

The complaint

Mr H has complained about a transfer of his Sun Life Assurance Company of Canada (U.K.) Limited trading as Sun Life Financial of Canada ("SLOC") personal pensions to a small self-administered scheme ("SSAS") in 2015. Mr H's SSAS was subsequently used to invest in Dolphin Capital loan notes, a fractional property investment in a hotel development and in Park First. Mr H says he has lost out financially as a result.

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

What happened

Mr H says he was cold called by Technical & Professional Solutions Ltd who recommended that he could get better investment returns by transferring his existing personal pensions to a SSAS. Mr H explains that he was attracted by the prospect of the improved investment performance in excess of what he could expect from his personal pensions.

In June 2014, a company was incorporated with Mr H as director. I'll refer to this company as Firm H. On 6 June 2014, Mr H signed documents to open a SSAS with Rowanmoor Group. Firm H was recorded as the SSAS's principal employer. The SSAS documentation also recorded that the SSAS was to be used to invest in: a care home, Dolphin, and Park First.

In October 2014 SLOC received a request to transfer Mr H's pensions via the ORIGO Options platform. The request was sent from Rowanmoor. SLOC responded by requesting further information and the completion of paper transfer forms. This included an '*Additional Information and Declaration*' form with a list of additional questions relating to the circumstances of Mr H's transfer.

At the same time that SLOC received its ORIGO transfer request Rowanmoor made a transfer request for Mr H's personal pension held with Sanlam Life and Pensions, also via ORIGO Options. His Sanlam pension was transferred to the Firm H SSAS in October 2014.

SLOC received the completed transfer forms from Rowanmoor in February 2015. It transferred pensions in February 2015 with a combined value of around £21,700.

On 3 November 2014 an investment of £50,000 was made in a Dolphin Capital loan note, a property development scheme in Germany. The properties were never developed and the loan notes are understood to have no value.

On 18 May 2015 an investment of around £34,000 was made in Park First (fractional car park ownership). The companies involved in this investment are understood to have failed and investors' money is unlikely to be repaid.

On 29 July 2015 an investment was made by the Firm H SSAS into a South Wales Resort Hotel via Kayboo Ltd. Kayboo Ltd went into administration in 2016. Issues with this investment included the fact that leases were not registered and property was never actually purchased.

By 12 August 2022 Mr H had transferred the residual value of his SSAS – £32,868.80 – to True Potential SIPP.

In July 2020, Mr H complained to SLOC. Briefly, his argument is that SLOC ought to have spotted, and told him 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, the catalyst for the transfer was an unsolicited call and he had been advised by an unregulated business. Mr H said SLOC only corresponded with Rowanmoor and made no direct contact with him in relation to his transfer.

SLOC didn't uphold the complaint. It said that it had contact regarding this transfer via the ORIGO request from Rowanmoor. But it said that it wrote directly to Mr H with transfer forms and his pension options first on 22 October 2014. Then again on 29 December 2014. It didn't process the transfer until it eventually received the paper transfer forms completed by Mr H that it received from Rowanmoor on 12 February 2015. It said that the transfer pack included its completed 'Additional Information and Declaration' form. Which it said provided information that included: that Mr H had not been offered any incentive to transfer; he was not acting on the recommendation of a financial adviser; he had not been cold called. SLOC says in addition to this it was satisfied that the Firm H SSAS was properly registered with HMRC. It considered that its due diligence had been sufficient at the time.

Our investigator was unable to resolve the dispute informally, so the matter was passed to me to decide. I issued a provisional decision to let both parties know what I thought about the complaint.

What I said in my provisional decision

"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 SLOC was subject to the FSA/FCA Handbook, and under that to the Principles for Businesses (PRIN) and to the Conduct of Business Sourcebook (COBS). There have never been any specific FSA/FCA rules governing pension transfer requests, but the following have particular relevance here:

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

The Pensions Schemes Act 1993 gives a member of a personal pension scheme the right to transfer the cash equivalent value of their accrued benefits to another personal or

occupational pension scheme if certain conditions are satisfied (and they may also have a right to transfer under the terms of the contract). This right came to be exploited, with people encouraged to transfer to fraudulent schemes in the expectation of receiving payments from their pension that they weren't entitled to – for instance, because they were below minimum retirement age. At various points, regulators issued bulletins warning of the dangers of taking such action. But it was only from 14 February 2013 that transferring schemes had 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 was updated on 24 July 2014 (which was before Mr H's transfer). It widened the focus from pension liberation specifically, to pension scams – which it said were on the increase. I cover the Scorpion campaign in more detail below.

In late April 2014 the FCA had also started to voice concerns about the different types of pension arrangements that were being used to facilitate pensions scams. In an announcement to consumers entitled “Protect Your Pension Pot” the increase in the use of SIPP and SSAS in pensions scams was highlighted, as was an increase in the use of unregulated and/or illiquid investments. The FCA further published its own factsheet for consumers in late August 2014. It highlighted the announcement to insurers and advisers in a regulatory round-up published on its website in September 2014.

The Scorpion guidance

The materials in the Scorpion campaign comprised:

- An insert to be included in transfer packs (the ‘Scorpion insert’). The insert warns readers about the dangers of pension scams 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 scams. Guidance provided by TPR said this longer leaflet was intended to be used in ongoing communications with members so that they could become aware of the scam risks they were facing.
- An ‘action pack’ for scheme administrators that highlighted the warning signs present in a number of transfer examples. It suggested transferring schemes should “watch out for” various warning signs of a scam. 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 a transferring scheme still had concerns, they were encouraged (amongst other things) to contact the member to establish whether they understood the type of scheme they were transferring to and – where a member insisted on transferring – directing the member to Action Fraud or TPAS.

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

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

I take from the above that the contents of the Scorpion guidance was essentially informational and advisory in nature and that deviating from it doesn't necessarily mean a firm has broken the Principles or COBS rules. Firms were able to take a proportionate approach to transfer requests, balancing consumer protection with the need to also execute a transfer promptly and in line with a member's 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 transfer 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 that 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. In deciding how to apply the guidance, they needed to consider the guidance as a whole, including the various warning signs to which it drew attention, the case studies that highlighted different types of scam, and the checklist and various suggested actions ceding schemes might take. 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. The Scorpion insert provided an important safeguard for transferring members, allowing them to consider for themselves the scam 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 scams and undertake further due diligence and take appropriate action where it was apparent their client might be at risk. The guidance 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?

Mr H has said he had little experience with regard to pensions and investments and trusted the information he was being given by Technical & Professional Solutions Ltd. And I haven't seen anything that leads me to think otherwise. What Mr H has said about what he was told is, in my view, consistent with him being advised - if he was told the transfer was in his interests and that the proposed investment would outperform his existing pensions and be better for him. But these are Mr H's recollections at the time of the complaint, which he first raised in 2020. And these recollections aren't consistent with the information he provided to SLOC at the time of the transfer.

SLOC sent Mr H an 'Additional Information & Declaration' form in October 2014, to gather more information about his transfer request. I'll cover this document in more detail shortly but I note it included a question about whether Mr H had been advised to which Mr H ticked 'no'. And it asked if he'd received cold calls or unsolicited contact which led to the request, to which Mr H again ticked 'no'. And Mr H signed this form.

While I've taken on board what Mr H has now said about the events surrounding the transfer, I'm conscious his statement about this was more than five years after the events took place. And the documentary evidence from the time, which I think it would be reasonable to place greater reliance on, is at odds with this. I think his testimony that he was being advised by Technical & Professional Solutions Ltd is generally plausible given what I know about the way these transfers came about in other cases. But what is relevant to SLOC's actions is what it found out, or ought to have found out. Overall, I don't think SLOC ought to have had reason to think Mr H had been advised from the information it received from him at the time. Or, to go a step further, that Mr H had been advised by an unregulated business.

What did SLOC 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.

Mr H has said that he does not recall having been sent the Scorpion insert. And I don't think that the evidence that SLOC provided makes it clear that it sent this to him. The letters that were sent to Mr H in October 2014 and December 2015 make no reference to any additional information being included from The Pensions Regulator. And SLOC have provided no evidence of the information it sent out to any of the requests for transfer information that it said it received prior to the ORIGO request. So I can't reasonably conclude that it sent Mr H a paper copy of the form.

For clarity, I have also considered the information that Mr H received from Sanlam regarding that transfer. And nothing in that persuades me that he received the Scorpion insert from Sanlam either.

However, the evidence I have seen shows that Mr H signed the declaration in the 'Additional Information and Declaration' form. That declaration said that he'd read and understood the 'predators stalk your pension leaflet'. Whilst this title was for the Scorpion insert of February 2013, I note that this form had a date in the bottom left corner indicating it was created in February 2014. Which was prior to the updated Scorpion guidance. The declaration said where the leaflet could be obtained giving SLOC's website and I think it's more likely than not that the website would have provided the up to date information at that time. I don't think it's reasonable to conclude that Mr H would sign a declaration to say he'd seen information that he had not. So, in this case, I'm persuaded that Mr H had, more likely than not, seen the Scorpion insert as per his declaration and that it was the up-to-date version.

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 a pension scam and needed to undertake further due diligence and take appropriate action if it was apparent their customer might be at risk.

Given the information SLOC had from the point of the ORIGO transfer request in October 2014, one feature of Mr H's transfer would have been a potential warning sign of a scam: Mr H's SSAS was recently registered. So SLOC should therefore have followed up on it to find out if other signs of a scam were present. And I think that the action SLOC took in contacting Mr H and delaying the transfer until it had received a response – in the form of its 'Additional Information & Declaration' form – is evidence that it did perform additional due diligence before transferring.

What I need to decide is whether the due diligence it carried out was sufficient. And in deciding this I've considered what the Scorpion guidance suggested in its check list. The check list provided a series of questions to help transferring schemes assess the potential threat by finding out more about the receiving scheme and how the consumer came to make the transfer request. Some items on the check list could have been addressed by checking online resources such as Companies House and HMRC. Others would have required contacting the consumer. The check list is divided into three parts (which I've numbered for ease of reading and not because I think the check list was designed to be followed in a particular order):

- 1. The nature/status of the receiving scheme*

Sample questions: Is the receiving scheme newly registered with HMRC, is it sponsored by a newly registered or dormant employer, an employer that doesn't employ the transferring member or is geographically distant from them?

- 2. Description/promotion of the scheme*

Sample questions: Do descriptions, promotional materials or adverts of the receiving scheme include the words 'loan', 'savings advance', 'cash incentive', 'bonus', 'loophole' or 'preference shares' or allude to overseas investments or unusual, creative or new investment techniques?

3. The scheme member

Sample questions: Has the transferring member been advised by an 'introducer', been advised by a non-regulated adviser or taken no advice? Has the member decided to transfer after receiving cold calls, unsolicited emails or text messages about their pension? Have they applied pressure to transfer as quickly as possible or been told they can access their pension before age 55?

I don't think it would always have been necessary to follow the check list in its entirety. And I don't think an answer to any one single question on the check list would usually be conclusive in itself. A transferring scheme would therefore typically need to conduct investigations across several parts of the check list to establish whether a scam was a realistic threat.

What should SLOC have found out?

In this case I am satisfied that SLOC contacted Mr H and delayed his transfer until it obtained written confirmation regarding some of the important areas that I refer to from the check list above. I understand that Mr H said that he'd had no correspondence from SLOC. So I asked SLOC for evidence of the letters it said it sent. And SLOC have shown us copies of the letters correctly addressed to Mr H. He was sent the additional information form that was subsequently returned and signed by him. I think correspondence sent directly to him is far more likely to have been completed by him personally rather than just presented to him to be signed.

The 'Additional Information and Declaration' form included some of the questions that ceding schemes should have been asking in circumstances such as this. Mr H's responses to the questions it contained would have led SLOC to reasonably conclude that:

- Mr H was not offered any cash incentives or told he could access more than 25% of his pension tax free.*
- The transfer had not been recommended to Mr H by a financial adviser.*
- The transfer wasn't a direct result of a cold call.*
- Mr H had not been encouraged to hurry the transfer process.*
- Mr H was a director of the sponsoring firm and was a joint trustee of the SSAS.*
- Mr H had read and understood the 'predators stalk your pension' leaflet.*

Whilst I appreciate that this does not comprehensively cover all of the things that were alluded to by the Action Pack and summarised above, I think that it provided SLOC with enough information to reasonably take the view that the scam threat for Mr H's transfer was minimal. More specifically, it could reasonably discount the likelihood of Mr H being a victim of pension liberation from the responses it had. And it could reasonably rule out Mr H being cold called or advised by any unregulated party to transfer his pension in this way. The absence of third parties being instrumental in the transfer would have been a key feature for

a scam risk to be present so the absence of this risk warning would reasonably have led SLOC to the view that Mr H was acting on his own.

Given the information that SLOC obtained, I'm not persuaded that it ought reasonably to have gone further in its enquiries. So I don't think that it identified, nor should it reasonably have identified, warning signs that would have led to any specific warnings being given to Mr H about his intended transfer."

Responses to my provisional decision

SLOC offered no response to my provisional decision.

Mr H didn't agree with my provisional findings and detailed representations were made by his CMC. I have read and considered its representations in full but for brevity I will summarise those arguments as follows:

- The CMC questioned why I hadn't provided the determination that SLOC had to contact Mr H to establish his employment status, in order to check that he had a statutory right to transfer.
- The CMC disagreed that it was fair to conclude that SLOC ought not to have been concerned or to have made further enquiries. Its reasons for this view were:
 - that SLOC would have been told in the Origo transfer request that the adviser was Technical & Professional Solutions;
 - that my provisional decision misquoted the question that SLOC's additional information form asked;
 - Mr H's answers to the questions in the Additional information form were incorrect, and it was accepted that he signed the form. But the fact that Mr H filled this out incorrectly doesn't make it fair or reasonable for SLOC not to have carried out further due diligence, or to have questioned the discrepancy;
 - More weight should be given to the fact that SLOC had received information requests from a number of other firms in the 12 months prior to this transfer request.
- There are elements of the transfer that are not commented on in my provisional decision. Namely:
 - The SSAS was very recently registered;
 - The sponsoring employer was newly registered and was dormant;
 - Mr H had no genuine employment connection with the sponsoring employer;
 - The transfer involved one off investment opportunities or unusual or creative investment techniques which was a warning sign;
- It is not reasonable to conclude that Mr H had seen the Scorpion insert where he was not sent it or provided a link directly to it.

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 my provisional decision I set out what I thought the relevant rules and guidance were and what they meant for SLOC. I've considered Mr H's additional arguments but I haven't changed my mind on what the implication of these rules were on SLOC in this case. Mr H's

CMC has asked me to determine that it was also a requirement of SLOC to contact Mr H to determine if he had a statutory right to transfer his pensions. But I don't agree with its opinion for the following reasons.

There was no statutory requirement for ceding personal pension firms to check whether its customer had a statutory right to transfer on receipt of every transfer request. In this case I don't think that there would have been any reason for SLOC to think that Mr C didn't have a statutory right as Mr C had not at any point given an indication that he was not earning. And (for reasons that I explained in my provisional decision and will come on to again) didn't give the impression of falling victim to a scam.

Even if SLOC had checked with Mr C it would merely have established that he was earning so the scenario painted by his CMC (of detailed checks into the sponsoring employer and various issues that this would have revealed) wouldn't likely have come to pass in any case.

Furthermore the CMC highlighted two decisions by the Pensions Ombudsman that it says are relevant to its argument. But I am not bound by Pensions Ombudsman decisions and, in any case, the circumstances of the cases it was considering were different to the circumstances in Mr C's complaint.

It follows that I am not persuaded to change my mind on whether SLOC should have been suspicious of whether a statutory right to transfer existed. However, the fact remains that SLOC would have been able to confirm that Mr H did have a statutory right in this case. As the CMC has confirmed. Nonetheless, I am not persuaded that this is pertinent to my finding for the following reasons.

Did SLOC have reason to conduct further enquiries?

Mr H's CMC suggested that my provisional decision said that SLOC didn't need to be concerned or to have made additional enquiries. But I think that is a fundamental misunderstanding of the view I reached. My provisional finding was that SLOC had reason to conduct further enquiries. And my final decision remains the same for the reasons I will elaborate on. Which is why the question of whether SLOC had to contact Mr H to establish a statutory right to transfer is largely irrelevant to my outcome of this complaint.

In my provisional decision I explained that the trigger for SLOC to conduct further due diligence would have been the fact that it ought to have known that the SSAS was newly registered. In my provisional decision I said that would have been evident from the Origo transfer request. To be clear, SLOC have not shared the transfer request that it received. But I have seen examples of the transfer requests that Rowanmoor sent via Origo, including the one that was sent by Rowanmoor to Sanlam for Mr H's other pension transfer. These requests do not ordinarily include the date of registration of a receiving scheme. However, as I explained in my provisional decision, in the section '*what do pension providers need to do*', SLOC should have checked that the Firm A SSAS was correctly registered with HMRC. Which would have led to SLOC being aware of the fact the Firm A SSAS was newly registered.

Having decided that SLOC ought reasonably to have looked into the transfer request further I have to consider what it did. And, for the same reason that I gave in my provisional decision, I think that it did contact Mr H to establish some, if not all, of the information in the Scorpion checklist. I consider that it's fair and reasonable to decide that the Additional Information & Declaration form it sent Mr H did this.

What did SLOC find out from its enquiries?

I think that SLOC should have, among other things, followed up the warning sign it had by asking Mr H directly about his transfer and about his financial adviser. And that is what SLOC did. It let Mr H know that it wouldn't proceed with his transfer without the additional information it requested in the Additional Information & Declaration form.

Mr H's response to my provisional decision explains that the information he provided SLOC was incorrect. I am not clear why that was the case and I appreciate that it is difficult for Mr H to recall. But the point that I made in my provisional decision was that these forms had been sent directly to Mr H to complete. And that they were filled out at the time. They weren't, for instance, sent to an unregulated third party first. So I am still persuaded that Mr H was able to read, understand, complete and sign the form. That information is problematic when it differs from the recollections Mr H has provided pursuant of his complaint a number of years later.

Regardless of how the answers came to be given, SLOC were told, directly from Mr H, that his transfer had not been recommended by a financial adviser. For clarity, the actual question asked was: "*was the transfer recommended by a financial adviser?*". I think this was clear. SLOC were giving Mr H the opportunity to tell it whether he was acting on a recommendation by a financial adviser to transfer. And he said that he was not.

I think that, having written to Mr H for further information, it was reasonable for SLOC to accept the answer that it obtained. I don't think it's fair or reasonable to conclude that SLOC should have assumed that Mr H had filled out the form incorrectly. These were straightforward questions that I think were clearly set out.

I also think that it's fair and reasonable to give weight to the fact that Mr H told SLOC that he hadn't been cold called. Even though his subsequent complaint said that he had. The only way that SLOC could have identified these warning signs was if Mr H told them when it asked. And he did not.

It follows that I don't think it was unreasonable for SLOC to conclude that Mr H wasn't acting on a recommendation following a cold call. Even in circumstances where SLOC may have received letters of authority from a number of different third parties in the period preceding the transfer request. But even if I am wrong, I don't think that making further requests of Mr H if he was sure that he wasn't being advised would, more likely than not, have produced a different response from him than the one he'd already given to these questions.

Whilst the due diligence that SLOC performed did not address every part of the Scorpion check list, I think that, in this case, it was reasonable to respond to the due diligence that it did in order to determine how much further it needed to look into Mr H's transfer request.

Whilst I agree that some of the warning signs from the Scorpion checklist would have been apparent to SLOC (recently registered scheme, a newly registered employer, taken no advice) there would also have been significant reassurance that I think it would have been fair and reasonable for SLOC to have relied on. Namely: Mr H would have provided reassurance that he was not making any unauthorised access to his pension; and he had not been cold called or was acting on the advice of an unregulated adviser.

As I said in my provisional decision, I still think that it's key that Mr H didn't give the impression that he was being led through a process by another party acting in a potentially unlawful way – which would be the usual pattern for someone falling victim to a scam. Mr H was entitled to establish an employer for the purposes of being able to act as trustee of their own pension scheme and, on its own, a non-trading employer isn't a significant enough cause for concern. Mr H appeared to understand that he was a director of the sponsoring employer and a trustee from the answers he gave SLOC to those questions. In the

circumstances, I'm satisfied SLOC, reasonably, considered the threat of a scam to be minimal. So I am not persuaded that it was unreasonable for it not to pursue the other areas of the Scorpion checklist further.

Did Mr H see the Scorpion insert?

I explained in my provisional decision that I was persuaded that Mr H had more likely than not seen the Scorpion warning insert because he had signed a declaration to say that he had. I have considered the representations that Mr H's CMC has made but I have not changed my mind. Mr H was provided with information that made him aware of this warning material and where to find it. I don't think that the evidence supports the finding that SLOC sent him a hard copy, I don't think it's fair and reasonable for me to conclude that Mr H would have signed a declaration to say that he had seen something that he had not. So I am still persuaded, on a balance of probability, that he had seen the Scorpion insert. It follows that I don't agree that SLOC's failure to send Mr H a hard copy of it will have made a difference to the transfer that he went on to make.

My final decision

For the above reasons I am not upholding Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 18 October 2024.

Gary Lane
Ombudsman