DRN-5094132

The complaint

Mr W has complained about a transfer of his Stakeholder Pension Plan (SHP) with HBOS Investment Fund Managers Limited trading as Halifax Financial Services (Halifax) to a Qualifying Recognised Overseas Pension Scheme (QROPS) in January 2016. Mr W subsequently invested in an overseas commercial property development offered by The Resort Group (TRG). Mr W says the investment now appears to have little value and he's lost out financially as a result.

Mr W says Halifax failed in its responsibilities when dealing with the transfer request. He says Halifax should've 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 W says he wouldn't have transferred, and therefore wouldn't have put his pension savings at risk, if Halifax had acted as it should've.

What happened

According to Mr W, things started with a cold call from First Review Pension Services Limited (FRPS), who weren't authorised by or registered with the FCA (Financial Conduct Authority). On 25 September 2015 he signed a letter of authority (LOA) allowing FRPS to get information from Halifax about his SHP. FRPS sent that to Halifax on 14 October 2015 with a request for policy information and discharge forms. Halifax received it on 16 October 2015 and sent the information to FRPS on 19 October 2015.

On 3 December 2015 Elmo Pensions Limited (EPL) wrote to Halifax enclosing completed transfer forms. EPL were the administrator and trustee of the Elmo International Retirement Plan (the Plan), a QROPS registered in Malta. Halifax received the letter on 17 December 2015. The documentation completed in respect of the transfer request included a Lifetime Allowance Questionnaire; an overseas transfer form; a declaration for making a transfer from a registered pension scheme to a QROPS (in which Mr W confirmed the receiving scheme was a QROPS and that he was aware of the risks involved in transferring his pension benefits from the UK); and HMRC's QROPS member information form. All had been signed by Mr W on 26 November 2015.

Halifax's records include an internal email dated 22 December 2015 saying, as Mr W was looking to transfer to a Malta QROPS when he was still a UK resident, a warning letter had to be issued, the text of which was set out. Halifax says it sent the letter to Mr W on 23 December 2015. In summary it said:

- Routine due diligence checks had identified Mr W still appeared to be resident in the UK. The pension scheme he was transferring to was a QROPS which was usually only considered suitable for customers already, or intended to be by the time they retired, resident outside the UK.
- If a customer transfers to a QROPS and is still resident in the UK when they receive a payment from the QROPS, there might be additional tax charges from HMRC.
- Such schemes aren't covered by the Financial Services Compensation Scheme (FSCS) so if the scheme got into financial difficulties there might not be the same level of protection as with a UK pension scheme.

- Halifax wasn't aware of Mr W's financial circumstances or future intentions and he had the right to transfer. But, given he appeared to be a UK resident and didn't appear to have received advice from a UK regulated financial adviser, Halifax had to ensure he was aware of and satisfied with the pension arrangement he was transferring to.
- If he had any doubts about if the scheme was suitable for him Halifax strongly advised he take financial advice from an independent financial adviser authorised by the FCA to give pensions advice. A website address was given where Mr W could find a list of advisers in his area. And free advice could be obtained from The Pension Advisory Service (TPAS) whose website address was given.
- Halifax said it was enclosing The Pensions Regulator (TPR) guidance booklet.
- If Mr W was satisfied the new scheme met his financial needs and requirements and was suitable for his personal circumstances, he should contact Halifax to confirm he still wanted his transfer to be completed. If he didn't do that within four weeks Halifax would assume he no longer wished to transfer to the QROPS and would cancel the request.

There's a file note saying Mr W telephoned Halifax on 4 January 2016 and confirmed he was happy to proceed despite the warning letter.

Mr W's pension was transferred on 5 January 2016. The transfer value paid was £92,801.22.

However, EPL declined to carry out Mr W's investment instructions, which included an investment in TRG, on the basis that the selected investments weren't considered compliant with the Plan's investment policy. So no investments were ever placed by EPL. Mr W then instructed a transfer to another QROPS – the Pantheon QROPS, which was also based in Malta.

In February 2022 Mr W, through his representative, complained to Halifax. I'm not entirely sure what prompted his complaint but Mr W may have by then become concerned about his TRG investment. I've also seen that later on, in early 2024, the trustees of the Pantheon QROPS, Pantheon Pension Trustees Limited, were placed in administration. So it may be that the QROPS encountered difficulties.

In his complaint Mr W said, amongst other things, that Halifax had failed to identify that the transfer was manifestly unsuitable for him. He didn't intend to retire outside of the UK and so, in the absence of overseas residency or an employment link, a Malta based QROPS couldn't be in his best interests. He said Halifax ought to have spotted, and told him about, a number of warning signs in relation to the transfer, including that he'd been contacted by an unregulated firm offering a free pension review and advised by a firm that didn't have FCA permissions to advise. There was no evidence that the Plan was included on HMRC's list of ROPS (Recognised Overseas Pension Schemes) at the time. No Scorpion insert was provided to Mr W. Had Halifax carried out sufficient due diligence the only reasonable conclusion Halifax could've come to was that it was in Mr W's best interest to refuse the transfer.

Halifax didn't uphold the complaint. It said, on receipt of the transfer request, it had conducted due diligence checks which showed the Plan was a ROPS with HMRC. Halifax hadn't been alerted to any concerns with the Plan. But, notwithstanding, as Mr W was a UK resident proposing to transfer to QROPS registered in Malta, a warning letter (Halifax's letter of 23 December 2015) was issued, enclosing a leaflet about pension scams. Despite that, and recommending he seek independent legal advice, Mr W had called Halifax on 4 January 2016 to confirm he still wanted to proceed. He had a statutory right to transfer and Halifax couldn't block the transfer. Halifax wasn't required (and was indeed unable) to provide advice.

Our investigator was unable to resolve the dispute informally, so the matter was passed to me to decide. In doing so I've taken into account the points made on behalf of Mr W in response to the investigator's view that the complaint shouldn't be upheld.

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 agree with the views expressed by the investigator and the reasons he gave as to why he wasn't upholding the complaint. Most of what I've said below echoes what the investigator said.

<u>The relevant rules and guidance</u>

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 Halifax 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 how personal pension providers deal with 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.

In February 2013, The Pensions Regulator (TPR) issued its Scorpion guidance to help tackle the increasing problem of pension liberation, the process by which unauthorised payments are made from a pension (such as accessing a pension below minimum retirement age). In brief, the guidance provided a due diligence framework for ceding schemes dealing with pension transfer requests and some consumer-facing warning materials designed to allow members decide for themselves the risks they were running when considering a transfer.

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

The 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. So the content of the Scorpion guidance was essentially informational and advisory in nature. Deviating from it doesn't therefore mean a firm has necessarily 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 right to transfer.

That said, the launch of the Scorpion guidance in 2013 was an important moment in so far it provided, for the first time, guidance for personal pension providers dealing with transfer requests – guidance that prompted providers to take a more active role in assessing those requests. The guidance was launched in response to widespread abuses that were causing pension scheme members to suffer significant losses. And the guidance's specific purpose was to inform and help ceding firms when they dealt with transfer requests in order to prevent these abuses and save their customers from falling victim to them.

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

The Scorpion guidance was updated in July 2014. It widened the focus from pension liberation specifically, to pension scams more generally – which included situations where someone transferred in order to benefit from "too good to be true" investment opportunities such as overseas property developments. An example of this was given in one of the action pack's case studies.

There was a further update to the Scorpion guidance in March 2015, which is relevant for this complaint. This guidance referenced the potential dangers posed by "pension freedoms" (which were about to give people greater flexibility in relation to taking pension benefits) and explained that pension scams were evolving. In particular, it highlighted that single member occupational schemes were being used by scammers. 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. There were further updates in March 2016 and subsequently. But that was after Mr W's transfer had been completed and so aren't relevant in his case. Here it's the March 2015 guidance that's relevant.

<u>The March 2015 Scorpion guidance</u>

The March 2015 update to the Scorpion guidance asked schemes to ensure they provided their members with "regular, clear" information on how to spot a scam. It recommended giving members that information in annual pension statements and whenever they requested a transfer pack. It said to include the pensions scam "leaflet" in member communications.

In the absence of more explicit direction, I take the view that the member-facing Scorpion warning materials were to be used in much the same way as previously, which is for the shorter insert (which had been refreshed in March 2015) to be sent when someone requested a transfer pack and the longer version (which had also been refreshed) made available when members sought further information on the subject.

When a transfer request was made, transferring schemes were also asked to use a three-part checklist to find out more about a receiving scheme and why their member was looking to transfer.

<u>The PSIG Code of Good Practice</u>

The PSIG Code was voluntary. But, in its own words, it set a standard for dealing with transfer requests from UK registered pension schemes. It was "welcomed" by the FCA and the Association of British Insurers (amongst others). And several FCA regulated pension providers were part of the PSIG and co-authored the Code. So much of the observations I've made about the status of the Scorpion guidance would, by extension, apply to the PSIG Code. In other words, personal pension providers didn't necessarily have to follow it in its entirety in every transfer request and failure to do so wouldn't necessarily be a breach of the regulator's Principles or COBS. Nevertheless, the Code sets an additional benchmark of good industry practice in addition to the Scorpion guidance.

In brief, the PSIG Code asked schemes to send the Scorpion "materials" in transfer packs and statements, and make them available on websites where applicable. The PSIG Code goes on to say those materials should be sent to scheme members directly, rather than just to their advisers.

Like the Scorpion guidance, the PSIG Code also outlined a due diligence process for ceding schemes to follow. However, whilst there is considerable overlap between the Scorpion guidance and the PSIG Code, there are several differences worth highlighting here, such as:

- The PSIG Code includes an observation that: "*A strong first signal of [a scam] would be a letter of authority requesting a company not authorised by FCA to obtain the required pension information; e.g. a transfer value, etc*." This is a departure from the Scorpion guidance (including the 2015 guidance) which was silent on whether anything could be read into the entity seeking information on a person's pension.

- The Code makes explicit reference to the need for scheme administrators to keep up to date with the latest pension scams and to use that knowledge to inform due diligence processes. Attention is drawn to FCA alerts in this area.

- Under the PSIG Code, an 'initial analysis' stage allows transferring schemes to fast-track a transfer request without the need for further detailed due diligence, providing certain conditions are met. No such triage process exists in the 2015 Scorpion guidance – following the three-part due diligence checklist was expected whenever a transfer was requested.

- The PSIG Code splits its later due diligence process by receiving scheme type: larger occupational pension schemes, SIPPs, SSASs and QROPS. The 2015 Scorpion guidance doesn't distinguish between receiving scheme in this way – there's just the one due diligence checklist which is largely (apart from a few questions) the same whatever the destination scheme.

TPR began referring to the Code as soon as it was published, in the March 2015 version of the Scorpion action pack. Likewise, the PSIG Code referenced the Scorpion guidance and indicated staff dealing with scheme members needed to be aware of the Scorpion materials.

Therefore, in order to act in the consumer's best interest and to play an active part in trying to protect customers from scams, I think it's fair and reasonable to expect ceding schemes to have paid due regard to both the Scorpion guidance and the PSIG Code when processing transfer requests. Where one differed from the other, they needed to consider carefully how to assess a transfer request taking into account the interests of the transferring member. Typically, I'd consider the Code to have been a reasonable starting point for most ceding schemes because it provided more detailed guidance on how to go about further due diligence, including steps to potentially fast-track some transfers which – where appropriate – would be in the interest of both parties.

The considerations of regulated firms didn't start and end with the Scorpion guidance and the PSIG Code. 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 either the Scorpion guidance or the Code – 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.

<u>The circumstances surrounding the transfer: what does the evidence suggest happened?</u>

Our investigator wanted to talk to Mr W about what he recalled but that didn't prove possible. So, looking at what was said on Mr W's behalf when he complained, what we've been told by the parties during our investigation and the documents we've seen, it appears that Mr W received an unsolicited telephone call from FRPS offering him a free review of his pension arrangements. And, as we've seen, Mr W signed a LOA for Halifax to provide information to FRPS about his SHP. Once that was to hand, FRPS' representative met with Mr W at his home.

According to Mr W, the representative (whose surname Mr W couldn't recall, just his first name) recommended that Mr W transfer his SHP to the Plan on the basis his fund would attract greater growth by moving it overseas. Mr W says he was advised to invest in an overseas commercial property investment offered by TRG and a Principal Allocation Fund with Mansard Capital Management. He was attracted by the higher growth he was told he could achieve by transferring. He felt under pressure to transfer – he was told it was a limited time investment opportunity. FRPS' representative appeared knowledgeable and professed to have expertise in pensions and investments and Mr W thought he was getting sound financial advice. And he was reassured as he'd been told he was getting advice from a regulated firm. He understood he was being advised by FRPS and that FRPS was helping to arrange the transfer. Given his lack of experience, he felt unequipped to make an important decision of that nature without advice. FRPS' representative took all the documents away with him and didn't leave copies with Mr W. No upfront cash, loans, bonuses or other incentives were offered.

At the time of the transfer, Mr W was 53 years old and working as a sales manager, earning around £30,000 pa. He wasn't in any debt and had savings of about £54,000, he had no investment experience other than a cash ISA and his attitude to risk was low. He was domiciled in the UK and didn't intend to live or retire overseas. His SHP was his only retirement provision and it was the first time he'd looked into transferring it.

What we've been told as to what prompted Mr W's transfer request is plausible and consistent with such documentary evidence as we've seen and which confirms FRPS' involvement from the outset. If, as Mr W says, FRPS told him he'd be better off if he transferred to a QROPS so he could invest in TRG and the Mansard Capital Fund, that would amount to advice to transfer. That's regulated advice which should only be given by an authorised adviser, registered with the FCA and whose permissions included advising on pension transfers. Contrary to Mr W's understanding, FRPS wasn't authorised by or registered with the FCA and so couldn't give regulated advice. Doing so would be in breach of the general prohibition in FSMA and FRPS would be acting unlawfully.

Mr W doesn't recall any contact from Halifax at the time of the transfer. But, as I've noted above, Halifax says it wrote to him on 23 December 2015. I note what Mr W's representative has said about there being no evidence of the letter actually having been sent to or received by Mr W. And Mr W said, when he was later shown a copy of the Scorpion insert and booklet, that he'd never seen them before and, given the eye catching design, he was certain he'd have remembered them.

However, I don't agree there's no evidence that the letter was sent. First, the internal email evidences that it was Halifax's intention to send the letter and sets out the text. Secondly, there's a copy of the letter – with Mr W's name and address – on Halifax's file. So I think that's evidence that the letter was produced and sent. We'd normally accept, if there's a copy of a letter on the business' file, that the letter was actually despatched. As to whether Mr W received it, I accept there's always a chance a letter sent in the post might go astray. But the vast majority of correctly addressed post (and the copy letter shows Mr W's correct address) does reach its intended destination.

In any event, there's further evidence that the letter was received as Mr W called Halifax on 4 January 2016 to confirm he still wanted to go ahead with the transfer. If he hadn't got the letter he wouldn't have known that he needed to contact Halifax to tell them he wanted to proceed with the transfer and which he did. So I'm satisfied there's evidence which shows the letter was sent and received by Mr W and that he read it.

As to whether the letter included the Scorpion insert or booklet, it's referred to in the letter as being enclosed. I acknowledge it's possible that the enclosure was omitted from the letter. But here Halifax had a procedure in place where a transfer to a QROPS was requested when the member was resident in the UK. And Halifax was clearly aware, as the letter records, that it had responsibilities in connection with transfers and which included providing a copy of the Scorpion insert. I take into account what Mr W has said about the imagery used being striking and such that he'd have remembered it. But the transfer was some years ago now. And, although Mr W didn't recall any contact from Halifax, I've said that he likely did get Halifax's letter. If he doesn't remember getting the letter then he won't recall what may or may not have been included with it. On balance I think the Scorpion insert or booklet would've been included with the letter.

Halifax has said that its procedure involved downloading the Scorpion document from TPR's website so it would always be the most up to date edition. In that case it would've been the refreshed March 2015 versions of the Scorpion materials. As to whether Mr W would've been sent the insert or the longer booklet, Halifax's letter refers to TPR's guidance 'booklet', rather than to an insert or leaflet, which suggests it may have been the longer booklet which was sent. But I don't think that's conclusive so, in considering below what warnings Halifax gave Mr W, I've proceeded on the basis that it was the shorter insert that was sent.

In reaching my findings, I've noted the other two complaints which Mr W's representative has pointed to as being examples of where we've accepted that the Scorpion insert or booklet wasn't sent. But, in both cases, the businesses concerned made proactive offers to settle the complaints before any view or decision was issued and which would've included findings about what had happened with the Scorpion insert or booklet. So I don't think those cases add anything here.

<u>What did Halifax 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. Sending the insert was a relatively quick and easy step to take and which wouldn't have got in the way of dealing efficiently with transfer requests. Here, as discussed above, I'm satisfied Halifax sent Mr W the March 2015 insert – which had the title *'Scamproof your savings'* – with the letter dated 23 December 2015.

Due diligence

As explained above, I consider the PSIG Code to have been a reasonable starting point for most ceding schemes. I've therefore considered Mr W's transfer in that light. But I don't think it would make a difference to the outcome of the complaint if I had considered Halifax's actions using the 2015 Scorpion guidance as a benchmark instead.

I've mentioned above the initial triage process and which should've led to Halifax asking Mr W further questions about the transfer as per Section 6.2.2 ("Initial analysis – member questions"). I won't repeat the list of suggested questions in full. Suffice to say, at least two of them would've been answered "yes":

- Did receiving scheme/adviser or sales agents/representatives for the receiving scheme make the first contact (e.g. a cold call)?

- Have you been informed of an overseas investment opportunity?

Under the Code, further investigation should follow a "yes" to any question. The nature of that investigation depends on the type of scheme being transferred to. The QROPS section of the Code (Section 6.4.4) has the following statement:

"The key items to consider are the rationale for moving funds offshore, and the likelihood that the receiving scheme is a bona fide pension scheme, as if HMRC determine retrospectively that it is not, there may be a scheme sanction charge liability regardless of whether the receiving scheme was included on the list or not."

In order to address those two items – the rationale for moving funds offshore and the legitimacy of the QROPS – the Code suggests the transferring scheme should broadly follow the same due diligence process as for a SSAS, which outlined four areas of concern under the following headings: employment link, geographical link, marketing methods and provenance of the receiving scheme. Underneath each area of concern, the Code set out a series of example questions to help scheme administrators assess the potential risk facing a transferring member.

Not every question would need to be addressed under the Code. Indeed, the Code makes the point that it is for scheme administrators to choose the most relevant questions to ask (including asking questions *not* on the list if appropriate). But the Code makes the point that a transferring scheme would typically need to conduct investigations into a "wide range" of issues to establish whether a scam was a realistic threat. With that in mind, I think in this case Halifax should have addressed all four areas of concern and contacted Mr W in order to help with this.

<u>What should Halifax have found out – and would it have made a difference?</u>

Halifax did establish the legitimacy of the QROPS by checking that it was registered with HMRC. And Halifax noted that a QROPS appeared to be an unusual choice of pension vehicle for someone in Mr W's circumstances. But Halifax didn't address Mr W's rationale for transferring. If it had asked him about this – which it should've done, using the framework outlined above – it would've found out that he was transferring his pension following an unsolicited approach and that, although and as Halifax had noted, he was transferring to a type of arrangement more commonly used by people living overseas, he wasn't intending to do that. Halifax would've also found out that Mr W's reason for transferring overseas was to invest, in part, in TRG, an overseas property scheme of the type that was highlighted as an area of concern in the PSIG Code and that he was doing so having been advised by an unregulated firm.

But Halifax did write to Mr W on 23 December 2015. A key point made was that a QROPS was usually only suitable for customers already living outside the UK or who intended to do so, which wasn't Mr W's plan. Further, he could face additional tax charges and lose UK regulatory protections if something went wrong. Halifax also noted that Mr W didn't seem to have had advice from a regulated UK financial adviser. This suggests Halifax checked whether FRPS was on the FCA register given the transfer paperwork indicated FRPS was the only credible candidate to have given advice to Mr W. Halifax recommended Mr W obtain advice from an adviser authorised by the FCA, with details of how he could find an adviser given.

Warnings were also given in the Scorpion insert enclosed with Halifax's letter which, as I've said above, would've been the March 2015 edition. The '*How to spot the warning signs*' section set out some of the most common tactics used by scammers to trick someone out of their savings. I think Mr W would've recognised some features which were present in his case. In particular he'd been cold called, it seems guaranteed returns had been mentioned (although Mr W hasn't said exactly what those were) and his pension was being transferred overseas to a QROPS.

I know Mr W would've been asked to sign a lot of documents in relation to the transfer. And some of them may have already been completed by FRPS' representative and just put before Mr W for signature. And he may have been given little opportunity to read properly everything he was being asked to sign. But Halifax's letter was sent direct to him and he'd have had the chance to read and consider it and without FRPS' representative being there. It was a direct response from Halifax to his transfer request so it was clearly relevant to what he was planning to do. The letter was also relatively short – just over a page long – and clear and easy to read. It highlighted the need for advice from a UK FCA regulated adviser which Halifax said it appeared Mr W hadn't had. It seems he thought FRPS was regulated but, if he'd have checked with the FCA, he'd have found out that wasn't the case.

I accept that the person Mr W was dealing with would've been persuasive and would've come across as professional, knowledgeable and trustworthy. And I further note what Mr W has said about his difficult personal circumstances at the time. But Halifax was Mr W's existing provider and a respected, major player in the pensions field. I'd have thought any reservations expressed by Halifax would've carried weight with Mr W. I think it was clear that Halifax had concerns about the transfer request and which centred on a key factor – that a QROPS was an overseas pension scheme which was unlikely to be appropriate for Mr W if he was, and intended to remain, living in the UK.

But Mr W wasn't put off by what Halifax said. Instead he confirmed to Halifax that he wanted to proceed with the transfer. So it seems he remained persuaded by what he'd been told by FRPS' representative, despite what Halifax was saying about why he may want to think again about the transfer. Given the trust Mr W had placed in the introducer (and even if, with hindsight, that trust was misplaced), I can't see that further warnings from Halifax and which would've been more or less along the same lines as those already expressed, would've changed Mr W's mind.

Mr W has suggested that Halifax should've blocked the transfer. And that the call on 4 January 2016 was a failed opportunity for Halifax to ask critical questions about how he'd come to decide to transfer, whether he'd received independent advice and if he understood there were risks associated with overseas investments and unregulated advisers. Given the significant red flags, Halifax should've escalated the matter and considered refusing the transfer. But Mr W had a legal right to transfer to another provider. I don't think Halifax could've just assumed the transfer wouldn't be in Mr W's best interest and so refused to process it. As I've said above, firms had to balance the obligation to process transfers promptly against the need to identify those customers at material risk of scams. Here Halifax did identify that what Mr W was planning to do – transfer his pension overseas although he was remaining in the UK – was unusual and when it wasn't obvious he'd taken regulated advice. So Halifax set out what Mr W could do to protect himself. But Mr W failed to heed those warnings.

In reaching my findings I take into account that Halifax was the professional party here, operating a regulated pensions business in which dealing with transfer requests was an everyday occurrence and in respect of which Halifax had responsibilities as I've outlined above. And I do have sympathy for Mr W and the position he's now in and I'm sorry to note how the stress resulting from this matter has affected him. But I can only say Halifax should compensate Mr W for any losses if I'm satisfied that, but for any failings on Halifax's part, he wouldn't have proceeded with the transfer. For the reasons I've explained, I'm unable to conclude that would've been the case.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 4 February 2025.

Lesley Stead
Ombudsman