DRN-5040596

The complaint

Mr M has complained, with the help of a professional representative, about a transfer of his personal pension with The Royal London Mutual Insurance Society Limited (Royal London) to a small self-administered scheme (SSAS) in February 2015. 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 Royal London failed in its responsibilities when dealing with the transfer request. He says that it should have done more to warn him of the potential dangers of transferring, and undertaken greater due diligence on the 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 Royal London had acted as it should have done.

What happened

Mr M says in February 2015, he contacted First Review Pension Services (FRPS) because he wanted advice on his Royal London personal pension. Mr M had previous dealings with FRPS in relation to another pension he held with another provider – I'll call this Firm P. This matter is subject to a separate complaint, which I have considered alongside this one because it is relevant to what happened here.

I think Mr M is mistaken about the date he contacted FRPS in this case – the available evidence indicates Mr M gave his authority to allow FRPS to approach Royal London for his pension details on 9 December 2014. And FRPS requested the information on 14 December 2014. So, I think it's likely Mr M was in contact with FRPS around early December 2014.

Mr M, who was 52 at the time, says he met with FRPS at his workplace. He says FRPS recommended that he transfer his pension and invest into an overseas property investment – TRG. He says was told he would receive a huge increase in investment return if he transferred. He says he wasn't told about the risks, so making it sound like a 'no brainer' and a realistic opportunity to increase his pensions savings for his future retirement, he agreed to go ahead. FRPS was not authorised or regulated by the Financial Conduct Authority (FCA).

During Mr M's dealings with FRPS earlier on in 2014, a company I'll refer to a C Limited was incorporated with Mr M as director on 30 May 2014. 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 2 February 2015, Royal London received documents from CGL to allow Mr M's pension to be transferred to the SSAS. CGL enclosed the completed application for the transfer, 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. In Mr M's linked complaint about Firm P, there is evidence that the trustee advice was provided by another business, Broadwood Assets Ltd (BAL). It sent Mr M a letter in May 2014 in which it 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 in 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 10 February 2015, Royal London sent a letter to Mr M. This referred to his request for transfer forms and said it strongly encouraged him to consult an adviser before making any financial decisions based on the information it provided. It noted Mr M's last recorded adviser, but said that if he was no longer in contact with them, he could visit www.unbiased.co.uk to find one.

The same day, Royal London confirmed that the transfer had taken place and that an amount of just over £3,200 would be sent to Mr M's SSAS. The SSAS bank statements provided in Mr M's linked complaint, show that an investment in TRG was made on 13 February 2015 the same day the funds were received into the SSAS.

I understand the TRG investment has since failed and as such has little or no value.

In May 2020, Mr M complained to Royal London. 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: feeling pressured, the SSAS being newly registered with no genuine employment link to the sponsoring employer, CGL not being regulated, the intended investment being unregulated and overseas and being told by an unregulated adviser that he could expect a much better return on the recommended investment. Mr M said, if Royal London had properly informed him of these warning signs, he wouldn't have transferred.

Royal London didn't uphold the complaint. It said Mr M hadn't provided any evidence to support his claim that he'd lost out financially as a result of the transfer, so it closed its file.

Mr M then referred his complaint to the Financial Ombudsman Service. I issued my provisional of September 2024 in which I explained why I intended to not uphold Mr M's complaint. Included below are the key extracts from my provisional findings, explaining why.

Extracts from my provisional decision

The relevant rules and guidance

Before I explain my reasoning, it will be useful to set out the environment Royal London 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 Financial Conduct Authority (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 SIPPs 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.

- Royal London 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 contacted FRPS because he was interested in getting advice on his Royal London pension. Mr M gave FRPS his authority to allow it to obtain his pension details from Royal London. And Royal London received that request and released the necessary information to FRPS. As I indicated earlier on, FRPS was not authorised by the FCA.

Mr M says he then met with a FRPS representative at his place of work. 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 he would receive a huge increase in return if he transferred – from the 2-4% a year he was currently getting to a 38% annual return. He says he was told the worst-case scenario was 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 or otherwise had the requisite knowledge or skill to transfer his existing pension and invest overseas. So, I think Mr M's recollections about the discussion he had with FRPS are plausible. And I think it was these discussions, and the prospect of the higher property 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. Given Mr M says he was the one who contacted them, and in the absence of any evidence to indicate another business was involved or met with Mr M at this time, I think it was FRPS that advised Mr M to transfer his pension as he says.

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 hasn't provided us with its business file. The available evidence and documentation from the time has been provided by Mr M's representative.

From that evidence, there is nothing to show that Royal London sent Mr M the insert or otherwise provided him with the information contained within it in a different form.

But I'm mindful that Firm P sent Mr M a copy of the relevant insert (the updated July 2014 version) in November 2014 – so some weeks prior to this transfer request. And I have no reason to doubt that Mr M received it. So, while Royal London didn't send Mr M a copy of the Scorpion insert as it ought reasonably to have done, I'm satisfied Mr M received it via

another source prior to him making this transfer request. I also think Mr M had ample opportunity to read and understand it.

Despite Mr M having received the insert, and as I will go on to explain below, having also received other information and warnings about the transfer he was making with Firm P, Mr M still went ahead with the transfer.

So, in the circumstances, I'm not persuaded that even if Royal London had sent Mr M the insert, it would have made a material difference – I don't think it's likely he'd have acted any differently had he received another one.

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.

When CGL submitted the transfer request, Royal London received a letter signed by Mr M, confirming he understood what pension liberation was and that wasn't the purpose of him transferring. So, I think it would've been fair for Royal London to have considered the risk of that taking place here was low. But given the transfer request was made after the updated Scorpion guidance of July 2014, Royal London ought to have been on the lookout for and been alive to pension scams more broadly and not just liberation scams.

Given the information Royal London had at the time, one feature of Mr M's transfer that would arguably have been a potential warning sign of a scam was the relatively recent registration of Mr M's SSAS. I say relatively because it was just under eight months prior to the transfer request. But I still think in the circumstances it was recent enough to have prompted Royal London to have followed up on it to find out if other signs of a scam were present. And I think the most reasonable way of going about that would have been to turn to the check list in the action pack to structure its due diligence into the transfer.

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.

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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, or is the receiving scheme connected to an unregulated investment company?

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?

Opposite each question, or group of questions, the check list identified actions that should help the transferring scheme establish the facts. 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. But I think Royal London would have needed to conduct investigations across several parts of the check list to establish whether a scam was a realistic threat.

Given the warning sign that should have been apparent when dealing with Mr M’s transfer request, I think in this case Royal London should have addressed all three parts of the check list and contacted Mr M as part of its due diligence. Had it done so, I think Royal London would have established that under part one of the checklist, the investment service provider that was going to be used – TRG – was unregulated. Under part two of the checklist it would also have found that that the intended investment was overseas. And under part three of the checklist, Royal London would also have learned that Mr M appeared to receiving advice from a non-regulated adviser.

So, if Royal London had done everything it should have done, I think it would’ve found it appropriate to share the warnings in the updated Scorpion guidance, about pension scams in general by contacting Mr M.

But the available evidence suggests that Royal London didn’t do this. All Royal London appears to have done is write to Mr M telling him to seek advice before acting on the information he received as part of the transfer request. However, this was dated the same day as it wrote to him to confirm that the transfer had completed, so it doesn’t appear Mr M could have acted on this anyway. Overall, based on what I have seen I don’t think Royal London did what it ought reasonably to have done.

But while I think it was appropriate for Royal London to have done more and to have shared the updated warnings with Mr M, in the particular circumstances of this case I don’t think it would have made a material difference here – I don’t think Mr M would, more likely than not, have acted differently and not gone ahead with the transfer.

I say this because, firstly and as I said above, Mr M had already been provided with warnings in the form of the 2014 Scorpion leaflet provided to him by Firm P in November 2014 and still went ahead with his pension transfer. I see no reason why Mr M would have taken more notice of the information contained within it if Royal London had provided it to him for a second time. So, I don’t think providing the Scorpion insert warnings again would have led Mr M to act differently – particularly given the context of him transferring this pension to the same arrangement and making the same investment as he’d done previously.

In further support of this, I'm mindful that Firm P provided Mr M with the Scorpion insert a second time itself later on in February 2015, following receipt of a transfer instruction for another pension policy held with them. Mr M also went ahead with that transfer.

Secondly, accompanying the insert Firm P sent Mr M was a letter and further information drawing his attention to the associated risks with proceeding with the transfer he instructed them to carry out. An instruction that was identical to the Royal London request here. Part of the further information Firm P provided 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.

This 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.

I think Mr M could answer 'Yes' to all three questions. While he's said he contacted FRPS in this instance, his first interaction, which ultimately led to the transfer of his pension from Firm P, came about as a result of a cold call from FRPS and the offer of a free pension review. So, I think the questions ought reasonably to have resonated with him and led him to read on.

The following section of the leaflet 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 crucially 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 Firm P specifically highlighted to Mr M in its letter accompanying the leaflet.

Despite being given these warnings by Firm P, Mr M went ahead with that transfer. And not only that, shortly afterwards he said he contacted FRPS because he was looking for advice on his Royal London pension. Mr M had been warned about the importance of getting advice from an authorised firm and how to check if that firm was authorised to give pension advice.

It appears, for whatever reason, Mr M chose to ignore those warnings.

Lastly, I can also see that Firm P's letter asked Mr M to call the Action Fraud Helpline to discuss his transfer request. And I'm mindful that it did this on more than one occasion – the first time it said it wouldn't proceed with his transfer until Mr M said so or Action Fraud said it had no concerns. It would appear Mr M chose not to contact them either.

Responses to my provisional decision

Royal London said it accepted my provisional decision and had nothing further to add.

Mr M's representative said he disagreed with my provisional decision. In summary, they said the following:

- Royal London already had concerns about CGL transfer requests at the time of Mr M's transfer.
- The only reason Mr M contacted FRPS is because they were already dealing with him in relation to his pension with Firm P.
- There were a number of warning signs of a potential scam that Royal London should've picked up on and investigated further. They said I hadn't commented on these in the 'Circumstances surrounding the transfer' section of my provisional decision. But it nevertheless agreed with my finding that Royal London should have carried our due diligence and communicated its findings to Mr M but failed to do so.
- While Mr M did receive the Scorpion insert from Firm P, its communication to him wasn't specific enough to bring to his attention that there were scam warning signs identifiable with his transfer request. In light of this and because Royal London gave no warnings, this weakened the warnings given by Firm P.
- My conclusion in this case isn't fair and reasonable because it doesn't properly assess the adequacy of Firm P's communication with Mr M. I've not considered the submissions made in Mr M's associated complaint which criticise those communications. It could only be relevant to this complaint how Mr M reacted to communications from Firm P, if the Financial Ombudsman Service has made a final determination in that complaint that Firm P's communication was adequate. If it wasn't, then the wrong causation test has been applied.
- In any event my findings on causation are inconsistent to an almost identical case decided by the Financial Ombudsman Service on another complaint. In that case compensation was ordered on a contributory negligence basis – some warnings were given by the firm but the consumer didn't act on them. This might be an appropriate outcome in Mr M's case.

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.

Having done so, I've decided to not uphold this complaint for the same reasons I gave in my provisional decision.

I'm satisfied I was clear in my provisional decision that Royal London failed to do all that it ought reasonably to have done when it dealt with Mr M's transfer request. It doesn't appear to have provided Mr M with the Scorpion leaflet and it didn't carry out any due diligence which would've identified a number of warning signs it then should've shared with Mr M. I don't consider I need to add anything more about this here.

In relation to Mr M's representative's point about not considering his associated complaint about Firm P – as I said in my provisional decision, I considered this alongside this one because it is relevant to what happened here. And crucially as Mr M's representative knows, I issued my final decision on that complaint – at the same time as issuing my provisional decision on this one – concluding that I considered Firm P 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 transfer he was contemplating. Yet Mr M went ahead with the transfer. And it is for this reason that I've concluded in this case that, while Royal London ought to have done more, I don't think it would have made a material difference here – I don't think Mr M would, more likely than not, have acted differently and not gone ahead with the transfer.

I feel I can only repeat that, I understand Mr M has lost out financially by investing in high-risk investments, which were likely unsuitable for him. But I consider Mr M was given clear warnings about the risks involved with the pension transfer he was contemplating with Firm P. And because that transfer had exactly the same features as the one with Royal London, I think it's reasonable that Mr M ought to have appreciated and understood that the same risks of transferring applied here as in the one with Firm P. Despite that, Mr M still went ahead. So, while Royal London ought reasonably to have done more as I've said, I don't think it's likely Mr M would've acted differently and chosen not to go ahead with the transfer had Royal London done so.

Finally, as for Mr M's representative point about my conclusions being inconsistent with an almost identical case, I've reached my decision based on the specific circumstances of Mr M's individual complaint. In my view no two complaints are exactly the same. And I'm satisfied that, in light of my findings on Mr M's associated complaint, and for the reasons I've already given, awarding compensation on a contributory negligence basis is not appropriate or fair and reasonable in the circumstances of this case.

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 28 October 2024.
Paul Featherstone
Ombudsman