DRN-5076436

The complaint

Mr G has complained, with the help of a professional third party, about a transfer of his pension policies to a small self-administered scheme ("SSAS") in March 2014. The policies that are the subject of this complaint were held with ReAssure Limited. Mr G's SSAS was subsequently used to invest in the purchase of an overseas property with The Resort Group ('TRG') and in a UK based car parking scheme. The investments now appear to have little value and Mr G says he has lost out financially as a result.

Mr G also transferred pension benefits to the SSAS from another pension provider, which I'll call 'Firm A', at around the same time. A separate complaint has been lodged about that transfer. But while this decision will only look at the transfer from ReAssure, some of the circumstances of the transfer from Firm A are relevant to this complaint so I'll refer to them where necessary.

Mr G says ReAssure 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 G says he wouldn't have transferred, and therefore wouldn't have put his pension savings at risk, if ReAssure had acted as it should have done.

What happened

Mr G held five pension policies with ReAssure. In January 2014 he signed a letter of authority ('LOA') giving permission to his pension providers to share details, and transfer documents, in relation to his pension. The letter named two businesses. The first was Wise Review Ltd ('Wise RL') which was described as being an Introducer and was not regulated or authorised by the Financial Conduct Authority ('FCA'). And the second was Sorensen Financial Services ('SFS'), an independent financial adviser which was FCA authorised. The LOA said information should be sent to Wise RL and that this business was an appointed introducer to SFS. The LOA was sent to ReAssure by Wise RL on 9 January 2014. A similar request for information was sent to Firm A by Wise RL at around the same time.

On 10 January 2014, ReAssure sent policy information, including valuations, and discharge forms for transferring pension benefits to Wise RL in respect of each of Mr G's pensions held with it. ReAssure provided a copy of this information to Mr G at the same time.

The covering letter ReAssure sent to Mr G, in respect of at least one of his pension policies, said he should take the time to read the enclosed 'Further Information Sheet' if he was considering a transfer. The information sheet said *"…before deciding whether to transfer this policy or consider other options, you should seek independent professional advice."* It went on to give some information about contributions and some general points to remember. And ReAssure said, if Mr G was considering transferring his pension elsewhere he could find useful information from The Money Advice Service ('MAS') website, the Pension Regulator's ('TPR') website – which it said to see in particular TPR's leaflet on inducement offer guidance (to which it provided a link) – and the Pension Advisory Service ('TPAS').

In February 2014, a company was incorporated with Mr G as director. I'll refer to this company as S Ltd. A SSAS was then set up and registered with HMRC on 26 February 2014. S Ltd was the SSAS's principal employer and Rowanmoor Group Plc ('Rowanmoor') was the administrator.

Firm A acknowledged Wise RL's request for information on 22 January 2014 and wrote to Mr G on the same day confirming it had received his LOA.

On 27 February 2014, Rowanmoor wrote to ReAssure requesting the transfer of Mr G's pension benefits into the SSAS, enclosing declarations from Mr G confirming he wished to transfer and ceding scheme forms to be completed.

On 6 March 2014, Sequence Financial Management Limited ('SFML') wrote to Mr G. SFML was authorised and regulated by the FCA. The letter said it understood he was considering appropriate investments for his newly established SSAS for which he'd be sole trustee and member. And it understood he was considering an investment into an overseas commercial property in Cape Verde through TRG. The letter said Mr G, as trustee, was required to take advice under section 36 of the Pensions Act 1995 and had appointed SFML to provide that advice. It went on to say the advice was only given to Mr G in his capacity as the trustee of the SSAS. And SFML said the advice was only 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"*. SFML said it had not advised on the establishment of the SSAS, was not providing advice that would be deemed regulated *"as advice on investing in commercial property through a SSAS is not so regulated"* and wasn't advising on whether the TRG investment was *"suitable for the particular needs and objectives of the members of beneficiaries of the SSAS"*. The letter concluded that the TRG investment was suitable for Mr G's SSAS *"albeit when considered in the light of sensible diversification"* while also saying it was suitable for more adventurous investors. Mr G signed the letter, confirming he'd received, read and understood it, on 11 March 2014.

ReAssure also wrote to Mr G on 6 March 2014, confirming it had received letters of authority from Rowanmoor. It also wrote to Rowanmoor at the same time, acknowledging the applications to transfer and provided payment release forms that it said needed to be completed to enable the transfer.

Rowanmoor returned the completed payment release forms to ReAssure on 27 March 2014. It also provided a copy of the confirmation letter it had received from HMRC that the SSAS had been registered with it.

On 28 and 29 March 2017, ReAssure sent confirmation letters to Rowanmoor that it had processed the transfer requests and cheques were being sent out, under separate cover, representing the full transfer value of Mr G's pension policies. The total amount transferred from ReAssure was just over £144,000. Mr G was 50 years old at the time. Just under £105,000 was then invested with TRG in April 2014.

Firm A acknowledged a transfer request from Rowanmoor on 9 April 2014. It also wrote to Mr G on the same day confirming it had received his request. Firm A said there were some important things Mr G needed to know before it could go further with the transfer, particularly there were a number of companies in the marketplace seeking to persuade customers to access their pensions through pension liberation, which had significant risks and dangers. Firm A said it included TPR's Scorpion leaflet, so called because of the imagery it contained, which provided additional information.

Approximately £7,400 was then transferred to the SSAS from Firm A in July 2014. In May 2016, just over £34,000 was paid from the SSAS bank account to The Hetherington

Partnership ('THP'). I understand this was a law firm which represented a group of companies known as Group First. One of the companies within that group was Park First, which offered an investment in a car parking scheme. Mr G's representative says that this payment to THP was to invest with Park First.

Statements for the SSAS bank account indicate that the TRG investment was providing credits to the pension bank account (returns) every few months until early 2020. I understand that those credits have since ceased and there is little market for re-sale of the investment. The statements don't appear to show returns being received from the Park First investment. And I understand the investment has run into trouble and Mr G – like many investors – is struggling to realise any value from it.

I also understand that Mr G made a successful claim to the Financial Services Compensation Scheme ('FSCS') in respect of the advice he was provided by SFML. In August 2021, the FSCS agreed to reassign rights to complain to ReAssure to Mr G, on the understanding any redress from a successful complaint would first be used to repay compensation the FSCS had paid.

In November 2022, Mr G complained to ReAssure. Briefly, his argument is that ReAssure ought to have spotted, and told him about, a number of warning signs in relation to the transfer. These included that the SSAS and S Ltd were only recently registered, Mr G had been cold called, had been advised by an unregulated business (Wise RL), offered unrealistic returns and the proposed investment, based overseas, was unregulated and high risk.

ReAssure didn't uphold the complaint. It said it felt it had done sufficient due diligence and provided appropriate warnings to Mr G, including TPR's Scorpion warnings, but he'd chosen to proceed, exercising his right to transfer.

The complaint was referred to the Financial Ombudsman Service. I issued a provisional decision earlier this month explaining that I didn't intend to uphold Mr G's complaint. Below are extracts from my provisional findings, explaining why, which form part of my final decision.

The relevant rules and guidance

Personal pension providers are regulated by the FCA. Prior to that they were regulated by the FCA's predecessor, the Financial Services Authority ('FSA'). As such ReAssure was subject to the FSA/FCA Handbook, and under that to the Principles for Businesses ('PRIN') and to the Conduct of Business Sourcebook ('COBS'). There have never been any specific FSA/FCA rules governing pension transfer requests, but the following have particular relevance here:

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

The Pensions Schemes Act 1993 gives a member of a personal pension scheme the right to

transfer the cash equivalent value of their accrued benefits to another personal or occupational pension scheme if certain conditions are satisfied (and indeed they may also have a right to transfer under the terms of the contract). This right came to be exploited, with people encouraged to transfer to fraudulent schemes in the expectation of receiving payments from their pension that they weren't entitled to – for instance, because they were below minimum retirement age. At various points, regulators issued bulletins warning of the dangers of taking such action. But it was only from 14 February 2013 that transferring schemes had guidance to follow that was aimed at tackling pension liberation – the "Scorpion" guidance.

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

- *An insert to be included in transfer packs (the 'Scorpion insert'). The insert warns readers about the dangers of agreeing to cash in a pension early and identifies a number of warning signs to look out for.*

- *A longer booklet issued by TPAS which gives more information, including example scenarios, about pension liberation. Guidance provided by TPR on its website at the time said this longer leaflet was intended to be sent to members who had queries about pension liberation fraud.*

- *An 'action pack' for scheme administrators that highlighted the warning signs present in a number of transfer examples. It suggested transferring schemes should "look out for" various warning signs of liberation. If any of the warning signs applied, the action pack provided a check list that schemes could use to help find out more about the receiving scheme and how the member came to make the transfer request. Where transferring schemes still had concerns, they were encouraged to write to members to warn them of the potential tax consequences of their actions; to consider delaying the transfer; to seek legal advice; and to direct the member to TPAS, TPR or Action Fraud.*

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

The FSA's endorsement of the Scorpion guidance was relatively informal: it didn't take the form of Handbook Guidance, because it was not issued under s.139A of 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 legal rights.

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

requests. The guidance was launched in response to widespread abuses that were causing pension scheme members to suffer significant losses. And the guidance's specific purpose was to inform and help ceding firms when they dealt with transfer requests in order to prevent these abuses and save their customers from falling victim to them.

In those circumstances, I consider firms which received pension transfer requests needed to pay regard to the contents of the Scorpion guidance as a matter of good industry practice. It means February 2013 marks an inflection point in terms of what was expected of personal pension providers dealing with transfer requests as a matter of fulfilling their duties under the regulator's Principles and COBS 2.1.1R.

<u>What did personal pension providers need to do?</u>

For the reasons given above, I don't think personal pension providers necessarily had to follow all aspects of the Scorpion guidance in every transfer request. However, I do think they should have paid heed to the information it contained. And where the recommendations in the guidance applied, absent a good reason to the contrary, it would normally have been reasonable, and in my view good industry practice, for pension providers at least to follow the substance of those recommendations. With that in mind, I take the view that personal pension providers dealing with transfer requests needed to heed the following:

1. *As a first step, a ceding scheme needed to check whether the receiving scheme was validly registered.*

2. *When TPR launched the Scorpion guidance in February 2013, its press release said the Scorpion insert should be provided in the information sent to members requesting a transfer. It said on its website that it wanted the inclusion of the Scorpion insert in transfer packs to "become best practice". The Scorpion insert provided an important safeguard for transferring members, allowing them to consider for themselves the liberation threat they were facing. Sending it to customers asking to transfer their pensions was also a simple and inexpensive step for pension firms to take and one that wouldn't have got in the way of efficiently dealing with transfer requests. So, all things considered, I think the Scorpion insert should have been sent as a matter of good industry practice with transfer packs and direct to the transferring member when the request for the transfer pack had come from a different party.*

3. *I also think it would be fair and reasonable for personal pension providers – operating with the regulator's Principles and COBS 2.1.1R in mind – to ensure the warnings contained in the Scorpion insert were provided in some form to a member before a transfer even if the transfer process didn't involve the sending of transfer packs.*

4. *The Scorpion guidance asked firms to look out for the tell-tale signs of pension liberation scams and undertake further due diligence and take appropriate action where it was apparent their client might be at risk. The action pack points to the warning signs transferring schemes should have been looking out for and provides a framework for any due diligence and follow-up actions. Therefore, whilst using the action pack wasn't an inflexible requirement, it did represent a reasonable benchmark for the level of care expected of transferring schemes and identified specific steps that would be appropriate for them to take, if the circumstances demanded.*

5. *The considerations of regulated firms didn't start and end with the Scorpion guidance. If a personal pension provider had good reason to think the transferring member was being scammed – even if the suspected scam didn't involve anything specifically referred to in the Scorpion guidance – then its general duties to its*

customer as an authorised financial services provider would come into play and it would have needed to act. Ignoring clear signs of a scam, if they came to a firm's attention, or should have done so, would almost certainly breach the regulator's principles and COBS 2.1.1R.

The circumstances surrounding the transfer – what does the evidence suggest happened?

Mr G says he was cold called and offered a free pension review. He says it was Wise RL that called him. He says a meeting subsequently took place with a Wise RL representative who recommended that he transfer his pensions to a SSAS and invest in TRG. Mr G says he was shown projections and told he could expect to receive returns of 6-8% per year. He says he was told he'd make better returns than his ReAssure pension, this was an up and coming investment which a lot of people were joining and it was safe and low risk. He says he wasn't informed of any potential risks and wasn't told that Wise RL was not FCA regulated. He also says he doesn't recall receiving the Scorpion warning leaflet from ReAssure.

I haven't seen anything to indicate Mr G was an experienced investor. Nor have I seen anything about his circumstances or what he's said that leads me to think he'd likely have embarked on such a complicated arrangement on his own – setting up a new company, opening a SSAS, transferring his existing pension and investing overseas alongside an unusual investment in a car parking scheme. So, I think he was likely introduced to this idea by someone. I haven't seen anything to suggest he had considered or made enquiries about transferring his pensions previously. And I have no reason to doubt what Mr G has said about being cold called.

Mr G has said that he was told he'd receive returns of 6-8% by transferring and that these would be better than his ReAssure pensions would provide. Again, I don't have any reason to doubt this, and indeed this is consistent with what other consumers have said they were told about investing through TRG. I think the emphasis of returns under the new arrangement being better than those the ReAssure pensions would provide seems to have represented comparing the prospective benefits of the ReAssure pensions with the proposed SSAS investments and suggesting the new scheme was more beneficial – which I think represented advice.

Mr G has said that he only spoke to Wise RL and that it was this business that gave him advice. But given this all happened more than ten years ago, I wouldn't necessarily expect Mr G to remember every detail of what happened.

The LOA that Mr G signed named Wise RL and SFS. And Wise RL was the first business which contacted ReAssure for information about the pension. So, I think on balance Mr G is correct that this was the business that he initially spoke to. But I don't think that necessarily means it advised him.

Wise RL's covering letter to ReAssure said, in the footer, that it was "Introducer Appointed Representatives to a number of financial service businesses who provide Financial reviews and Services to clients". And the LOA said Wise RL was an appointed introducer for SFS.

The FCA maintains a database of information about firms it has responsibility for. This includes details of introducer appointed representatives ('IAR') and appointed representatives ('AR') registered with it. And, for authorised businesses, the database lists any AR's and IAR's associated with them. Wise RL does not appear on the database either as directly authorised or as an AR or IAR. The entry on the database for SFS, which was a regulated business, includes details of its AR's and IAR's. Wise RL was not listed. So, the statement in the LOA saying Wise RL was an IAR for SFS doesn't appear to be an arrangement which the FCA recognised. But we've seen several instances of unregulated

introducers referring consumers to regulated businesses with those introductory arrangements not always reflected on the FCA database. And FCA regulated businesses like SFS were not prohibited from accepting referrals from firms that don't appear on the database.

The database entry for SFS does though show a business called We Review Ltd ('We RL') was listed as an AR of SFS at the time of Mr G's transfer. We RL was also registered with the FCA.

Information from Companies House indicates We RL and Wise RL had a controlling director in common and operated from the same premises. Both businesses entered administration in 2014 and appointed the same administrator. Administrators' statements for both Wise RL and We RL referred to them as being part of the same group. The Administrators statement specific to Wise RL described the nature of its business as being an "introducer of pension transfer leads to various pension providers and intermediaries". And the specific administrators' statement for We RL said it was "an appointed representative of a particular pension provider" (which again the FCA register confirms was SFS at the time) and that it received leads and conducted financial reviews for Wise RL. And We RL, like SFS, was not prohibited from accepting referrals or leads generated by a business not on the FCA database.

On balance I think it was likely Wise RL that first contacted Mr G. I also think it is likely though, based on the connection between Wise RL and We RL and the LOA naming SFS, which We RL was an appointed representative of, that the intention was that Wise RL would introduce Mr G to We RL to conduct the pension review. That may not have involved him speaking to a different person, given the companies being linked. Rather the person he spoke to 'putting on a different hat' when it came to discussing the pension. And so, on balance, I think it is likely that the recommendation to transfer was made by someone acting through their association to SFS, a regulated business.

I'd also note I think Mr G's pensions savings have likely incurred some losses. The SSAS account statements suggest returns from the TRG investment stopped in early 2020 – which is broadly consistent with what we've seen in a large number of other complaints involving investment in TRG. We've also seen several complaints where consumers have been told it is their responsibility to attempt to sell the investment – but they have been unable to do so, and there is no recognised secondary market for re-sale of the investment. So, I believe the TRG investment is now likely to be largely illiquid. And Park First entered administration in 2019 with the FCA commencing legal proceedings against it with the aim of recovering funds for investors. As I understand it what this means for Mr G is still unknown. So, the Park First investment also does not appear to be providing any returns anymore and it appears to be illiquid.

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

The Scorpion insert:

For the reasons given above, my view is that personal pension providers should, as a matter of course, have sent transferring members the Scorpion insert or given them substantially the same information.

ReAssure has provided copies of a covering letter and information that it sent directly to Mr G on 10 January 2014, following the request from Wise RL for information about his pensions. The documents we've been provided included a copy of the Scorpion leaflet.

Mr G's representative has said that he doesn't recall receiving this. And they have argued

that providing this copy doesn't demonstrate that it was sent.

I don't really have any good reason to doubt ReAssure's sincerity that this was sent. I appreciate Mr G may not recall receiving the Scorpion information from it but given the passage of time I wouldn't necessarily expect him to. At the same time though I'm conscious that the covering letter doesn't refer to the Scorpion insert as one of the enclosures. But it did refer to ReAssure's 'Further Information Sheet' as being something Mr G should read. I'd have thought a similar direction to read the Scorpion information would likely have been given if it was included. And I also note that the Further Information Sheet references information being available from TPR online but doesn't talk about the Scorpion insert being attached – which again I might reasonably have expected.

Ultimately though, I don't think Mr G receiving the Scorpion leaflet from ReAssure or not would have made a difference here. The focus of the Scorpion guidance at that time was pension liberation, specifically being induced to transfer to access pension benefits before consumers were entitled to. This wasn't something that Mr G had been offered or was doing. So, I don't think the Scorpion information would have resonated with him and he would likely have believed it didn't apply to his transfer. And this is supported by the fact that Firm A sent Mr G the Scorpion information – the same version ReAssure would've sent – when he applied to transfer the benefits held with it to the SSAS, but this didn't dissuade him from transferring.

Due diligence:

When the Scorpion guidance was first published in February 2013 the campaign referred to pension liberation fraud. TPR talked about this being a transfer to a fund that allowed members to gain access to pension funds in an unauthorised manner. Unauthorised payments weren't just confined to a scenario where someone was offered a loan or cash incentive to transfer before age 55. But these scenarios were the focus of the literature at the time.

The front page of the 2013 Scorpion insert has the following message: "Companies are singling out savers like you and claiming that they can help you cash in your pension early. If you agree to this you could face a tax bill of more than half your pension savings." So, it singled out early access to a pension, and cash incentives and enticements to do this as the area of concern. It goes on to say: "Pension loans or cash incentives are being used alongside misleading information to entice savers as the number of pension scams increases. This activity is known as 'pension liberation fraud' and it's on the increase in the UK. In rare cases – such as terminal illness – it is possible to access funds before age 55 from your current pension scheme. But for the majority, promises of early cash will be bogus and are likely to result in serious tax consequences." So again, the emphasis is on the promise of 'early cash' and 'early access' to pension benefits before pension age and the associated tax consequences that could follow.

The 2013 Scorpion action pack for businesses was also titled 'Pension Liberation Fraud'. The case studies in the 2013 action pack are about people wanting to use their pension in order to access cash before age 55, the repercussions of which were tax charges and the loss of some pension monies to high administration fees. And the warning signs highlighted from the case studies followed suit: "accessing a pension before age 55", "legal loopholes", "cash bonus", "targeting poor credit histories", "loans to members".

The action pack listed some general warning signs that firms should be on the look out for. And suggested if any of these applied, businesses could use a more detailed checklist, included in the action pack, to help structure due diligence.

So, transferring schemes were being directed to the threat posed by people wanting to take cash from their pensions in an unauthorised manner – pension liberation – which was seen as being most likely when someone was under the age of 55. And, in light of the Scorpion guidance, ReAssure ought to have been on the look out for the tell-tale signs of pension liberation when it received Mr G's request to transfer. But it also had to take a proportionate approach and balance any caution and due diligence with the fact that consumers were entitled to request a transfer.

Given the information ReAssure had at the time, one feature of Mr G's transfer would have been seen as a potential warning sign of liberation activity as identified by the Scorpion action pack. This being that the receiving SSAS had only recently been registered. I think, being aware of that, ReAssure should therefore have followed up on this to find out if other signs of liberation were present. And I think it would have been fair and reasonable – and good practice – for ReAssure to have turned to the check list in the action pack to structure its due diligence into the transfer.

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, 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. A transferring scheme would therefore typically need to conduct investigations across several parts of the check list to establish whether liberation was a realistic threat. Given the warning sign that should have been apparent when dealing with Mr G's transfer request, and the relatively limited information it had about the transfer, I think in this case ReAssure should have addressed all three parts of the check list and contacted Mr G as part of its due diligence.

Had it done so, I think it likely that ReAssure would have built up the following information about the transfer – all of which were signs of potential pension liberation under the Scorpion guidance:

- *Mr G had been cold called and this had prompted the discussion around transferring.*
- *He was transferring to a recently established scheme with a newly incorporated sponsoring employer.*
- *Although Mr G was a director of the sponsoring employer, it was unlikely to have been genuinely trading and providing him with an income. It was, essentially, a means to establish a pension arrangement, which the Scorpion guidance indicated could be a sign of liberation activity.*
- *One of Mr G's intended investments was overseas.*

At the same time though I'm satisfied ReAssure would also have known, and established, the following which would have indicated liberation wasn't a concern:

- *Mr G's reason for transferring was to access a particular investment and improved returns.*
- *Mr G hadn't been told he could access his pension before age 55 and he hadn't been offered, and wasn't expecting, a cash payment following the transfer.*

So, whilst ReAssure would have (had it conducted thorough due diligence) found there to be some liberation warning signs, I think it would have ultimately concluded that the liberation threat was minimal given Mr G's reasons for transferring. So, I'm satisfied, in respect of warnings relating to pension liberation, ReAssure wouldn't have considered there to be reason to provide anything further, given its belief that it had already provided the Scorpion warnings. And even if it is now mistaken and the Scorpion warnings hadn't been provided by it, at most I think it'd have been prompted to send those Scorpion warnings. But as I've already explained, I don't think these would have dissuaded Mr G from transferring.

Mr G has said that it was Wise RL that approached him. And again, this business was named on the LOA he signed and indeed is the party that requested information from ReAssure. So, I think, if ReAssure had asked, Mr G would have identified this business as a party he had spoken to about the transfer.

The check list recommends that in order to establish whether its member has been advised by a non-regulated adviser, the ceding firm should "check whether advisers are registered with the FSA at www.fsa.gov.uk/fsaregister". In other words, they should consult the regulators online register of authorised firms. And if it had done so, ReAssure would've established that Wise RL was not authorised.

At the same time though the Scorpion insert, which I think ReAssure likely provided Mr G and which we know Firm A did, said that advisers should be FCA regulated and to check this online. Although Mr G has suggested he doesn't recall any other business being involved, I can't rule out though that at the time, the names We RL or SFS would have been mentioned to him when he discussed the transfer – which would reasonably explain why the information in the Scorpion insert about regulated advisers doesn't seem to have concerned him. And he could in turn have mentioned these businesses to ReAssure when asked – which I think would've provided reasonable comfort to ReAssure given both were listed on the database.

But even if Mr G had not mentioned these business names, the LOA also referred to SFS,

which again was authorised and listed on the database, which ReAssure would have learned from a simple search. And it referred to an introducer connection between Wise RL and SFS.

To be clear, I don't think SFS being named on the LOA alone would've been enough for ReAssure to have assumed Mr G had been given regulated advice. And I think further investigation should have happened. This would likely have indicated that Wise RL was not an IAR noted by the regulator, although it didn't necessarily have to be in order to provide introductions. And I think further investigation by ReAssure would've uncovered the same connections I've already discussed, between Wise RL and We RL and in turn between We RL and SFS. Which I think would reasonably have led ReAssure to conclude, in the specific circumstances of Mr G's complaint, that the involvement of Wise RL wasn't a cause for concern, particularly given the guidance at the time being aimed at pension liberation and it already being able to reasonably discount this.

If it concluded Wise RL's involvement wasn't a reason for concern, which I think would've been reasonable, I don't think ReAssure would've been obliged to explain this to Mr G – as I see no persuasive reason why a ceding scheme needed to share with its members any liberation warnings signs it found – but discounted – during its due diligence process.

But even if it had highlighted to Mr G that Wise RL didn't appear on the regulators register, I think he is likely to have had a conversation with the adviser he had spoken to about what ReAssure had said. Mr G told our Service he felt comfortable in the conversations with the adviser, didn't feel pressured and had been reassured by them. So, I don't think, based on what he's said, that he'd have immediately cut off all contact. Rather I think he'd likely have asked for an explanation. And I think if he had spoken to the adviser again and mentioned that ReAssure had highlighted Wise RL was not on the regulators database, the adviser would likely have referred to the same connections I've already discussed, between Wise RL, We RL and SFS. Which I think would have reassured Mr G.

Taking all of that into account, in the specific circumstances of Mr G's complaint, I don't think anything that might've been identified as part of the proportionate due diligence ReAssure should have carried out would, if relayed to Mr G, have caused him to have stopped the transfer. And I don't think the mere act of contacting Mr G and asking questions about the transfer would have prompted a change of heart. It follows that I don't think that would have ultimately led to Mr G being in a different position. So, I don't currently intend to require ReAssure to take any action.

Responses to my provisional decision

I gave both parties an opportunity to make further comments or send further information before I reached my final decision.

ReAssure said it accepted my provisional decision and had no further comments.

Mr G's representative said they did not accept my findings. They said the documents did not support that We RL or SFS were involved in providing advice to Mr G, rather Wise RL had remained involved in the transfer process throughout and this was the business he dealt with. Wise RL was not FCA regulated and the provision of advice by an unregulated business was a breach of FSMA. And they remained of the opinion Mr G would have identified Wise RL as his adviser.

The representative didn't agree with me that proportionate due diligence by ReAssure would've led it to uncover the connection between Wise RL, We RL and SFS that I referred to. Rather, it would just have looked into Wise RL, found it not to be regulated and ought to

have warned Mr G about this. Which, in their view, would've resulted in him not transferring.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

When doing so I've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

As I said in my provisional decision, I think Wise RL was likely the business that Mr G first spoke to and it was involved in the transfer, not least because it was named on the LOA and requested information from ReAssure. And I acknowledge that Mr G has said, when complaining, that Wise RL was the only business he recalls dealing with. But that complaint was first made more than eight years after the transfer took place. Memories can and do fade. And I think this is supported by the fact that, although Mr G says he only recalls Wise RL, SFS was named on the LOA as well. And there is no indication this was a surprise to him at the time of the transfer.

Mr G's representative is correct that there is no documentary evidence of We RL or SFS having advised Mr G. At the same time though there is also no documentary evidence supporting that Wise RL advised him either. As I said in my provisional findings, I think what he has said about the discussions that took place support he likely was verbally advised. But at the same time, based on the businesses named in the LOA and their mutual connections to another business, I think the intention likely was that Wise RL would introduce Mr G to We RL to conduct the pension review. That may not ultimately have happened. But it is important to remember I'm looking at ReAssure's actions when conducting due diligence.

I remain of the opinion that ReAssure should have done more than it did. The information it had about the transfer indicated there was a warning sign of pension liberation present. But if it had carried out further due diligence, I think it would have established that the risk of pension liberation – the thing it was being asked to look out for at the time – was low. And it wouldn't have had reason to provide warnings beyond the Scorpion insert. And, for the reasons I've already explained, I don't think the Scorpion insert for customers would've dissuaded Mr G from transferring.

If ReAssure had asked Mr G, I think he'd have identified Wise RL as a party that he'd spoken to. I can't rule out that he'd have also identified other parties at the time, again not least because SFS was named in documentation he'd signed, which he doesn't appear to have questioned at the time. But ultimately, even if Mr G had only identified Wise RL, I don't agree with the representative that this means the proportionate response from ReAssure would've just been to check the regulators register for Wise RL and then inform Mr G his adviser might've been acting illegally.

I think, if Mr G had identified Wise RL as a party that had been involved in recommending the transfer, ReAssure should have looked it up on the FCA register. Which would have shown it wasn't regulated. But the LOA, which reassure held, said that Wise RL was an introducer for SFS – a regulated business. And SFS was named in the LOA itself as "Pension Information LOA".

So, based on that information, I still think proportionate due diligence would also have

involved ReAssure checking on the association between Wise RL and SFS that the LOA referred to. Details of SFS' IAR's and AR's were shown under its entry on the FCA register, which also confirmed its status as regulated. This would have shown that Wise RL was not an introducer recognised on the FCA register (although again to act as an introducer it didn't necessarily have to be). So, may have called into question the statement in the LOA of a direct link between the two. Based on that, I think further investigation would therefore have been proportionate. From the FCA register ReAssure would also have learned of We RL, being an AR for SFS. And a simple review of the listing for We RL, which I think would've been a prudent step given the similarity in business names to Wise RL, would have shown it operated from the same address as Wise RL. And a review of the information on Companies House, which again in the specific circumstances I think would've been a reasonable step which was easy to carry out, would have confirmed the association between Wise RL and We RL. From all of which I think ReAssure could've reasonably taken reasonable comfort.

And, again as I've explained in my provisional findings, even if ReAssure had raised some concerns with Mr G about Wise RL's status, I don't think that would've changed anything. Because if it had, I think the person he was speaking to would also have turned to the connection between Wise RL, We RL and SFS to explain to him why he didn't have reason to be concerned. And, given what he's said about how he felt when speaking to the adviser, I think Mr G would likely have accepted that explanation and continued with the transaction.

So, while I know his representative does not agree and I acknowledge this will come as a disappointment to Mr G, I don't think any of the failings by ReAssure have led to him being in a different position than he otherwise would have been.

My final decision

For the reasons I've explained, I don't uphold Mr G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 22 April 2025.

Ben Stoker
Ombudsman