DRN-3672477

The complaint

Mr C has complained about the transfer of his personal pensions to the Optimum Retirement Benefits Plan ('ORBP') – an occupational pension scheme ('OPS') in October 2016. Mr C says the investments subsequently made now appear to have little value and he has lost out financially as a result.

Mr C held two personal pensions with Scottish Widows Limited, one of which was under the trading name Clerical Medical. For the avoidance of doubt, as it is responsible for answering complaints about both policies, I'll largely refer to Scottish Widows throughout my decision.

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

In addition to the transfer of pension benefits from Scottish Widows, Mr C also transferred pension benefits from another provider to the OPS at around the same time. The circumstances of that other transfer, from a business which I'll call 'Firm T', have relevance to his complaint about Scottish Widows and so I've referred to them below.

What happened

On 25 July 2016, Mr C signed a letter of authority allowing Scottish Widows to provide information about his personal pensions to Optimum Financial Solutions Ltd ('OFSL'). The letters of authority also said Scottish Widows could provide any additional information that the ORBP might request. The document explained that OFSL was the administrator of the ORBP. OFSL was authorised and regulated by the Financial Conduct Authority ('FCA') at the time. The letters of authority were sent to Scottish Widows along with a request for a transfer quotation and relevant transfer forms.

Scottish Widows replied to OFSL on 29 July 2016 and 2 August 2016, providing the requested information in respect of Mr C's two pensions. It also wrote to Mr C directly on 29 July 2016, thanking him for his transfer enquiry and providing the quotation to him directly, along with a form to indicate his chosen decision. Scottish Widows letter included a section on things Mr C needed to think about. These included that his existing policy could have guarantees or features that would be lost on transfer and that he should shop around for the most suitable retirement solution for himself.

On 22 September 2016, forms requesting the transfer of Mr C's Clerical Medical branded pension were submitted to Scottish Widows. The documents included a form signed by Mr C authorising Scottish Widows to transfer his benefits, confirmation the ORBP had been registered with HMRC on 30 June 2015, a copy of the trust deed for the ORBP and a letter explaining the structure of the ORBP's bank account. This letter was signed by a representative of Refresh Recovery Ltd ('RRL'). The signatory, described as a chartered accountant and insolvency practitioner, was also party to the trust deed.

Scottish Widows transferred the proceeds of that policy on 27 September 2016 and wrote to OFSL confirming this.

On 14 October 2016, an application to transfer Mr C's other Scottish Widows policy to the ORBP was submitted. This included largely the same information as the earlier application.

Scottish Widows transferred this second pension to the ORBP on 18 October 2016 and confirmed this in writing to Mr C and OFSL.

The total amount transferred from the two pensions combined was £26,777.05. Mr C was 55 at the time of the transfers.

I can see that on 27 October 2016, Mr C emailed OFSL for an update on his transfer from Firm T, his other pension provider, indicating an application had already been submitted, likely around the same time as transfers were requested from Scottish Widows. And email exchanges between OFSL, Mr C and Firm T continued over the next several months.

Notably, on 10 November 2016, Firm T emailed Mr C explaining it was undertaking due diligence checks and said it wanted to draw his attention to The Pensions Regulator's ('TPR') webpage regarding pension scams and the scams booklet on that page. And it provided a hyperlink for him to access that information.

Firm T emailed Mr C again on 4 January 2017 saying that due diligence was ongoing. It said that the Pensions Advisory Service ('TPAS') had launched an online tool providing consumers guidance on identifying potentially bad investments and signs of a scam. It again provided a hyperlink for Mr C to access.

On 16 January 2017, Firm T emailed Mr C again, thanking him for taking the time to speak to it. The email said it suggested he further consider its previous communication as well as the pensions scams booklet it attached. It said if he still wanted to proceed, he needed to complete the attached declaration, in the presence of a witness, and return this. It also repeated that he could get more information from TPAS, Pension Wise and the Money Advice Service.

The declaration was part of a letter from Firm T to Mr C. This said Firm T had to be satisfied that a transfer payment could be validly made to the receiving scheme. And while it did think a transfer could be made it said the trustees had also *"become aware of a number of 'red flag' risks"* to which it wanted to draw Mr C's attention. These were listed in 'section A' of the letter, and outlined in bold red. The letter said the risks didn't prevent a transfer, but Mr C should read the information carefully and decide if a transfer was in his best interests. If he still wanted to proceed, he needed to compete the declaration.

The section on 'red flag' risks within the letter explained that this was not an exhaustive list of the risks of the proposed transfer. But it had identified several including;

- The scheme administrator hadn't been able to provide some of the documents from the point it was established, despite this being recent.

- The sponsoring employer listed in the documents, OFSL, was not a strong sponsoring employer, based on company accounts and filing, and this raised questions about the viability of the scheme, particularly as Mr C had no employment link to it.

- The scheme bank account that Firm T had been asked to pay benefits into belonged to RRL, which Firm T said was very unusual.

- The scheme hadn't provided Firm T with information about the investment options offered which was sometimes an indicator of a scam.

- The receiving scheme was an OPS but Mr C was not employed by the sponsoring employer, which was again sometimes a sign of a scam.

- Firm T hadn't been able to get up to date information from HMRC about the receiving schemes status.

Firm T said it strongly recommended that Mr C speak to an independent financial adviser to identify other potential risks and again directed Mr C to read TPR's pension scams booklet, which it enclosed.

The declaration Mr C needed to sign to proceed confirmed, amongst other things, he'd read the letter in full and TPR's Scorpion leaflet, but he still wanted to go ahead. It said he acknowledged the 'red flag' risks and that he'd been recommended to take independent advice. But Mr C also confirmed he'd chosen not to do so.

Mr C signed the declaration on 19 January 2017, in the presence of a witness, saying he still wanted to transfer and returned it to Firm T. And I understand Firm T subsequently proceeded with the transfer of funds to the OPS.

Mr C says he has received payments totalling £10,361.26 from the scheme in January / February 2017.

TPR appointed Dalriada Trustees Limited ('Dalriada') as independent trustees of the ORBP in February 2018. Dalriada's announcement explained its role was to administer and manage the scheme, acting in the best interests of members and beneficiaries. Subsequent announcements have explained that member funds were placed mostly in unregulated high-risk investments and there is little chance of these providing more than minimal returns. And so, Dalriada said it was exploring whether claims could be made through the Fraud Compensation Fund.

Mr C contacted our service to complain about Scottish Widows in March 2021. He said he'd been cold called about consolidating his pensions. He agreed to a meeting and was advised to transfer to the ORBP. Mr C said Scottish Widows transferred his personal pensions without contacting him with further questions or providing any warnings. He said Firm T had asked him questions and warned him against transferring – but he'd advised them he wanted to still go ahead. He said Scottish Widows should have carried out due diligence like Firm T had. He noted he'd received tax free cash following the transfer but was now facing a tax bill from HMRC, as well as the investments being largely worthless.

Scottish Widows said that after receiving the transfer requests it had checked that the receiving scheme was registered with HMRC and that it wasn't on a list of schemes under investigation by the Pensions Regulator ('TPR'). It also said OFSL, which was advising Mr C, was an independent adviser registered with the FCA. And Scottish Widows said this and the checks it had done meant it hadn't unearthed anything of concern. So, it didn't provide scam warnings, such as TPR's Scorpion leaflet, and proceeded with the transfer in line with Mr C's statutory rights.

Shortly after this Scottish Widows sent an addendum to its response noting that OFSL was the scheme administrator of the ORBP. So, its reference to OFSL advising Mr C was wrong and indeed this would have been deemed a conflict of interest if it had provided advice. It didn't indicate though that it thought this made a difference to the outcome of the complaint. However, because of the error, and delays in answering the complaint, it sent Mr C cheques totalling £250 for the inconvenience caused by these errors in its complaint handling.

Our investigator was unable to resolve the dispute informally, so the matter was passed to me to decide.

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.

When doing so I've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. And where the 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.

<u>The relevant rules and guidance</u>

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 Scottish Widows 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 how personal pension providers deal with 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.

In February 2013, TPR issued its Scorpion guidance to help tackle the increasing problem of pension liberation, the process by which unauthorised payments are made from a pension (such as accessing a pension below minimum retirement age). In brief, the guidance provided a due diligence framework for ceding schemes dealing with pension transfer requests and some consumer-facing warning materials designed to allow members decide for themselves the risks they were running when considering a transfer.

The Scorpion guidance was described as a cross-government initiative by Action Fraud, The City of London Police, HMRC, TPAS, TPR, the SFO, and the FSA/FCA, all of which endorsed the guidance, allowing their names and logos to appear in Scorpion materials.

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. So, the content of the Scorpion guidance was essentially informational and advisory in nature. Deviating from it doesn't therefore mean a firm has necessarily 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 right to transfer.

That said, the launch of the Scorpion guidance in 2013 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.

The Scorpion guidance was updated in July 2014. It widened the focus from pension liberation specifically, to pension scams more generally – which included situations where someone transferred in order to benefit from "too good to be true" investment opportunities such as overseas property developments. An example of this was given in one of the action pack's case studies.

There was a further update to the Scorpion guidance in March 2015. This guidance referenced the potential dangers posed by "pension freedoms" (which was about to give people greater flexibility in relation to taking pension benefits) and explained that pension scams were evolving. It also prompted businesses to use the checklist TPR had prepared to find out more about the receiving scheme and how the member came to make a transfer request whenever a member requested a transfer.

At the same time, a broader piece of guidance was initiated by an industry working group covering both TPR and FCA regulated firms: the Pension Scams Industry Group ('PSIG') Code of Good Practice. The intention of the PSIG Code was to help firms achieve the aims of the Scorpion campaign in a streamlined way which balanced the need to process transfers promptly with the need to identify those customers at material risk of scams.

The Scorpion guidance for businesses was updated again in March 2016, with the Scorpion insert being updated in June 2016 – prior to Mr C's transfer. This said business should direct members to the government's Pension Wise website and reiterated the recommendation for businesses to use TPR's checklist and carry out due diligence on all transfer requests. And it said businesses should communicate any suspicions to consumers, record these and direct consumers to TPAS.

<u>The Scorpion guidance</u>

The March 2015 update to the Scorpion guidance asked schemes to ensure they provided their members with "regular, clear" information on how to spot a scam. It recommended giving members that information in annual pension statements and whenever they requested a transfer pack. It said to include the pensions scam "leaflet" in member communications.

In the absence of more explicit direction, I take the view that the member-facing Scorpion warning materials (which had been refreshed and were again in 2016) were to be used in much the same way as previously, which is for the shorter insert to be sent when someone requested a transfer pack and the longer version made available when members sought further information on the subject.

And again transferring schemes were asked, in both the 2015 and 2016 versions of the guidance, to carry out due diligence and use a three-part checklist to find out more about a receiving scheme and why their member was looking to transfer, in each requested transfer.

<u>The PSIG Code of Good Practice</u>

The PSIG Code was voluntary. But, in its own words, it set a standard for dealing with transfer requests from UK registered pension schemes. It was "welcomed" by the FCA and the Association of British Insurers (amongst others). And several FCA regulated pension providers were part of the PSIG and co-authored the Code. So much of the observations I've made about the status of the Scorpion guidance would, by extension, apply to the PSIG Code. In other words, personal pension providers didn't necessarily have to follow it in its entirety in every transfer request and failure to do so wouldn't necessarily be a breach of the regulator's Principles or COBS. Nevertheless, the Code sets an additional benchmark of good industry practice in addition to the Scorpion guidance.

In brief, the PSIG Code asked schemes to send the Scorpion "materials" in transfer packs and statements, and make them available on websites where applicable. The PSIG Code goes on to say those materials should be sent to scheme members directly, rather than just to their advisers.

Like the Scorpion guidance, the PSIG Code also outlined a due diligence process for ceding schemes to follow. However, whilst there is considerable overlap between the Scorpion guidance and the PSIG Code, there are several differences worth highlighting here, such as:

- The PSIG Code includes an observation that: "*A strong first signal of [a scam] would be a letter of authority requesting a company not authorised by FCA to obtain the required pension information; e.g. a transfer value, etc*." This is a departure from the Scorpion guidance which was silent on whether anything could be read into the entity seeking information on a person's pension.

- The Code makes explicit reference to the need for scheme administrators to keep up to date with the latest pension scams and to use that knowledge to inform due diligence processes.

- Under the PSIG Code, an 'initial analysis' stage allows transferring schemes to fast-track a transfer request without the need for further detailed due diligence, providing certain conditions are met. No such triage process exists in the 2016 Scorpion guidance – following the three-part due diligence checklist was expected whenever a transfer was requested.

- The PSIG Code splits its later due diligence process by receiving scheme type: larger occupational pension schemes, SIPPs, SSASs and QROPS. The 2016 Scorpion guidance doesn't distinguish between receiving scheme in this way – there's just the one due diligence checklist which is largely (apart from a few questions) the same whatever the destination scheme.

TPR began referring to the Code as soon as it was published, in the March 2015 version of the Scorpion action pack. Likewise, the PSIG Code referenced the Scorpion guidance and indicated staff dealing with scheme members needed to be aware of the Scorpion materials.

Therefore, in order to act in the consumer's best interest and to play an active part in trying to protect customers from scams, I think it's fair and reasonable to expect ceding schemes to have paid due regard to both the Scorpion guidance and the PSIG Code when processing transfer requests. Where one differed from the other, they needed to consider carefully how to assess a transfer request taking into account the interests of the transferring member. Typically, I'd consider the Code to have been a reasonable starting point for most ceding schemes because it provided more detailed guidance on how to go about further due diligence, including steps to potentially fast-track some transfers which – where appropriate – would be in the interest of both parties.

The considerations of regulated firms didn't start and end with the Scorpion guidance and the PSIG Code. 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 either the Scorpion guidance or the Code – 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.

<u>The circumstances surrounding the transfer: what does the evidence suggest happened?</u>

Mr C says he was cold-called and asked if he'd thought about and would be interested in amalgamating all of his pensions. Mr C says it was 'Optimum Retirement' that called him. He says, having turned 55, he was already thinking of doing this and wanted to draw 25% tax free cash from his pensions, but didn't have information about how to go about doing so. So, he agreed to a meeting to discuss this. At the meeting he says he was just told about the benefits of moving to Optimum and no costs or risks were mentioned. He says he was told his money would be invested into companies in the UK and he'd received guaranteed returns of 5% per year. But he's since found it was partially invested overseas. Mr C says he felt pressured to go ahead as it all happened so quickly, with the meeting taking place within 48 hours of the first call, and he was asked to sign documents on the day. He says that Scottish Widows didn't contact him or warn him about any risks and if it had provided the Scorpion leaflet, he wouldn't have gone ahead.

I've also seen emails from January 2017 between Mr C and ORBP in which he raised a complaint. In this email he said the person he'd spoken to had initially advised him that whole process would only take six weeks and that he'd been led to believe he "*was dealing with a company that can deliver on pensions and that I can claim 10% back on my pension*".

I've seen no evidence that Scottish Widows contacted Mr C during the transfer process beyond its letter confirming payment had been made. So, what he's said about this appears to be correct.

I also haven't seen anything to indicate that Mr C had any prior connection with the ORBP. Mr C has said he was employed but it doesn't appear this was by the sponsoring employer for the scheme – something Firm T noted at the time. And I can't see that he had a previous employment connection to the OPS. And while he has said he was thinking about consolidating his pensions, in the circumstances I think it is unlikely he'd have sought to transfer her benefits to the ORBP had this not been suggested to him. Given what he's said was discussed – the benefits of moving to 'Optimum' and that he'd receive guaranteed returns – the person he spoke to appears to have been promoting the advantages of the OPS over the ceding scheme. Which I think may have represented a recommendation to transfer. And the email of complaint to ORBP indicates that Mr C may have been incentivised to transfer by the promise of the process being quick and the opportunity to *"claim 10% back"*.

Although Mr C says he was considering moving his pensions, he has also said he hadn't made any enquiries about this and didn't know or have information about how to do this. So, I don't have any reason to dispute that he was cold called. Mr C says this was by 'Optimum Retirement'.

Looking at the documentation from the time there are several letters that are on ORBP headed paper. But at the same time, these letters, in the footer, talk about OFSL and it being the administrator of the ORBP. Based on what I've seen, it appears that the persons in contact with Mr C and Scottish Widows in writing were using the two entities interchangeably and suggesting they represented either or both.

The only other business mentioned in the available documents is RRL, which appears to have held the bank account for the ORBP as a trust account. But there isn't anything to suggest that RRL had any direct contact with Mr C.

It appears therefore that the only businesses Mr C had contact with were OFSL and the ORBP. And so, it seems likely it was someone representing these entities, which again seem to have been used interchangeably in correspondence, that suggested the transfer.

Based on the information available, particularly the updates from Dalriada, I think Mr C is correct that the investments his pension funds were placed in have now failed and have little to no value.

<u>What did Scottish Widows do and was it enough?</u>

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. And the PSIG Code, which came into effect before the application to transfer here, says the Scorpion insert should be sent directly to customers.

Scottish Widows has said its process was not to send the Scorpion insert unless its due diligence unearthed something of concern. And it didn't send the insert here. So, I don't think it has done what it ought to have in respect of the Scorpion leaflet.

Due diligence:

As explained above, I consider the PSIG Code to have been a reasonable starting point for most ceding schemes. I've therefore considered Mr C's transfer in that light. But I don't think it would make a difference to the outcome of the complaint if I had considered Scottish Widows' actions using the Scorpion guidance as a benchmark instead.

Scottish Widows says it checked that the receiving scheme was registered with HMRC. I haven't seen evidence of it making an enquiry to HMRC and note that Firm T indicated its enquiries to HMRC had been unsuccessful. But there was information provided with the transfer request that confirmed the scheme was registered in June 2015.

Scottish Widows has provided evidence that it also appears to have checked at the time that OFSL was registered with the FCA, which it was. This appears to have been the extent of its due diligence. But I think that falls significantly short of what it ought to have done.

Firstly, I don't think OFSL being regulated should necessarily have given Scottish Widows reassurance here. I agree that the involvement of an FCA regulated adviser in a pension transfer, who recommended the transfer to a consumer, might in some cases suggest the risk of a scam is lower. But here the documents that Scottish Widows received regularly referred to OFSL as the administrator of the receiving scheme. On top of that, the trust deed for the ORBP said that, rather than just being the administrator of the scheme, OFSL also appears to have been the principal sponsoring employer. So, in the event it had advised Mr C to transfer, and Scottish Widows had taken comfort from that, there appears to have been a clear conflict of interest on OFSL's part. Scottish Widows addendum to its complaint response noted this conflict of interest. And said that OFSL did not advise Mr C. If though it considered that true, that would mean that as far as it was aware at the time of the transfer there had not been a regulated financial adviser making a recommendation to Mr C. So, it wouldn't have had the reassurance that provided.

That notwithstanding though, under the PSIG code I think Scottish Widows ought anyway to have done more. It said that the ORBP / OFSL was not on the list of schemes under investigation by TPR that it had access to. But that doesn't mean Scottish Widows could reasonably have considered the receiving scheme/administrator as being entirely free of scam risk. So, the initial triage process under the PSIG should have instead led to Scottish Widows asking Mr C further questions about the transfer as per Section 6.2.2 ("Initial analysis – member questions"). I won't repeat the list of suggested questions in full. Suffice to say, at least two of them would have been answered "yes":

- Did the receiving scheme/adviser or sales agents/representatives for the receiving scheme make the first contact (e.g. a cold call)?

- Have you been promised a specific/guaranteed rate of return?

Under the Code, further investigation should follow a "yes" to any question. The nature of that investigation depends on the type of scheme being transferred to. The OPS section of the Code (Section 6.4.1) gives six areas under which ceding schemes can gather information to help make a decision about whether a scheme or administrator poses a pension scam risk.

Underneath each area, the Code set out a series of example questions to help scheme administrators assess the potential risk facing a transferring member.

Not every question would need to be addressed under the Code. Indeed, the Code makes the point that it is for scheme administrators to choose the most relevant questions to ask (including asking questions *not* on the list if appropriate). But the Code makes the point that a transferring scheme would typically need to conduct investigations into a "wide range" of issues to establish whether a scam was a realistic threat. And given the relatively limited information Scottish Widows had about the transfer, I think in this case the majority of the sections of the OPS due diligence process and contacted Mr C to help with that.

<u>What should Scottish Widows have found out – and would it have made a difference?</u>

Had it done so, I think Scottish Widows would also have established that Mr C was not employed by the sponsoring employer of the OPS. Which, along with being contacted unsolicited and being told he'd receive a guaranteed return, were things that the Code and Scorpion guidance warned of as potential signs of a scam.

It may also have found out more about the 10% claim back that was mentioned in correspondence between Mr C and ORBP, which looks to have potentially represented a financial incentive to transfer, which again the Code warned about as a potential scam threat.

It would also either have learned that OFSL had provided advice, creating a clear conflict of interest, or Mr C had not received advice, which the Scorpion guidance pointed to as a potential warning sign. And, it should also have learned about at least some of the risks Firm T identified around the receiving scheme being unable to provide documents.

These warning signs should have prompted Scottish Widows to, at the very least, provide Mr C with the warnings contained within the Scorpion leaflet.

But based on the information available, I don't think these warnings would have changed Mr C's mind about the transfer.

Firm T provided Mr C with a link to the TPR guidance on pension scams on its website. Then separately sent him a link to the TPAS online tool to help identify potential scams and suspect investments. And then sent him a third warning, asking him to consider its two earlier warnings again, provided a list of things that it described as 'red flags' about the transfer, and highlighted these in red, indicating things about the transfer that had given it cause for concern. At the same time, it provided a physical copy of Scorpion warnings – which is what I believe Scottish Widows should have shared. And in fact, the version it provided, which Mr C has shared with our service, was the longer Scorpion booklet.

The version it sent was that which was updated in 2016. This was titled *"Scammed out of his retirement. Don't be next."* It included a section about how not to be next and said "If you are thinking about how to invest your retirement savings, follow these ten steps to protect you pension. Amongst the ten steps were:

- Be wary of colds calls and unsolicited texts or emails
- Check everything for yourself
- Make sure your adviser is on the FCA approved register
- Check the FCA's known list of scams
- Don't fall for guaranteed returns or professional looking websites of brochures
- Don't be rushed into a decision

The warnings about cold calls and guaranteed returns applied to what Mr C said he was told. And there were several prompts suggesting that Mr C carry out his own research and due diligence, on top of those that Firm T had already given him.

I think most people acting rationally would generally be somewhat wary of being approached out of the blue, particularly to talk about such a significant financial product as their existing pension provisions. And even if the person they spoke to might then have seemed persuasive and genuine, the Scorpion insert emphasised the need to be vigilant.

I believe the information in the Scorpion insert at that time gave stark warnings about the risks of falling victim to a scam. The document was clearly headed as referring to pension scams. It gave warning signs to look out for and recommended steps consumers should take as well as providing links to resources and organisations that could help, including TPAS and Pension Wise.

But Mr C evidently was not dissuaded from transferring by this information, or the other more extensive warnings that Firm T provided to him. Instead, he signed a declaration confirming he was aware of these risks but still wanted to go ahead. Given Mr C didn't heed strong, easy to understand and relevant warnings about the scam risk he was potentially facing, I don't think it would be reasonable to say a further warning from Scottish Widows along the same lines would have prompted Mr C to reconsider his transfer. The contemporaneous evidence doesn’t, in my view, support that argument.

So, while I think Scottish Widows due diligence and the process it followed has fallen well short of what I think it should have done, I don’t think Mr C would be in a different position, even if it had done more.

My final decision

For the reasons I’ve explained, I don’t uphold Mr C’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr C to accept or reject my decision before 20 November 2024.

Ben Stoker
Ombudsman