

The complaint

Mr M has complained, with the help of a professional representative, about a transfer of his Phoenix Life Limited (Phoenix Life) personal pensions (formerly Abbey Life) to a small self-administered scheme (SSAS) in December 2014 and April 2015, respectively. Mr M's SSAS was subsequently used to invest in the purchase of an overseas property with The Resort Group (TRG). The investment now appears to have little value. Mr M says he has lost out financially as a result.

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

What happened

Your text here Around April 2014, Mr M says he received a cold call from a business called First Review Pension Services (FRPS) offering him a free pension review with a view to increasing his returns. He says he was interested in consolidating his funds into one place, so he agreed to give FRPS his authority to allow it to obtain his pension details from Phoenix Life and he agreed to a meeting with an adviser. FRPS was not authorised or regulated by the Financial Conduct Authority (FCA).

Mr M says the meeting with the FRPS adviser took place at his home. Mr M, who was 51 at the time, says they recommended he transfer his pension to a SSAS and invest in an overseas commercial property investment with TRG. He says he was told his investment would produce guaranteed returns. He says it sounded like a realistic opportunity to achieve a significant increase on his pension savings providing for his future retirement, so he agreed to go ahead.

On 30 May 2014, a company was incorporated with Mr M as director. I'll refer to this company as C Limited. On 3 June 2014, a SSAS was established and then registered with HMRC on 6 June 2014. C Limited was recorded as the SSAS's principal employer and Cantwell Grove Limited (CGL) was recorded as the administrator. CGL was not subject to FCA regulation.

On 19 June 2014, Phoenix Life received documents from CGL to allow Mr M's pension to be transferred to the SSAS. The letter accompanying the paperwork said that CGL was aware of concerns around 'pension liberation', it supported the efforts of the pension industry, and that its business model, as a pensions administrator, had been vetted by HMRC.

It also said CGL supported the 'Scorpion' campaign of The Pension Regulator (TPR) and that the 'Scorpion' information leaflet, which warned about the risks of pension liberation, had been shared with Mr M.

CGL enclosed the completed application for the transfer, copies of the scheme trust deed and rules, the HMRC registration confirmation and a scheme details Q&A document, which gave answers to some general questions, including which investments were under consideration. The Q&A document said that the investments under consideration were a commercial property investment provided by TRG and a discretionary fund management service. The document said that appropriate advice, about whether the investments were satisfactory for the aims of the scheme, was being taken by the trustees of the SSAS from Sequence Financial Management Limited (SFML). The letter said SFML was an independent financial advice firm regulated by the FCA.

I note at this point there is no evidence that SFML did in fact provide any advice to Mr M. The trustee advice was provided by another business, Broadwood Assets Ltd (BAL). On 30 May 2014, it sent Mr M letter, which said it was providing him with advice in his capacity as trustee of the SSAS, on the potential suitability of the TRG investment “both as a specific example of an overseas commercial property investment, and more generally as an investment to be held within a SSAS.” It said it had not advised on the establishment of the SSAS, was not providing advice that would be deemed regulated – BAL was not regulated or authorised by the FCA – and it wasn’t advising on whether the TRG investment was “suitable for the particular needs and objectives of the members of beneficiaries of the SSAS.” This letter was signed by Mr M and dated 5 September 2014.

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

On 26 June 2014, Phoenix Life wrote to Mr M. The letter said it enclosed a leaflet issued by The Pensions Regulator (TPR) which explained about pension liberation. It made reference to the second page of the leaflet, which said that any financial adviser should be registered with the FCA. It said that in order to safeguard Mr M’s interest and his pension from such risks, it told him to contact the Action Fraud helpline to discuss his transfer request before he confirmed his instruction to proceed. It said it had suspended his transfer in the meantime and would only proceed if Mr M said so, or Action Fraud said it had no concerns.

On 22 July 2014, because Phoenix Life hadn’t heard from Mr M, it sent him a chaser letter. It referred to its previous letter and repeated that he should call Action Fraud to discuss things before giving his instruction to proceed with the transfer. It asked Mr M to respond within 21 days otherwise it would assume he’d decided not to proceed.

On 15 August 2014, when Mr M hadn’t responded, it wrote to him again. It repeated what it had told him to do and said that it had now assumed he didn’t want to proceed, so it would update its records.

On 11 November 2014, Mr M phoned Phoenix Life and its system notes record that he instructed it to proceed with the transfer.

On 13 November 2014, Phoenix Life wrote another letter to Mr M. This said it had taken a number of steps to inform him of the risks associated with proceeding with the transfer and it listed them out as follows:

- Sent Mr M a letter of 26 June 2014, which notified him of pension scams
- Provided him with TPR’s leaflet ‘A lifetime’s savings lost in a moment’

- Provided him with the FCA's leaflet 'Protect your pension pot'
- Asked him to call Action Fraud
- Drew his attention to the FCA's advice to make sure the adviser is authorised to give pension advice by checking www.fca.org.uk/register

It said it continued to be concerned about the current threat to pension transfers and said it had provided Mr M with all of the above information to safeguard his best interests. It said it believed it had taken reasonable steps to inform Mr M of the risks involved, but despite this he said he wanted to proceed with the transfer. It then asked Mr M to sign a declaration to confirm he understood the risks involved and still wanted to go ahead.

Mr M signed and returned the declaration on 21 November 2014, which was received by Phoenix Life on 28 November 2014. In its final response letter to Mr M's complaint, it said it processed the transfer the next day. But it appears from other documentation that it didn't issue the cheque for the proceeds – an amount of around £33,500 – until 29 December 2014.

On 21 January 2015 Phoenix Life received documents from CGL to allow Mr M's other pension held with it to be transferred to the SSAS. It enclosed the same documentation as previously submitted for Mr M's other policy.

Phoenix Life then repeated the same exercise as it did for Mr M's other pension. It suspended the transfer and wrote to him on 28 January 2015. And on 18 February 2015, it issued him with broadly the same formatted letters giving him the same warnings and leaflets as it did previously. Mr M then signed a declaration on 23 February 2015 to confirm he wanted to go ahead. It appears Phoenix Life then issued a cheque for the transfer proceeds – an amount of just over £14,700 – on 23 April 2015.

In the meantime, Mr M also transferred the proceeds of another pension he held with a different provider to his SSAS. According to Mr M's SSAS bank statements, an amount of around £3,200 was credited on 13 February 2015. Mr M has made a separate complaint to us about this, which I will consider and address under separate cover.

The SSAS bank statements provided, show that a total amount of around £41,000 was invested in TRG between January and May 2015. I understand the TRG investment has since failed and as such has little or no value.

In October 2019, Mr M complained to Phoenix Life. Briefly, he said it ought to have spotted, and told him about, a number of warning signs in relation to the transfer. These included but were not limited to: him having been cold called, the SSAS being newly registered with no genuine employment link to the sponsoring employer, CGL not being regulated and the intended investment being unregulated and overseas. Mr M said if Phoenix Life had properly informed him of these warning signs, he wouldn't have transferred.

Phoenix Life didn't uphold the complaint. In summary it said it informed Mr M of the risks and implications of transferring his pension policies and he confirmed he was aware of the risks and was happy to proceed.

Mr M referred his complaint to the Financial Ombudsman Service. Our Investigator was unable to resolve the dispute informally, so the matter was passed to me for a final decision.

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.

Your text here The relevant rules and guidance

Before I explain my reasoning, it will be useful to set out the environment Phoenix Life was operating in at the time with regards to pension transfer requests, as well as any rules and guidance that were in place. Specifically, it's worth noting the following:

- 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 a member may also have a right to transfer under the terms of the contract). This 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.
- On 10 June 2011, the Financial Services Authority (FSA) issued a warning about the dangers of "pension unlocking" and specifically referred to consumers transferring to access cash from their pension before age 55. (As background to this, the normal minimum pension age had increased to 55 in April 2010.) The FSA said that receiving occupational pension schemes were facilitating this. It encouraged consumers to take independent advice. The announcement acknowledges that some advisers promoting these schemes were FSA authorised.
- At around the same time, TPR published information on its website about pension liberation, designed to raise public awareness and remind scheme operators to be vigilant of transfer requests. The warnings highlighted that websites and cold callers were encouraging people to transfer in order to receive cash or access a loan.
- TPR launched its Scorpion campaign on 14 February 2013. The aim of the campaign was to raise awareness of pension liberation activity and to provide guidance to scheme administrators on dealing with transfer requests in order to help prevent liberation activity happening. The FSA, and the FCA which had succeeded the FSA, endorsed the guidance. The guidance was subsequently updated, including in July 2014. I cover the Scorpion campaign in more detail below.
- In late April 2014, the FCA 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's and SSASs 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.
- Phoenix Life was subject to the 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:
 - 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 Scorpion guidance

The Scorpion campaign was launched on 14 February 2013, and was initially focused just on pension liberation – namely, the access to pension funds in an unauthorised manner (such as before normal minimum pension age).

However, it's the update to that guidance on 24 July 2014 that's most relevant to this complaint. It widened the focus from pension liberation specifically, to pension scams – which it said were on the increase.

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 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 statutory rights.

That said, the launch of the Scorpion guidance was an important moment in so far it provided, for the first time, guidance for personal pension providers dealing with transfer requests – guidance that prompted providers to take a more active role in assessing 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 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:

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 M says he received an unsolicited call from FRPS who offered him a free pension review with a view to increasing his returns. He says he was interested in consolidating his pensions, so he gave FRPS his authority to allow it to obtain his pension details from Phoenix Life. I understand Phoenix Life received that request and released the necessary information. As I indicated earlier on, FRPS was not authorised by the FCA.

Mr M says he then met with a FRPS representative at his home. He says they recommended he transfer his pension to a SSAS and invest in an overseas commercial property investment with TRG. He says he was told his investment was guaranteed to produce annual returns up 38% a year – in a worst-case scenario 10-12% a year. He says it sounded like a realistic opportunity to achieve a significant increase on his pension savings providing for his future retirement. He says he trusted the information he was given. Mr M says the FRPS representative reminded him that they had travelled a long distance to meet him, so feeling somewhat under pressure, he agreed to go ahead.

I've seen nothing to indicate that Mr M had any real pension or investment experience. Neither have I seen anything else in his circumstances which leads me to believe that he would've likely embarked on what is a complicated arrangement on his own – setting up a new company, opening a SSAS, transferring his existing pensions and investing overseas. So, I think Mr M's recollections about the discussion he had with the business he met with are plausible. And I think it was these discussions, and the prospect of the higher investment returns he was told he would receive, that prompted him to transfer.

Mr M has been clear that the business he met with and recommended he transfer his pensions was FRPS. He says it was the representative of FRPS who also provided the paperwork to established the SSAS.

And it would appear that the witness to Mr M's signature on this paperwork was the same person, describing their occupation as 'consultant.' I've not seen anything to persuade me that another firm was involved at this stage in the process, so I think it's likely FRPS advised Mr M to transfer his pensions as he says.

What did Phoenix Life 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.

When Phoenix Life received Mr M's first pension policy transfer request in June 2014, it wrote to him enclosing the Scorpion leaflet applicable at this time. This was the February 2013 version. The focus of the Scorpion guidance at that time was the threat of pension liberation. But Mr M didn't go ahead with the transfer at this time. It wasn't until November 2014 when Mr M contacted Phoenix Life to say that he now wanted to go ahead.

By this time, the July updated Scorpion guidance was relevant, and I'm satisfied it did share an updated insert with him. Its letter to him of 13 November 2014 said it had provided him with the insert referencing its updated title and section on the second page – 'The scammers have a variety of tricks to catch you out.'

When Phoenix Life received Mr M's second pension transfer request in January 2015, it sent him a letter on 28 January 2015 enclosing a leaflet from TPR, which it said explained pension scams. I'm satisfied this was the same Scorpion insert it had sent Mr M previously. So, by this time Mr M had received the insert twice.

I'm mindful that in March 2015 the Scorpion guidance was updated again and the insert was refreshed. This was after receipt of Mr M's signed declaration confirming his instruction for Phoenix Life to go ahead with the second transfer – received by it toward the end of February 2015 – but before it concluded the transfer and issued a cheque for the proceeds in April 2015. However, in the circumstances and given it had already sent Mr M the relevant insert (twice) at the time of his transfer requests, I'm not persuaded it is fair and reasonable to expect Phoenix Life to have sent Mr M the refreshed March 2015 insert at this time. I'm not persuaded it would've provided Mr M with any material new information for him to consider.

So, overall I'm satisfied Phoenix Life did what was reasonably required of it here.

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 more broadly pension scams from July 2014 and needed to undertake further due diligence and take appropriate action if it was apparent their customer might be at risk.

At the time of the first transfer request in June 2014, Phoenix Life received a letter signed by Mr M, confirming he understood what pension liberation was and that wasn't the purpose of him transferring. And given the guidance at that time was focussed on pension liberation, I think it would've been fair for Phoenix Life to have considered the risk of that taking place here was low.

Nevertheless, Phoenix Life suspended Mr M's transfer request and in its letter of 26 June 2014 it told him that, in order that his transfer request was dealt with safely and to safeguard his interests and his pension from the risks it referred to in the Scorpion insert, it asked him to call Action Fraud to discuss the transfer before he confirmed his instruction to proceed. And it repeated this in its letter of 22 July 2014.

But the transfer didn't take place at this time. Because Phoenix Life hadn't heard back from Mr M by August 2014, it assumed he didn't want to proceed. So, my primary focus here will be what due diligence Phoenix Life carried out once it received Mr M's instruction in November 2014 that he wanted to proceed with the transfer and in light of the updated

guidance. That said, I still think the actions Phoenix Life took during June and July 2014 are relevant because they speak to what Phoenix Life did overall to warn Mr M about the risks involved with his transfer.

Firstly, as I said above, Phoenix Life sent Mr M the updated July 2014 version of the Scorpion insert enclosed with its letter of 13 November 2014. And rather than just simply enclosing it, the letter explained to Mr M the purpose of it, which was to outline the risks, consequences and warning signs associated with pension scams. The letter also drew Mr M's attention to a section on the second page of the insert.

Secondly, also enclosed with Phoenix Life's letter was another leaflet published by the FCA titled: 'Protect your pension pot.' This leaflet was designed to highlight to consumers what things to look out for if they were considering transferring their pension to a new scheme. The leaflet began by asking three questions: whether the new scheme being transferred to was a SSAS; if the pension will be investing in unusual investments, which included overseas property; and if the motivation to discuss the pension was a result of a call out of the blue or an offer of a free pension review. The leaflet said if the answer to any of the questions is 'Yes' the reader should read on to learn how to protect their pension.

The following section under the heading 'Be very wary' listed the risks and warning signs, which could indicate a potential scam. And these were all risks relevant to Mr M's transfer. Reference is made here to: unusual investments being unregulated, high risk and difficult to sell; higher returns not being guaranteed and the potential for total pension pot loss; the likelihood of most companies making the kinds of offers and promises of higher returns not being regulated by the FCA; having little protection or losing the right to complain; and importantly in my view, that some of these investment schemes might be outright scams. It then says a next step is to get financial advice from an authorised adviser first and it provided the FCA register website address where the adviser's authorised status could be checked. The leaflet also refers to the FCA's consumer section of its website where more information and current risks could be found.

I think an important message or warning given here was about making sure of the authorised status of the financial adviser and how to go about checking their status. And this message was something Phoenix Life specifically highlighted in its November 2014 letter to Mr M.

I said earlier on that Phoenix Life had previously asked Mr M to call Action Fraud to discuss the transfer in its earlier letters of June and July 2014. And this was something it repeated to Mr M again in the November 2014 letter quoting the telephone number he could call.

I'm mindful too that, in asking Mr M to sign something to confirm that he still wanted to go ahead having been provided with information about the risks associated with the transfer he was considering, it allowed him time to read and absorb the information provided and decide what to do next.

So, taking all of the above into account, overall I think Phoenix Life applied the principles of the guidance in the actions it took to warn Mr M of the risks involved with the proposed transfer of his pension. I think it acted within the spirit of the guidance and I'm not currently persuaded there was anything more that it reasonably could have done to warn Mr M of the risks associated with the transfer he was contemplating.

In January 2015, Phoenix Life received a further transfer request for Mr M's other pension policy he held with them. And Phoenix Life broadly repeated the above exercise. In response to the transfer request, it sent Mr M a letter on 28 January 2015 enclosing further copies of the Scorpion insert and the FCA's leaflet, it referred to getting advice from an authorised financial first, and it asked Mr M to call Action Fraud to discuss the transfer before he

confirmed his instruction to proceed – it said it was suspending his transfer in the meantime pending his confirmation that he wanted to proceed or Action Fraud raised no concerns. When Mr M gave his instruction to proceed, Phoenix Life then sent another letter in the same format as the November 2014 I described above – so effectively re-iterating the risks and information already provided.

I'm mindful that, in the case of Mr M's second pension policy transfer, and as I said earlier on, in March 2015 the Scorpion guidance was updated again and the insert was refreshed. Furthermore, at the same time, a broader piece of guidance was initiated by an industry working group covering both TPR and FCA regulated firms: the Pension Scams Industry Group (PSIG) Code of Good Practice. The intention of the PSIG Code was to help firms achieve the aims of the Scorpion campaign in a streamlined way which balanced the need to process transfers promptly with the need to identify those customers at material risk of scams. And this was after receipt of Mr M's signed declaration confirming his instruction for Phoenix Life to go ahead with the second transfer, but before it concluded the transfer and issued a cheque for the proceeds in April 2015.

I said above that, in the circumstances and given it had already sent Mr M the relevant insert (twice) at the time of his transfer requests, I'm not persuaded it is fair and reasonable to expect Phoenix Life to have sent Mr M the refreshed March 2015 Scorpion insert at this time. And similarly, given the repeated information and risk warnings Phoenix Life provided Mr M with between June 2014 and February 2015 under the relevant guidance at the time, I'm not persuaded that in the particular circumstances of this case, it is fair and reasonable for it to have re-visited Mr M's second transfer in light of the introduction of the PSIG code. I'm not persuaded that in the circumstances it could've reasonably provided Mr M with any more information about the risks involved with his transfer.

That said, even if I thought Phoenix Life should have revisited things (which for the benefit of doubt I am not) because I think Mr M was given repeated warnings about the risks involved with the pension transfers he was considering – and these ought to have resonated with him given the features of the transfers – yet he still went ahead anyway, I don't think it's more likely than not Mr M would've acted any differently and chosen not to go ahead with the transfer had Phoenix Life done anything more.

Summary

I appreciate that Mr M has lost out financially by investing in high-risk investments, which were unlikely suitable for him. But I think Phoenix Life followed the principles of the guidance that was in place at the time and provided Mr M with appropriate information and gave sufficient (repeated) warnings about the risks and consequences involved with the transfers he was contemplating. In the circumstances, I don't think Phoenix Life could fairly and reasonably have done anything more. So, I don't think it is fair and reasonable for Phoenix Life to put right Mr M's losses. I don't uphold this complaint.

My final decision

For the reasons above, I've decided to not uphold this complaint, so I make no award in Mr M's favour.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 October 2024.

Paul Featherstone
Ombudsman