

The complaint

Miss S has complained about the transfer of her personal pensions with The Royal London Mutual Insurance Society Limited (Royal London) to a small self-administered scheme (SSAS) in June 2014. Miss S's SSAS was subsequently used to invest in The Resort Group (TRG) in a hotel and resort development in Cape Verde. The investment now appears to have little value. Miss S says she's lost out financially as a result.

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

What happened

I issued a provisional decision on 19 August 2024. I've copied the relevant extracts from that below – what I said had happened and what I'd provisionally decided and why.

'Miss S had three personal pension policies with United Friendly Insurance Limited which later became part of Royal London. She says she received an unsolicited telephone call in 2014 offering a free pension review to which she agreed.

On 8 March 2014 Royal London responded to a request for information about Miss S's pension policies from a firm called Wise Review Limited. Miss S's written authority allowing Royal London to discuss her policies with Wise Review Limited was provided. Royal London provided information to Wise Review Limited about Miss S's policies but said it wasn't enclosing transfer discharge forms as funds could be transferred when it received a signed copy of the new provider's application form and confirmation from the new provider they'd accept the funds.

I've seen a submission sheet which appears to have been prepared by Wise Review Limited and is a request from Miss S for an appointment with First Review Pension Services Limited (FRPS). It shows her details and the time and date (12 March 2014) she requested for the appointment. The sheet was to be emailed to the appointment scheduler at FRPS.

In March 2014 a company which I'll call S Limited was incorporated with Miss S as the sole director. On 14 April 2014 a trust deed was signed by Miss S, establishing a SSAS to be administered by Cantwell Grove Limited (CGL). S Limited was the sponsoring employer. Miss S's signatures on the trust deed were witnessed by a representative from FRPS.

CGL wrote to Royal London on 28 May 2014 requesting a transfer. CGL said it was a professional pension administrator who specialised in SSASs. CGL went on:

'CGL is aware that concerns about pension liberation has led the UK Pension Regulator to recommend heightened levels of due diligence for pension transfers involving schemes and administrators that are newly registered or established. CGL supports the efforts of the

pension industry to tackle pension liberation and complies with the Regulator's guidance on this subject. CGL, during August and September 2013, has also had its business model vetted by HMRC and received confirmation that it is operating legitimately. CGL fully complied with all aspects of the enquiry and welcomed the rationale behind it to ensure that pension liberation has not, is not and will not be at play.

Furthermore CGL actively supports the Scorpion campaign instigated by the cross government initiative and is committed to raising awareness with trustees and members, and taking all reasonable steps in its power to ensure that no one connected with or serviced by CGL becomes exposed to the threats posed by pension liberation. To this end, we can confirm we have spoken to the Member and explained what pension liberation is and the dangers posed. The Member has confirmed that no cash inducement or other incentive has been offered and that no access whatsoever is being sought prior to age 55.

We can also confirm that the 'Scorpion' information leaflet 'Predators Stalk Your Pension' had been explained and sent to the Member by us. You will also see that the enclosed confirmation letter from the Member confirms both an understanding of the pension liberation issue, and also that this transaction is in no way connected to pensions liberation.'

CGL also enclosed a letter dated 28 May 2014 signed by Miss S (the contents of which I've set out below); a transfer in form completed and signed by Miss S; the SSAS trust deed and rules; a copy of HMRC's scheme registration confirmation (showing the SSAS had been registered on 15 May 2014); and a key scheme details Q&A document. The latter included a question about the scheme's proposed investment provider(s), the answer to which was as follows:

'As per the requirement under section 36 of the Pensions Act 1995, the trustee of the scheme is taking and considering appropriate advice on whether the proposed investment(s) are satisfactory for the aims of the scheme.

The appropriate advice is being taken from Central Markets Investment Management Limited [FCA registration number given] and under consideration are the following investments:

A discretionary fund management service provided by Central Markets Investment Management Limited

A commercial property investment provided by The Resort Group [a link to TRG's website was given].'

Miss S's letter of 28 May 2014 said she was writing in connection with her request to transfer her pension policies from Royal London to the SSAS and continued:

'The purpose of this letter is to provide you with additional confirmation of the basis upon which I have made this request and to seek to provide a record of the fact that I am aware of the issues relating to pensions liberation. Indeed I have carefully considered my decision to request a transfer to the scheme and have not made it lightly.

I confirm that the scheme is a registered pension for HMRC purposes [PSTR number given] and that the trust deed and rules governing it only allow standard benefit options such as annuities and drawdown in accordance with the applicable legal requirements.

From guidance and information I have received in connection with this decision I appreciate that there has recently been a significant rise in cases of 'pensions liberation' fraud. As a result there is increased concern and scrutiny around transfer requests being made, to

ensure members fully understand the implications of making a transfer.

I therefore wish to confirm that the transfer request is being made in order that I can take advantage of investment opportunities available under the scheme, none of which are in any way connected with pension liberation. I have received detailed information about the Scheme, how it operates, who administers it and the risks associated with making a transfer out of my existing pension arrangement.

In making this transfer I am not seeking to access my pension benefits before age 55 and I am aware of the potentially significant tax liabilities that would arise were I to attempt to do so. Indeed the trust deed and rules of the Scheme do not permit benefits to be taken prior to age 55, except in circumstances of ill health which meet HMRC requirements. I also confirm that I have not been offered any cash or other incentive by any person as part of my decision to transfer my pension to the Scheme.'

Royal London wrote to CGL on 4 June 2014, confirming the transfer of the three pension policies had been processed and a total value of just over £28,000 had been sent.

There's a letter from Broadwood Assets Limited (Broadwood) sent to Miss S on 6 June 2014. It said she'd appointed Broadwood to provide advice, as required under section 36 of the Pensions Act 1995, on whether the proposed investment with TRG was satisfactory for the aims of the scheme. The letter pointed out that Broadwood weren't FCA authorised or regulated and they weren't providing advice that would be deemed regulated under the Financial Services and Markets Act 2000 (FSMA). If Miss S wanted regulated advice on the suitability of the proposed investment for her specific needs as an individual and member of the SSAS, she should request that from an IFA (independent financial adviser). Broadwood said TRG investment was a suitable investment for Miss S's SSAS. There were some caveats, including that it was for more adventurous investors. Miss S signed a copy of the letter on 7 June 2014 to confirm she'd read it and understood the advice. On the same date she signed Broadwood's client agreement and guide to services.

She also signed a letter to CGL instructing an investment in TRG and, on 18 June 2014, she signed an agreement to invest £22,850 in TRG. On the same day £18,500 was debited from the SSAS bank account for the investment. A further £4,350 was debited on 24 June 2014.

On 12 September 2014 Miss S signed application forms to invest £2,915.98 via Sequence Pension Solutions (Sequence) in a portfolio with Parmenion.

On 20 October 2014 Miss S signed a letter to CGL saying she authorised TRG to switch her investment to a different property at the resort.

Initially Miss S received some returns from her investment in TRG. But those dried up and she became concerned about the investment and in October 2019, via her representative, she complained to Royal London.

Briefly, her argument is that Royal London ought to have spotted, and told her about, a number of warning signs in relation to the transfer, including (but not limited to) the following: the SSAS was newly registered; there wasn't a genuine employment link to the sponsoring employer (which was also newly registered, a dormant company and not Miss S's genuine employer and set up solely to facilitate pension holdings); the SSAS administrator, CGL, was a relatively new business, having operated for only one year; the catalyst for the transfer was an unsolicited call and the offer of a free pension review; Miss S had been advised by unregulated firms – FRPS and Broadwood – with no involvement from a FCA authorised and regulated firm; and the proposed investment was in unregulated, overseas, high risk and non diversified assets.

Royal London didn't uphold the complaint. It said it had no record of any contact from FRPS. It had been contacted by Wise Review Limited which it said was also known as We Review Limited, a FCA registered firm. We Review Limited was at the time an appointed representative of Sorensen Financial Services Limited, again a FCA regulated firm. Royal London said it was reasonable to presume that firm was providing advice when transfer paperwork is requested. CGL's covering letter had confirmed Miss S had been provided with a copy of the Scorpion leaflet and that she understood the risk of a scam. As the SSAS trustee she was taking and considering advice from Central Markets Investment Management Limited (CMIM), a FCA registered firm. At least two regulated adviser firms (Wise Review Limited and CMIM) were linked to the transfer and the SSAS so Royal London didn't feel that CGL being unregulated would be grounds for concern.

Our investigator was unable to resolve the dispute informally, so the matter was passed to me to decide. In doing so I've borne in mind the points made by Miss S's representative in response to the investigator's view.

What I've provisionally 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.

The relevant rules and guidance

Personal pension providers are regulated by the Financial Conduct Authority (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 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 The Pensions Regulator (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 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 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 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: what does the evidence suggest happened and who did what?

Miss S says she received an unsolicited call offering a free review of her pension arrangements. She agreed and this led to two meetings at her home with a representative of FRPS. This business wasn't authorised or regulated by the FCA, but Miss S didn't appreciate the implications of this and thought the person she met was a professional financial adviser.

FRPS's representative said Miss S should transfer to a SSAS administered by CGL. She

was told the pension money would be moved 'overseas' and that it would make much more than with Royal London – a return of 11% pa. She had no savings or investments other than her Royal London pensions. She wasn't a sophisticated investor or in a position to take risks with her pension. The proposal sounded like a good opportunity to achieve a significant increase on her pension savings, thereby providing for her retirement. She wasn't offered any incentive but she wasn't told about the risks or that the proposed investment was or may be riskier than her existing pensions with Royal London. She didn't understand the different types of pensions available and so she was heavily reliant on advice. Her partner had recently passed away, leaving her with two young children to bring up and she was in a vulnerable position.

She was pressurised to effect the transfer promptly by FRPS who said the sooner the transfer went ahead, the sooner money would start to be made in the new investment. CGL then organised the establishment of the SSAS and the transfers from Royal London. Miss S had signed a letter from CGL but she hadn't spoken to anyone from CGL, just the FRPS representative who'd come to her house.

Miss S recalled contacting Royal London to ask if it was safe to proceed with the transfer she'd been recommended to make and being told by the call handler that, if there were risks involved, the funds wouldn't be released.

Our investigator also spoke to Miss S about what had happened. She said she'd first been contacted by FRPS. The person she was dealing with had told her he was also going to invest. Miss S reiterated what she said about having called Royal London and being told that, if Royal London thought there was anything untoward about what she'd be doing, they'd stop the funds transferring. So, as they didn't, she thought it was all fine.

She said there was a lot of paperwork, from different companies. An appointment was made and a courier came to her house with all the documents so she assumed she had to sign everything there and then. She also said she'd recently received a letter asking her for more money as Covid had affected the hotel industry in Cape Verde. As there's no money in her SSAS she's being asked to pay out of her own money and when she's not getting anything from TRG. She'd also had to set up a limited company and she'd had a letter from HMRC asking her for tax.

About whether she'd seen the Scorpion insert (a copy of which the investigator had earlier sent to her) Miss S said she didn't get a copy from Royal London but she'd been given a copy by the person who'd come to see her to set up her pension. It was included in the paperwork but there was a very large amount of that.

Miss S said there were other parties involved but she didn't think Royal London had done enough before releasing the funds – it hadn't taken them long to do that so she didn't think they could've done much investigating.

All in all I don't doubt Miss S's recollections and which seem consistent with the documentary evidence I've seen. For example, on 8 March 2014 Royal London responded to a request for information from Wise Review Limited. That fits with Miss S getting a cold call from that company. When she agreed to a review she'd have been given a LOA to sign in favour of Wise Review Limited so that firm could obtain information about her three policies with Royal London and, in theory, review them. I say in theory because I don't think any review was ever likely to be carried out. The main purpose of getting information about Miss S's existing pension plans was to see how much she had available to invest.

Wise Review Limited wasn't regulated or authorised by the FCA. Royal London says it was also known as We Review Limited which was a FCA registered firm and at the time an

introducer appointed representative of Sorensen Financial Services Limited (Sorensen) which was a registered firm. But, from what I've seen, Wise Review Limited and We Review Limited were separate companies. Wise Review Limited wasn't a registered trading name of We Review Limited. But there were some links. Information from Companies House indicates there was a controlling director in common and both companies operated from the same premises.

Both companies entered administration in 2014 and appointed the same administrator. Administrators' statements for both companies referred to them as being part of the same group. The administrators' statement specific to Wise Review Limited described the nature of its business as being an 'introducer of pension transfer leads to various pension providers and intermediaries'. And the corresponding statement for We Review Limited said it was 'an appointed representative of a particular pension provider' (which, as I've said, the FCA register confirms was Sorensen at the time) and that it received leads and conducted financial reviews for Wise Review Limited. So Royal London was wrong to think that Wise Review Limited was regulated. And any assumption it was acting on behalf of Sorensen was also misplaced. We Review Limited may have been an authorised introducer appointed representative for Sorensen but Wise Review Limited wasn't.

And, from what I've seen, the information Wise Review Limited got from Royal London wasn't forwarded to Sorensen. Instead it was passed onto FRPS – the scheduling sheet we've seen shows that Wise Review Limited were in touch with FRPS to arrange an appointment for Miss S to be set up. And Miss S's recollection is that the person who came to her house was from FRPS. Further, her signatures on the SSAS trust deed were witnessed by someone from FRPS. So there's clear evidence of FRPS's involvement and I accept that the person who Miss S met with at her home was from FRPS, an unregulated business.

I think, once Miss S agreed to transfer, CGL was then instructed to set up the SSAS (I think CGL had a model trust deed and rules to use) and to then request the transfer. As I've said above, CGL's covering letter stressed it was aware of pension liberation and the threats posed and that it wouldn't be a party to pension liberation. CGL also confirmed that it had sent Miss S the Scorpion information leaflet 'Predators Stalk Your Pension' and explained it to her. Further she'd confirmed her understanding and that the transaction was in no way connected to pension liberation by signing the letter dated 28 May 2014.

We know that what CGL said about Miss S having seen a copy of the Scorpion insert at least is correct because Miss S told us that she'd been given it by the person who came to her house (who, as I've said above, was from FRPS). It's unclear if she was given the insert or the longer booklet – both have the same 'Predators Stalk Your Pension' title and the same image on the front page.

The insert explained what pension liberation was and included a section about 'What to watch out for', one of which was being approached out of the blue over the telephone or via text message. And, under the heading, 'Five steps to avoid becoming a victim', it recommended finding out about the company through information online and said that any financial advisers should be registered with the FCA.

There's also the letter signed by Miss S dated 28 May 2014, the contents of which I've set out above and which was submitted to Royal London as part of the application to transfer. In summary, it said she was aware of the rise in pension liberation, had carefully considered the request to transfer and decided she wanted to proceed for the investment opportunities this provided. The letter also stated she was aware of the risks of pension liberation and confirmed that she wasn't planning to access her pension before age 55 and she asked Royal London to complete the transfer promptly.

Miss S has referred to having to sign lots of paperwork for several different companies. I've already mentioned her dealings with Wise Review Limited, FRPS and CGL. The other firms referred to are CMIM, Broadwood, Sequence and Parmenion. To clarify their roles in the matter, CMIM was a regulated firm and is shown on CGL's Q&A document which accompanied the transfer request as the firm that would be providing Miss S (as the trustee of the SSAS) with advice as required under section 36 of the Pensions Act 1995. But I haven't seen anything to suggest that CMIM did that. From what I've seen CMIM was replaced by Broadwood who wrote to Miss S on 6 June 2014 about TRG investment.

Sequence Pensions Solutions was a trading name of Sequence Financial Management Limited which was also a registered firm. It was through Sequence that the investment in the Parmenion portfolio was made. I'm not entirely sure about Parmenion's role at the time and if it was a Discretionary Fund Manager (DFM) or an adviser to client investment platform provider. But neither Sequence nor Parmenion appears to have been involved except in respect of the relatively modest balance of Miss S's fund remaining once the investment in TRG had been made.

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 didn't send Miss S the Scorpion insert or the information it contained in another format. But, as I've said, Miss S did see the insert at least because FRPS gave it to her. She also signed a separate letter explaining why she wanted to go ahead with the transfer, part of which declared that she understood the risks of liberation and was not seeking to release pension funds before age 55 (she was 50 at the time of the transfers). So, although Royal London should've sent the Scorpion insert, I don't think it would've made a material difference if it had – because Miss S had already seen it (or possibly the longer version) and she was aware of the risks that the insert/booklet warned about.

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 the information that Royal London had received would've reasonably reassured it that Miss S wasn't at risk of pension liberation fraud. Royal London could've made further enquiries using the checklist provided. And there were some signs of potential pension liberation: Miss S was transferring to a recently established scheme with a newly incorporated sponsoring employer. And, although she was a director of the sponsoring employer, it was unlikely to have been genuinely trading and providing her with an income – I note the company is recorded as dormant on Companies House. It was, essentially, a means to establish a pension arrangement, which the Scorpion guidance indicated could be a sign of liberation activity. Further, the intended investment was overseas and likely to be unregulated. But Miss S's reason for transferring was to access a

particular investment which promised much improved returns. And Royal London had direct evidence, signed by Miss S, saying she knew about pension liberation and she wasn't doing that.

Miss S's representative has said that Royal London shouldn't have relied on and taken at face value information provided by CGL who had a vested interest in the transfers proceeding. I do bear in mind that Miss S would've been given a lot of paperwork to sign and that she may not have been taken through everything in detail and so she may have unwittingly signed the letter. But, although it appears to have been pre-prepared, the letter was only a page long. On balance, I don't see any real reason why Royal London shouldn't have taken it at face value and as confirmation that Miss S was aware of liberation and wasn't seeking to do that (and which I accept there's no suggestion she was doing).

In my view, Royal London could reasonably have discounted that risk which was, at the time, what ceding providers should've been focussed on. I don't see that Royal London should've delayed the transfers to undertake further checks aimed at establishing if there was a risk of pension liberation when, from what Royal London had already seen, that outcome could reasonably be discounted. So, whilst Royal London (had it conducted thorough due diligence) would've found there to be some liberation warning signs, I think it would've ultimately (and reasonably) concluded that the liberation threat was minimal given Miss S's reasons for transferring and the letter she'd signed. So even if it had done all it should've done, I'm satisfied Royal London wouldn't have considered there to be reason to provide any further warnings to Miss S.

Miss S may say that some of the circumstances behind the transfer were unusual enough in themselves that Royal London should've done more to warn her about what she was intending to do, even if the liberation threat would've appeared minimal. Specifically, that Royal London should've warned about the unusual nature of the receiving scheme (established not long before the transfer), the lack of any real employment link to the sponsoring employer and the nature of Miss S's intended investments (non-standard and high risk).

But I think those arguments misread what should, reasonably, have been expected of transferring schemes at that time. Investigations into the receiving scheme, sponsoring employer and intended investments were a means to an end: to establish the risk of liberation. Once that threat was discounted then I think it reasonable for ceding schemes to consider the scam threat as being minimal and process the transfer as normal.

I'm satisfied that Miss S wouldn't have stopped the transfer even if Royal London had done more thorough due diligence in line with the Scorpion action pack. For the reasons given above, the end result of any such due diligence wouldn't have resulted in any warnings being given to Miss S. And I don't think the mere act of contacting her and asking questions about the transfer would've prompted a change of heart. Any due diligence questions would've been asked with the intention of establishing the liberation risk Miss S was facing – a risk that doesn't appear to apply here and one she'd already been warned about when was given the Scorpion insert. And, about that, I'm not saying that Royal London was entitled to rely on CGL's assurance that the Scorpion leaflet was provided and explained to Miss S. What I've said is that from her own evidence Miss S did see it. So, even if there was a failing on Royal London's part – and I accept that it should've provided the insert at least – it doesn't change the outcome as Miss S saw the warnings anyway.

I note what Miss S has said about calling Royal London before she agreed to go ahead. But there's no file note of any conversation. So it's difficult to say now, so long after the event, exactly what may have been discussed. I bear in mind that, in the absence of any objections from Royal London, Miss S may have believed the transfer was safe. And that she was

relying on Royal London carrying out thorough checks to ensure she wouldn't suffer any detriment. But, as I've said, the checks that ceding providers had to undertake at the time were focussed on pension liberation. And so any reassurance Miss S may have been given would've been in that context.

In reaching my conclusions, I don't overlook what Royal London has said about there being at least two regulated firms (Wise Review Limited and CMIM) linked to the transfer and the SSAS and so Royal London didn't consider that CGL being unregulated was grounds for concern.

I think there are flaws in what Royal London has said here. First, CGL was the SSAS administrator. A SSAS is a type of occupational pension scheme. Establishing, operating or winding up a personal pension scheme is a regulated activity. But the same isn't true for an occupational pension scheme. CGL didn't have to be regulated to administer Miss S's SSAS. So, although there may have been other worries about CGL (I note for example it was a relative newcomer to the SSAS administration market), I'm unsure why CGL's unregulated status as a SSAS administrator might've been of concern to Royal London.

I can see that Royal London might've been comforted by the fact that it seemed there were two regulated advisers involved. But as I've said above, Royal London was wrong to think that Wise Review Limited was regulated. And any assumption Wise Review Limited was acting on behalf of Sorensen (a regulated firm) was misplaced – We Review Limited may have been an authorised introducer appointed representative for Sorensen but Wise Review Limited wasn't. And, as I've said above, the information Wise Review Limited got from Royal London wasn't forwarded on to Sorensen. Instead it was passed onto FRPS which wasn't a regulated firm and it was FRPS who visited Miss S to talk to her about her pensions.

I accept that, if Royal London had made further enquiries, some issues may have come to light – for example, that Miss S was dealing with FRPS, an unregulated firm. I also acknowledge, as Miss S's representative has stressed, that Miss S was a consumer and Royal London was the professional party, operating a regulated pensions business in which dealing with transfer requests was an everyday occurrence and in respect of which Royal London had responsibilities.

But the difficulty is that, if it wasn't unreasonable for Royal London to conclude, on the basis of such information as it had, that liberation wasn't a threat, there was no need for Royal London to probe things further. And I'm not saying that Miss S would've proceeded in any event if Royal London had given her risk warnings. Rather that situation didn't arise as Royal London didn't express any reservations on the basis of such information as it had and which I consider it was reasonable for it to rely on. I'd repeat that the guidance was later (in fact very soon after Miss S's transfers were made) widened to include pension scams generally but that wasn't the position when Miss S's transfer request was received and the transfers processed.

The other business Royal London has mentioned, CMIM, was registered. CMIM was shown on the Q&A document submitted by CGL with the transfer request. But as I've said above, I haven't seen anything to suggest that CMIM actually provided any advice. CMIM seems to have been replaced by Broadwood Assets Limited who did provide advice to Miss S. And, regardless of who, in the end, actually gave it, it was advice under section 36 of the Pensions Act 1995. I'm not sure how much comfort Royal London could've reasonably taken when CMIM's proposed role was limited and didn't extend to advice as to if what Miss S was doing – transferring away from Royal London and setting up a SSAS to invest in TRG – was suitable for her. But, that said, it wasn't a requirement for Miss S to take advice and, as I've explained, Royal London's primary concern, under the guidance at the time, was pension liberation. And here, as I've said, Royal London could've been reasonably reassured that the

liberation threat was minimal.

I'm sorry that Miss S has lost out financially by giving up the relative security of her pension arrangements with Royal London and investing in TRG, a higher risk investment which it seems has failed. And it appears that the SSAS structure and the limited company which was set up has also caused problems for Miss S with HMRC. But the guidance that was in place when Miss S's transfer request was made focussed on the risk of consumers falling victim to a pension liberation scam. For the reasons I've explained above, I think there was enough information for Royal London to reasonably discount that risk when dealing with the transfer request it received on behalf of Miss S. In the circumstances I'm not upholding the complaint.'

Comments in response to my provisional decision

Royal London confirmed its acceptance of my provisional decision and said it didn't have anything further to add.

Miss S, via her representative, disagreed with my provisional decision and submitted a detailed response. In summary she said my provisional decision was contrary to an article published by Royal London themselves about how they'd dealt with an almost identical transfer request in mid July 2014. And my provisional decision ran counter to the 2013 TPR guidance on the interpretation of "pension liberation". And was contrary to two final decisions we'd issued.

I've summarised Miss S's main points.

- What Royal London had said, in their final response – about having no basis for any concerns about the transfer as they thought she'd received FCA regulated advice – didn't correlate with the contemporaneous evidence.
- And it contradicted evidence provided by Royal London on other transfers at the time that they'd 'checked with HMRC's Counter Fraud Team' about CGL's authority to register pension schemes. The mere fact that Royal London had done that confirms they did have fraud/scam concerns about these transfers.
- Miss S directed me to an article published by Royal London in May 2016 describing what they'd done on a transfer request received in July 2014, so at almost exactly the same time as hers and before the publication of the update to the Scorpion action pack and so, she said, subject to the same, February 2013, guidance. Royal London said they'd identified eight scam warning signs and had stated "we could have been failing in our duty if we had not raised our concerns". Royal London hadn't taken that approach to her transfer request and despite having concerns about CGL which they'd referred to HMRC.
- Because she was transferring to a SSAS, Royal London should've ensured she was employed in some capacity – if she wasn't she had no statutory right to transfer. Reference was made to two Pensions Ombudsman's decisions in support.
- She agreed with what I'd said about what had led up to the transfer, including that she'd been cold called, which, in the article referred to, Royal London listed as a scam warning sign. She said Royal London had been receiving numerous similar transfer requests to single member SSASs such as hers. And which, as mentioned, Royal London had confirmed they'd referred to HMRC's Counter Fraud Team. Royal London had a questionnaire available to use at the time in conducting due diligence enquiries – a copy had previously been disclosed. One of the questions was about how the consumer had become aware of the receiving scheme. That questionnaire should've been used in connection with her transfer request.

- She'd been contacted by an introducer and advised by a firm which wasn't authorised to provide regulated advice. Royal London had been wrong to say that Wise Review Limited had any links to a FCA regulated firm. And neither Sorensen nor CMIM had any contact with her. So, had she been asked, she'd have said the only firm she'd had any contact with was FRPS.
- The CGL transfer pack included HMRC's SSAS registration letter which showed the SSAS had been very recently registered, which was another warning sign identified by Royal London in the article referred to. As was a recently set up SSAS where the member is a trustee. Checking on Companies House would've confirmed that S Limited was also newly established and a dormant company with no genuine employment connection to Miss S. And the proposed investments included an overseas property development run by TRG, which, it was suggested, was clearly an unregulated company. In the circumstances, and as we'd said in another case, Royal London should've used the checklist in the action pack to structure its due diligence. It was inconsistent for us to say the checklist should've been used in December 2013 but it wasn't necessary in May/June 2014.
- Royal London was receiving numerous similar transfer requests from CGL (and other providers who operated similarly). All the requests from CGL contained the same pre printed letter (with the individual's name and SSAS details inserted) which was a standard tactic used by sham schemes at the time and should've been recognised as such by Royal London. It was wholly unreasonable for Royal London to place reliance on the document and for us to accept it as evidencing genuine knowledge on the consumer's part of a complex pension scam or pension liberation issues. And when, in the other case that the article centred on, an equivalent letter had been included in CGL's transfer pack.
- Royal London had acknowledged that they hadn't sent the Scorpion insert. They'd failed to meet the minimum communication expectations for every pension transfer request, regardless of whether scam warning signs were present.
- It had been accepted that Royal London didn't do any due diligence on Miss S's transfer. I'd said the focus of the guidance in place at the time was on pension liberation fraud, but I'd interpreted that too narrowly. Miss S didn't agree that the updated Scorpion guidance issued on 24 July 2014 broadened the types of issues pension providers should be looking out for – she didn't think it was significantly different to the earlier version. She referred again to a final decision we'd issued on another case.
- My findings weren't consistent with TPR's guidance in the February 2013 action pack and which made explicit reference to 'highly dubious and risky, unregulated investment structures, often based overseas'. So, from the earliest days of the Scorpion campaign, it was made clear that where consumers' pension monies ended up was an intrinsic part of liberation/scam activity.
- In another case my colleague had concluded that the consumer had been subject to an orchestrated process involving several different firms with the ultimate aim of securing funding for TRG by persuading private individuals to transfer their pensions and invest the proceeds. The article referred to confirmed that Royal London had identified eight warning signs which also applied to Miss S's transfer. It was irrational for both Royal London and this service to apply a contradictory approach to similar fact situations only a few weeks apart.

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.

In bringing this complaint, responding to our investigator's assessment of it and replying to my provisional decision Miss S has – via her representative – made many detailed points. I've considered everything she's said and all the supporting materials she's referred to. However, our rules don't require me to address or respond to each and every point raised. We're an alternative to the court not a substitute for it. As such my role is to decide how a complaint should be resolved with minimal formality. And I aim to present my conclusions in as clear and as concise a manner as I can. In doing so I focus on the key issues and the reasons that are crucial to my decision making. So, if there's something I haven't mentioned, whether in my provisional decision or in this final decision, it isn't because I've ignored it. I haven't. It's because I'm satisfied I don't need to comment on it to be able to reach what I think is a fair and reasonable outcome in the circumstances of this complaint.

As to consistency, although I've addressed below why I consider the other complaints referred to aren't the same as Miss S's, each case is decided on its own individual facts and merits and on the basis of what's fair and reasonable in the circumstances of that particular case. Sometimes complaints which may appear very similar aren't identical and may be decided or redressed differently. And, as Miss S acknowledges, the Pensions Ombudsman is a different organisation and sometimes we won't take exactly the same approach.

As I understand it, Miss S's main concern is that I've interpreted TPR's guidance too narrowly – I'd said that prior to July 2014, the guidance was only directed at identifying the risk of early release pension liberation. Whereas Miss S maintains it was far broader and intended to apply to both early release pension liberation and pension liberation through investment into unregulated or scam investments which resulted in the loss of the entire pension fund.

It is the case that the press release that accompanied the launch of the TPR guidance referred to concerns around pension funds being "invested in highly dubious and risky, unregulated investment structures, often based overseas." However, I don't think that defines the scope of the issues the campaign, at that time, was attempting to highlight. I say that because:

- The press release's opening paragraph refers to a crackdown on "predators" claiming to be able to release pension funds "before the law allows" – in other words, early pension release.
- The second paragraph explains methods introducers or advisers use to promise to release pension cash "before the age of 55".
- The third paragraph explains that such advisers will not inform consumers of the adverse tax charges and fees that might erode their pensions. This paragraph does refer to risky, overseas and unregulated investments but in the context of funds already "liberated", that is accessed in an unauthorised manner.
- The fifth paragraph refers to warning signs for pension providers to look out for and gives the example of funds being passed to consumers before age 55.
- It contains a quote from a government minister who also refers to pension funds being intended for retirement and so should not be released before age 55.

So, in my view, both the press release and Scorpion guidance at the time were heavily weighted towards looking out for signs of unauthorised access of pension funds, particularly before age 55. And this is what it describes as pension liberation.

However, when TPR reissued the Scorpion guidance in July 2014, the focus had shifted to scams more broadly. For example, while the 2014 insert again warns about accessing funds early, its front page says: "A lifetime's savings lost in a moment ... Pension Scams. Don't get stung" – and without any emphasis on the tax consequences of early pension release. It also

warns about the dangers of “one-off investment opportunities” and the potential to lose an entire pension pot. Those weren’t prominent features of the 2013 publication.

Similarly, the title of the 2013 action pack for businesses was “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, and the effects of doing so, including punitive tax charges and high administration fees. Also the warning signs it highlighted included: “accessing a pension before age 55”, “legal loopholes”, “cash bonus”, “targeting poor credit histories”, and “loans to members”. So, again, the emphasis was on accessing funds in an unauthorised manner. In contrast, the 2014 action pack included a case study about someone transferring in order to benefit from a “unique investment opportunity” which ultimately caused the consumer to lose their entire pension.

Against that background I maintain that, at the time Royal London was considering Miss S’s transfer request, it was required to look out for the threat of pension liberation, that is unauthorised early access to pension funds, rather than unregulated or high risk investment opportunities more generally. And while it did refer to those type of investments, the 2013 guidance did so only in the context of people investing in such schemes in order to access their pension funds in an unauthorised way. But the July 2014 Scorpion guidance broadened the issue of the warning signs for providers like Royal London to look out for and incorporated scam type investments more generally.

Given the above, 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 Miss S’s transfer, when considering her request and deciding whether further due diligence was required. I recognise that may feel unfair to Miss S – if her transfer request had been made later and/or the transfer hadn’t been processed so promptly, her complaint would’ve been decided against the background of the updated guidance and the outcome may have been different. But it’s only fair to judge what Royal London did (or didn’t do) in the light of the prevailing regulatory regime at the time in question – and which I don’t think, for the reasons I’ve explained, was as broad as Miss S has argued.

As I’ve said, 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. I don’t think delaying all transfer requests, 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 against the background of what I’ve said Royal London should’ve been looking out for – the risk of pension liberation fraud.

Miss S doesn’t disagree with what I said in my provisional decision about some of what Royal London had said not being correct. In particular about Wise Review Limited (an unregulated firm) being the same as We Review Limited (a FCA introducer appointed representative of a regulated firm) and which wasn’t the case. I also said Miss S had met with someone from FRPS, which was an unregulated firm. As were CMIM and Broadwood – although they didn’t need to be regulated if their role was confined to giving advice under section 36 of the Pensions Act 1995. So I recognised that it wasn’t correct for Royal London to take any comfort from any suggestion that Miss S had received regulated financial advice in connection with the transfer. And my findings were made against that background.

I also recognised that, had Royal London asked further questions, other warning signs might’ve come to light. Including that Miss S had been cold called. And, although Royal London would’ve seen, from the documentation received, that the SSAS was newly set up and newly registered with HMRC, a check on Companies House’s website would’ve shown that S Limited was newly incorporated too. And that it was a dormant company so there was

no real employment link between it and Miss S. Further enquiries may also have revealed that the proposed investment was overseas.

But, given the letter dated 28 May 2014 which Miss S had signed and which was submitted to Royal London with her transfer request, I think it was reasonable for Royal London, taking a proportionate approach and bearing in mind what I've said Royal London needed to have been looking out for, to have concluded that there wasn't sufficient reason to delay the transfer by making further enquiries.

In saying that I note all Miss S has said about the letter. But, although I can see why she argues it was itself a sign of a scam, she did sign it. I don't think it was unreasonable, from Royal London's perspective, to assume she'd read and understood it. I acknowledged in my provisional decision that the letter was pre prepared. But it was relatively short. I think a reasonable person in Miss S's position would, even with very little financial or investment experience, take the time to familiarise themselves with the documents they'd been asked to sign to say they'd read and understood. Particularly when, as here, the document wasn't lengthy or technical. I maintain it wasn't unreasonable for Royal London to take at face value the declaration Miss S had signed.

Miss S also says Royal London should've checked her employment status to ensure she had a right to transfer. I agree that, to have a right to transfer to an occupational pension, which a SSAS is, Miss S had to be earning. But my understanding is that she was working. I think the point she's making is that, had Royal London checked out S Limited, concerns ought to have been raised due to the lack of an employment link between Miss S and S Limited, the SSAS sponsoring employer, and which was a dormant company.

But, as far as I'm aware, there was no obligation on ceding schemes to check, as a matter of course, whether the transferring member was earning (and which, in any case, Miss S was). She's also referred to two Pensions Ombudsman's decisions. But, in the first, the ceding scheme had strong evidence that the member was unemployed and in receipt of benefits. And, in the second, the Pensions Ombudsman said it "should have been clear" to the ceding scheme that there was an "earnings problem". So, in those cases, there was a clear indication that the consumer concerned wasn't earning. But I don't think Royal London had any reason to think Miss S wasn't earning so there was no obligation to check her employment status and so any issues about S Limited wouldn't have come to light by that route.

Miss S has also argued that my provisional decision is inconsistent with how Royal London approached a similar transfer request and as evidenced by the article referred to. She argues that the circumstances in her case are very similar and Royal London should've identified the same warning signs and refused or delayed the transfer. But I think the facts are different. In particular, in Miss S's case, CGL submitted the transfer request on 28 May 2014 and the transfer was completed on 4 June 2014.

In the other case, and according to what the Pensions Ombudsman says, Royal London received the transfer request on 23 July 2014, one day before TPR issued its updated version of the Scorpion guidance and which, as I've said above, broadened the scope of issues for pension providers to look out for. And crucially it wasn't until September 2014, two months after the reissued guidance, that Royal London refused the transfer request. By then, and as appears to have happened, I'd have expected pension providers like Royal London to have analysed and implemented the updated guidance.

Given the specific facts of Miss S's case – in particular the timing of the transfer request and completion of the transfer – I'm satisfied, for the reasons I've given previously, that Royal London didn't need to undertake the detailed due diligence Miss S has suggested. To

reiterate, given the information Royal London had, it was reasonable to conclude that the threat of pension liberation – that is unauthorised access to funds – was low.

Miss S has also suggested that my provisional decision is inconsistent with two other final decisions we've issued. But again the facts in the cases referred to aren't the same as in Miss S's case. In one of those cases the consumer concerned hadn't (and unlike Miss S) submitted a letter saying they were aware of the risks of pension liberation but weren't attempting to access their funds in an unauthorised way. And, in the other case, the ceding scheme completed the transfer in September 2014, some months after TPR issued its updated guidance. So, in one case, the facts were different and in the other the guidance had changed.

Lastly, I note what's been said about Royal London having referred CGL to HMRC's Counter Fraud Team. And, as I referenced in my provisional decision, CGL had said, in its letter to Royal London dated 28 May 2014 requesting the transfer, that during August and September 2013, CGL's business model had been vetted by HMRC who'd confirmed it was operating legitimately. I've seen that at least one other provider raised concerns with HMRC and received a response that HMRC held no information that the CGL schemes were at significant risk of pension liberation.

I understand that Royal London received a letter from HMRC which confirmed that CGL was authorised to register pensions schemes and accept transfers. It said this letter was certified by a leading corporate law firm. It also said a member of staff had spoken to HMRC's Counter Fraud and Avoidance Team who confirmed HMRC had conducted a full investigation and had authorised CGL to continue registering schemes and accepting transfers. So, although Royal London (and it seems other providers too) may at some stage have had concerns about CGL's business model or more generally and raised enquiries, it would appear that HMRC responded and allayed providers' concerns.

I don't disagree that it now appears that Miss S was the victim of what might be regarded as a fairly widespread campaign to persuade UK investors to transfer accumulated pension funds to a SSAS and invest in TRG. But my decision focuses on what Royal London did (or didn't do) and if it met its obligations and taking into account the prevailing regulatory environment at the time. In the circumstances and for the reasons I've explained I don't think it would be fair and reasonable to say that Royal London ought to have delayed the transfer process to conduct further checks simply to further safeguard against an outcome that it should've already reasonably discounted.

All in all I maintain what I said in my provisional decision. I've set that out above and it forms part of this decision. For the reasons I've given in my provisional decision and this decision, I'm not upholding Miss S's complaint.

My final decision

I don't uphold the complaint and I'm not making any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 11 October 2024.

Lesley Stead
Ombudsman