he had with the business was fairly quick, he has said at the same time he wasn't pressured to proceed. Mr R also hasn't said he was told about a 'legal loophole' or that he was attempting to or offered access to his pension before age 55. Indeed he has said, in the discussion with the adviser, he mentioned intending to keep his pension invested until age 65. And again, in registering with the HMRC as a QROPS, I understand the receiving scheme had to confirm to HMRC that pension funds could not be accessed prior to age 55, unless down to ill health.

So, none of the initial warning signs the Scorpion guidance warned of were apparent to Royal London (and indeed weren't present in the transaction) and it had evidence that the HRS was a QROPS meaning it could be reasonably satisfied of its status and validity.

It is true that one of the case study examples used in the Scorpion action pack, mentioned 'transfers overseas'. This wasn't included in a bulleted list of 'things to look out for', each represented by an exclamation mark graphic. But, when discussing the case study, the action pack used the same exclamation mark graphic (denoting a 'warning sign') in the example of an individual who transferred to a pension scheme which, after paying her a cash incentive, invested the rest of the funds overseas. The warning sign was shown as:

"Transfers overseas

One technique that pension fraudsters use is to send a large portion of the pension transfer overseas. This makes the funds harder to trace and retrieve when the arrangement is closed down."

Clearly where an UK occupational scheme transfers funds overseas, that was being highlighted by TPR as a potential warning sign of pension liberation activity. Many such schemes that I'm aware of have employed that strategy. However it doesn't seem to me that TPR was referring here to the type of transfer Mr R was making, to a QROPS.

The reference to a 'portion' of the funds being transferred overseas makes clear, in my view, that it's referring to a UK pension scheme – i.e. the entire transfer from the ceding scheme isn't directly to an overseas arrangement. The case study goes on to indicate beyond doubt that it was a UK occupational scheme, as it says the scheme was subsequently closed down after both HMRC and TPR took action. Also, the case study follows someone who transferred in order to take cash from her pension, not someone who transferred with the intention of investing in a specific way.

So, in my view, QROPS weren't evidently the focus of TPR's concerns at the time the 2013 action pack was issued. And again the purpose of the action pack at that time was to direct efforts on preventing early release pension liberation, rather than anything else.

Royal London had also received a signed LOA in February 2014, not only providing it permission to release information to GPL, but also saying that Mr R was appointing GPL as his independent financial advisers until he rescinded such authority. I've seen no evidence he informed Royal London at any stage that he rescinded that authority. And GPL was on the FCA register at the time as being authorised in the UK with passporting rights. So, I think Royal London could've taken further reassurance as the information it had indicated that an authorised business was acting as Mr R's adviser. And while the transfer application came directly from the scheme administrators, the documents used to make the application were those that Royal London had sent to GPL. Which I think would've given it further cause to believe GPL was involved.

I note Mr R has said that he was unaware that his pension was transferring overseas. But he'd signed forms which were headed as being in relation to overseas transfers. And while Mr R has said that he didn't read all of the forms he signed, I think it was reasonable for Royal London, based on the information it had, to think that Mr R was aware that the transfer was to a QROPS.

Taking that into account, I think it was reasonable for Royal London, based on its judgement and the need to take a proportionate approach to due diligence, to deem that the risk of pension liberation in respect of Mr R's transfer was low and that further due diligence was not required.

And, while I think Royal London should have sent Mr R the Scorpion insert, I'm also satisfied this likely wouldn't have resulted in him stopping the transfer. The insert, in the same way as the action pack and indeed the Scorpion guidance as a whole at the time, was focussed on the threat posed by liberation – and the consequences of taking cash from a pension before the age of 55 in particular. But this wasn't something Mr R was doing or a reason for transferring. He was transferring for different reasons and so I don't think the contents of the leaflet would have resonated with Mr R or dissuaded him from transferring.

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 accepted my provisional findings and had nothing further to add.

Mr R's representatives did not accept my findings. They said they didn't think my conclusion that Mr R hadn't been cold called was reasonable. The representative said, when making the complaint, they had told us Mr R was cold called. And Mr R had signed to agree with this statement. So, they said it was unfair of me to find otherwise, that neither the Investigator or previous Ombudsman had mentioned this, and they hadn't been provided evidence to support that Mr R had said this.

They also said my mention of Portia Finance was the first time that business had been referenced. They said it was unclear what had happened and who had been involved and it wasn't possible to reach a clear conclusion on this. But they said regardless, based on what Royal London did know at the time – that Mr R had appointed GPL as his advisers but the transfer documents contained a mention of Servatus – Royal London ought to have thought the situation was unusual.

The representative didn't agree with my conclusion that Royal London could've taken comfort from the involvement of GPL or it could reasonably have concluded that Mr R wasn't being scammed and they said he in fact was falling victim to a scam. And they said that if Royal London had contacted Mr R, as the representative believed they should, the transfer wouldn't have gone ahead.

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 R's representatives have said it is not possible for me to reach a clear conclusion on parts of the complaint. But as an informal dispute resolution service, we aren't required to make an absolute finding of fact. Rather, where evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

On the point of how Mr R first came to be in touch with the parties he discussed his pension with, I have to disagree with the representative that him being cold called hasn't previously been questioned by our Service. The other Ombudsman that previously considered this complaint said in their provisional findings *"after research on the internet, he (Mr R) got in touch with an advisor from Global Partners Limited"*. The representative also objected to that point, when those initial provisional findings were made. And our Investigator provided the representative a copy of the call recording in which Mr R had discussed this point with our Service. But we received no further comments. So, my finding on this point is not, as the

representative has suggested, inconsistent with what we've said previously, it was based on Mr R's testimony – which is evidence – and that evidence has already been provided for comment.

Ultimately though, whether Mr R was cold called or he initiated the contact with the parties he spoke to doesn't change my opinion of the complaint.

The transfer forms didn't include any information about how Mr R came to consider transferring or how he'd first been in contact with other parties about this. So, Royal London didn't know if he'd been cold called or not. But I consider it was fair and reasonable for Royal London to exercise its judgement about what level of due diligence was needed, given this needed to be proportionate to what it was being asked to look out for. And what it was being asked to look out for at the time was pension liberation, which as I've explained, was primarily expressed as accessing pension funds in an unauthorised way before age 55.

The information Royal London had when the application to transfer was received was that the receiving pension scheme had been recognised by HMRC for over a year. So, it wasn't newly registered. And it still appears on HMRC's list now. By registering as a QROPS the receiving scheme had agreed to adhere to HMRC requirements and by being recognised it met specified tests applied by HMRC, including on minimum retirement age. This indicated the risk of Mr R accessing his pension funds early by transferring was low. And I think it was reasonable for Royal London to think, given it had been registered for over a year, that the QROPS was even less likely to have been a vehicle for early release pension liberation – otherwise it would most probably have already been removed from HMRC's list.

Royal London also had evidence that Mr R had appointed GPL as his financial adviser. GPL was on the FCA register with passporting rights and the forms used to apply for the transfer were those that were sent to GPL. This indicated Mr R was being advised by someone which for UK purposes was an authorised person under s.31(1)(b) of the Financial Services and Markets Act (FSMA) 2000.

And I think the combination of this information meant it was reasonable for Royal London to conclude that the risk of pension liberation was low – even without knowing how Mr R had first been contacted.

Mr R's representatives said that Royal London should still have identified there was something unusual about the transfer as it involved transferring funds overseas and there were different businesses involved, based in several different countries. But consumers had the right to transfer to a QROPS. So, I don't think this would've indicated there was anything unusual about Mr R's application.

The representatives have again referred to the mention of Servatus in the transfer application. And have said that the mention of Portia Finance in my provisional decision, creates even further uncertainty over the parties involved.

As I explained in my provisional findings, Mr R mentioned Portia Finance as being a party that he spoke to when speaking to our Service. Which is why I referred to it when setting out his recollections of the transfer. But this business wasn't mentioned in any of the information which Royal London would've seen at the time. So, it wouldn't have been aware of its involvement.

The only documents Royal London received that mentioned Servatus were identification documents which Servatus had certified. These didn't indicate where Servatus was based, that Servatus had been involved in advising Mr R or that it was acting in a capacity beyond assisting with the completion of paperwork in relation to the transfer. There wasn't a

restriction on an adviser or receiving scheme delegating administrative tasks to other businesses. And so, I don't think the context in which Royal London would've been aware of Servatus' involvement meant it would've had reason to think that this meant the risk of pension liberation – which is what it was being asked to look out for – was increased. And this is all notwithstanding that Servatus was ultimately registered with the FCA with passporting rights as well.

So, although I know Mr R doesn't agree, I still think it was reasonable of Royal London to decide to proceed with the transfer as requested, without contacting him for further information.

But even if Royal London had contacted Mr R, I don't think this would've made a difference anyway. Mr R has said he was considering moving his pension as he wasn't receiving updates about it. So, had a motivation to consider a transfer before he spoke to any parties. Had Royal London asked him, for the reasons I've already explained, I don't think he'd have said he was cold called. But even if he had done, I'm satisfied he would've confirmed that he wasn't transferring to access pension benefits early and that he hadn't been offered an incentive to transfer. And on balance I think he'd have identified GPL as being one of the parties involved in the advice to transfer.

With that in mind, I don't think Royal London would've been prompted to provide any warnings beyond those in the Scorpion insert. While I think it should've already done this as a matter of course, as I've explained, these warnings wouldn't in my view have led Mr R to act differently, as they were focussed on pension liberation which wasn't something he was doing. And I don't think the act of Royal London contacting him would itself have changed his mind about transferring. This is because, while Royal London was a recognised name in the pension industry, I'm satisfied Mr R would also have taken comfort, if prompted, from GPL, who I'm satisfied he'd have understood was involved in the advice, being registered with the FCA.

So, while I know this will come as a disappointment to Mr R, overall I don't think Royal London has acted unreasonably and I don't require it to do anything here.

My final decision

For the reasons given above, 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 10 March 2025.

Ben Stoker
Ombudsman