

The complaint

Mr W has complained about a transfer of his Royal London Mutual Insurance Society Limited personal pension to a small self-administered scheme ("SSAS") in July 2014. Mr W's SSAS was subsequently used to invest in an overseas property investment with the Resort Group (TRG). The investment now appears to have little value. Mr W says he has lost out financially as a result.

Mr W 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 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 Royal London had acted as it should have done.

What happened

Mr W says he received a cold call from Consumer Money Matters (CMM) who advised him to transfer his personal pension to a SSAS with Cantwell Grove. CMM requested policy information from Royal London which they provided on 15 January 2014.

In March 2014 a company was incorporated with Mr W as director. Mr W opened a SSAS with Cantwell Grove in June 2014 which was registered with HMRC the same month. Mr W's new company was recorded as the SSAS's principal employer.

In early July 2014 Cantwell Grove wrote to Royal London to request a transfer of Mr W's pension to the SSAS. Included in the transfer papers were completed and signed transfer forms; a copy of the SSAS Trust Deeds and Rules; HMRC registration for the SSAS; key information about the scheme; and a letter signed by Mr W on 3 July 2014 declaring, amongst other things, that he was aware of the dangers of pensions liberation fraud.

Royal London completed the transfer on 12 July 2014. The total amount transferred was £28,453.46. Following the transfer, Mr W's funds were partly invested into TRG and some funds remained in cash. The TRG investment is considered to have no realisable value.

Mr W complained to Royal London through his representatives in 2023. After Royal London rejected his complaint, it was referred to this service. One of our investigators upheld the complaint. She thought there were scam warning signs present in the transfer and Royal London should have investigated further and asked Mr W more questions about his transfer. She thought they would have found out about the cold call and that Mr W was likely being advised by an unregulated party. She thought warnings about this would have changed Mr W's mind about the transfer.

Royal London didn't respond to the investigator's view so the case was passed to me for a decision.

When I reviewed the complaint I disagreed with the investigator that the complaint should be upheld. I explained to Mr W's representatives that:

- At the time when Royal London received and processed the transfer the Scorpion guidance in place was still the one published by the Pensions Regulator in February 2013. The focus was on preventing pension liberation scams (mainly unauthorised early access of benefits). The guidance was only updated on 24 July 2014 to broaden the focus on wider scams. This was after Mr W's transfer had already completed.
- As part of the transfer request from Cantwell Grove, Royal London received a letter signed by Mr W that he had received guidance and information on pension liberation fraud and that there was increased concern and scrutiny around transfers. He confirmed that none of the investments he was seeking were connected with pension liberation. He was not seeking to access benefits before age 55 and he had not been offered cash or any other incentive to invest. Even though the letter seemed pre-populated I think Royal London could reasonably have assumed that Mr W would have read the one page letter before he signed it.
- Royal London also had been provided with a HRMC registration confirmation and the SSAS scheme rules which didn't allow unauthorised payments.
- There were some possible warning signs of pension liberation (recently established SSAS, dormant employer, overseas investment). However, with the information Royal London had at the time I thought they could be reasonably satisfied that pension liberation wasn't taking place here. So I don't think further due diligence was needed.
- I agreed with the investigator that a Scorpion insert ought to have been sent by Royal London to Mr W rather than rely on Cantwell Grove's statement that they shared the insert with him. However, it's clear that Mr W wasn't planning to liberate his pension and he was aware of the major warning signs of liberation (early access, cash incentives), so I don't think receiving the Scorpion insert which focused on this type of scam would have changed his view on the transfer. I appreciate that being called out of the blue was a warning sign in the insert which Mr W hadn't been made aware of. However, again, the risk warnings were all given in the context of preventing pension liberation fraud, so on balance I don't think this would have likely worried him.

Mr W's representatives disagreed with my provisional findings and provided further comments which I'll address below.

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.

Mr W's representatives in summary said:

- The pre-populated letter of 3 July 2014 was clearly not written by Mr W and Royal London would have received huge quantities of these letters which in itself should have been a red flag.
- The Scorpion guidance included a checklist with three parts which provided a series of questions to help transferring schemes assess the potential threat of a scam. Some checks could have been done by checking resources like Companies House or HMRC, some items would have required a firm to contact the consumer. Given the red flags present in Mr W's transfer, Royal London had an obligation to undertake

due diligence and stop the transfer.

- Another decision was issued recently by our service which was upheld and the circumstances appear similar. So they asked for an explanation for this perceived inconsistency.

Having considered his representatives' comments, I remain satisfied that Mr W's complaint should not be upheld. I'll explain why.

I'm aware that Royal London would have received identical letters to the one Mr W signed on a number of cases where the receiving scheme was Cantwell Grove. However, I disagree that this should have been a red flag. The letter confirmed in easy to understand language on one page that he wasn't accessing benefits before age 55 and that he had not been offered any cash incentives. I don't think the fact it was pre-populated should have raised concerns that Mr W wouldn't have understood or read the content when he signed it.

It is correct that the Scorpion Action Pack included a check list that *could be* used if warning signs were present. However, the Scorpion guidance was essentially informational and advisory in nature and deviating from it doesn't necessarily mean a firm has acted inappropriately. 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.

With the information Royal London had I think they could reasonably take the view that pension liberation was unlikely taking place here. And this was the risk they were meant to guard against at the time. So I remain satisfied that it was reasonable and proportionate to proceed without further investigations.

Every decision is issued based on the individual circumstances of the case. So whilst a case might appear similar, sometimes slight differences can change the outcome on a case. On the case Mr W's representatives quoted the receiving scheme wasn't Cantwell Grove and there was no confirmation from the consumer that he was aware of pension liberation risks.

My final decision

I don't uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 December 2024.

Nina Walter
Ombudsman