DRN-5152685

The complaint

Mr B has complained, with the help of a professional representative, about a transfer of his The Royal London Mutual Insurance Society Limited (Royal London) personal pension to a small self-administered scheme (SSAS) in March 2015. Mr B's SSAS was subsequently used to invest in an overseas property with The Resort Group (TRG.) The investments now appear to have little or no value. Mr B says he has lost out financially as a result.

Mr B 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 B 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

I issued my provisional decision of 22 October 2024 in which I said was likely to not uphold Mr B's complaint. I've included below a copy of that decision, which set out the background and circumstances leading up to the complaint as well as my provisional conclusions. And this forms part of my final decision.

Copy of my provisional decision

What happened

In January 2015, Mr B says he received an unsolicited call from a business called Capital Facts offering him a free pension review. Mr B says he gave his authority to Capital Facts to allow it to obtain his pension details from Royal London. Capital Facts was not authorised by the Financial Conduct Authority (FCA).

Capital Facts wrote to Royal London to obtain details of Mr B's pension and on 31 January 2015 it provided them with the requested information.

Mr B says he was then referred to a business called First Review Pension Services (FRPS) and he agreed to meet with an adviser which led to at least one meeting taking place at his home. Mr B has provided a letter from FRPS dated February 2015 which suggests a second meeting was arranged following an initial meeting. Mr B, who was 47 at the time, says they recommended he transfer his pension to a SSAS and invest in an overseas commercial property investment with TRG.

He says it sounded like a realistic opportunity to achieve a significant increase on his pension savings providing for his future retirement, so he agreed to go ahead. FRPS was not authorised by the FCA.

On 20 February 2015, a company was incorporated with Mr B as director. I'll refer to this company as D Limited. On 27 February 2015, a SSAS was established and then registered with HMRC on 3 March 2015. D Ltd was recorded as the SSAS's principal employer and

Cantwell Grove Limited (CGL) was recorded as the administrator. CGL was not subject to FCA regulation.

On 19 March 2015, Royal London received documents from CGL to allow Mr B's pension to be transferred to the SSAS. Accompanying the paperwork was a copy of the scheme trust deed and rules, the HMRC registration confirmation and a scheme details Q&A document, which gave answers to some general questions, including which investments were under consideration. The investments under consideration were a commercial property investment provided by TRG and an investment in a General Investment Account (GIA). 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 Astute Financial Management UK Limited (AFML).The letter said AFML was an independent financial advice firm regulated by the FCA.

I note at this point there is no evidence that AFML did in fact provide any advice to Mr B. The trustee advice was provided by another business, Broadwood Assets Ltd (BAL).
On 20 February 2015, it sent Mr B letter, which said it was providing him with advice in his capacity as trustee of the SSAS, on the potential suitability of the TRG investment "both as a specific example of an overseas commercial property investment, and more generally as an investment to be held within a SSAS." It said it had not advised on the establishment of the SSAS, was not providing advice that would be deemed regulated – BAL was not regulated or authorised by the FCA – and it wasn't advising on whether the TRG investment was "suitable for the particular needs and objectives of the members of beneficiaries of the SSAS." This letter was signed by Mr B and dated 20 March 2015.

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

On 26 March 2015, Royal London transferred Mr B's pension and an amount of just over £9,000 was credited to Mr B's SSAS. From the SSAS bank statements provided, shortly afterwards, an investment of around £6,700 was made in TRG.

As part of the same advice Mr B received to transfer his Royal London pension, he also intended to transfer the benefits of a pension he held with another provider to his SSAS. But in May 2015, in response to that request, the provider refused to transfer his pension because it believed his pension monies might be at risk if it did so. While this happened after Mr B transferred his Royal London pension, I've taken into account the risk warnings the other provider gave to Mr B, which I will discuss in more detail later on, to help me determine Mr B's likely actions had he received similar warnings from Royal London at the time. I think they are a relevant consideration here.

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

In July 2020, Mr B 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: him having been cold called, the SSAS being newly registered with no genuine employment link to the sponsoring employer, CGL not being regulated and the intended investment being unregulated and overseas. Mr B said if Royal London had properly informed him of these warning signs, he wouldn't have transferred.

Royal London didn't uphold the complaint. In summary it said there were no aspects of Mr B's transfer request to suggest pensions liberation was a factor, so there was no reason to delay the transfer. It said it received fully completed transfer forms and based on Mr B's instructions it did as he asked.

Dissatisfied with its response, Mr B then referred this complaint to us. Our investigator was unable to resolve the dispute informally, so the matter was passed to me to decide.

What I've provisionally 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.

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 Royal London 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.

In a similar vein, in April 2014 the FCA had also 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.

There was a further update to the Scorpion guidance on 16 March 2015, which is relevant for this complaint because the transfer request was received on 19 March 2015. This guidance referenced the potential dangers posed by "pension freedoms" (which was 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.

<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. (I noted the contents of some of those alerts earlier in my decision.)

- 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 a member's interest.

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.

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

Mr B says that he received an unsolicited phone call from Capital Facts who offered him a free review of his pension arrangements. He then gave Capital Facts his authority to allow it to request details of his pension from Royal London.

Royal London subsequently received a request to release information about Mr B's pension and provide a transfer pack, on his authority, from Capital Facts. As I indicated earlier on, they were not authorised by the FCA.

Mr B says he was then referred to and agreed to meet with a representative of FRPS. He says at least one meeting took place at his home – the evidence would appear to suggest there were two meetings. Mr B says FRPS recommended he transfer his pension to a SSAS and invest in an overseas commercial property investment. He says he trusted the information he was given, which was that he would receive a guaranteed return far greater than leaving his pension where it was – up to 8% a year. He says because it sounded like a realistic opportunity to achieve a significant return on his pension and provide for his future retirement, he agreed to go ahead.

I've seen nothing to indicate that Mr B was offered a cash or other incentive to transfer or that he was planning or did receive funds from the pension. I also can't see any evidence of Royal London contacting him during the transfer process. Mr B says he had no knowledge or experience of pensions or investments and I've seen nothing to contradict this. Neither have I seen anything else in Mr B's circumstances which leads me to believe that he would've likely embarked on what is a complicated arrangement on his own – i.e. setting up a new company, opening a SSAS, transferring his existing pension and investing overseas.

So, I think Mr B's recollections about the discussion he had with the business that he met with are plausible. And I think it was these discussions, and the prospect of the higher investment returns he was told he would receive, that prompted him to transfer.

I also think the evidence in this case supports Mr B's claim that the business he met with was FRPS and it was they who advised him to transfer his pension and make the investment. FRPS' company stamp appears on certified copies of Mr B's identification documents and a representative of FRPS signed to say they witnessed Mr B's signature on the transfer paperwork.

Because witnessing of a signature and certifying original copies of documents requires physical presence, and Mr B has said he only met with FRPS at this stage in the process, I think it is more likely than not Mr B is correct and it was FRPS that advised him to transfer. FRPS was not FCA authorised or regulated.

As I said above, the transfer paperwork submitted by CGL referred to the involvement of AFML – a FCA regulated firm. But as I also said, there is no evidence that it provided any advice whatsoever to Mr B. CGL's reference to AFML's involvement was described as it being the trustee adviser. It appears that this role was in fact carried out by BAL. And the evidence I referred to earlier on is clear that it was not involved in providing Mr B with any advice in relation to the transfer of his pension itself.

But even if AMFL was involved, the information available to Royal London at the time was clear that its role in the process was a limited one – specifically in relation to the appropriateness or suitability of the proposed investments for the aims of the SSAS. So, Royal London could not take any comfort or reassurance that AFML was involved in the advice and recommendation to transfer itself.

<u>What did Royal London 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.

Royal London has said it didn't provide Mr B with the insert because when CGL submitted the transfer paperwork, they said they had sent and explained the Scorpion leaflet to Mr B referring to their covering letter of 10 March 2015.

The letter in question doesn't appear to be on file. But I'm aware of the type of letter CGL typically included based on my experience of their involvement in other cases. I think it's likely that the Scorpion leaflet it referred to here was the 2013 version of the insert – 'Predators stalk your pension'. So, while Mr B would likely have been made aware of the risks of pension liberation, which is what his signed letter explaining why he wanted to go ahead with the transfer suggests, given the timing of the transfer in this case, the risks were broader than just pension liberation covering wider scams more generally.

So, Royal London should have provided Mr B with the Scorpion insert – or provided him with materially the same information it contained in another format – whether at the time Capital Facts requested information about his pension (the July 2014 insert was the relevant version at this time) or following receipt of the transfer request (the March 2015 version.)

However, as I said above, around the same time as Royal London received Mr B's transfer request, his other pension provider also received a request to transfer his pension to his SSAS. And on 19 March 2015, following receipt of that request, it sent Mr B a letter telling him that it needed to carry out required due diligence. It also enclosed the Scorpion insert. While a further update to the Scorpion guidance was made on 16 March 2015, this was only a few days prior to receipt of the transfer request. So, while it's possible that the other provider enclosed the updated March 2015 insert, given the timings, I think it's likely it was the July 2014 version.

So, I'm satisfied that, prior to Royal London transferring Mr B's pension, he was nevertheless in receipt of – and ought reasonably to have read – the Scorpion insert. And this warned Mr B about being approached out of the blue and being offered a free pension review.

Furthermore, on 12 May 2015, Mr B's other pension provider sent him a further letter telling him that it had blocked or would not be proceeding with the transfer because it believed his pension savings might be a risk if it did so. It also enclosed the updated March 2015 Scorpion insert. I think this was the updated version this time because it referred to enclosing an 'awareness campaign leaflet recently published by TPO about pension scams.' And this leaflet gave information about warning signs including cold calls, convincing marketing materials promising returns of over 8% guaranteed returns, overseas investment and putting all money in one single investment. Because these were all things relevant to the transfer(s) Mr B was making, I think it ought to have resonated with him.

Yet, despite Mr B's other pension provider sending him two Scorpion leaflets and ultimately refusing to carry out his transfer request telling him his pension was likely at risk, as I will explain in more detail below, Mr B continued to pursue this transfer seemingly ignoring what in my view were clear and substantive warnings. So, I don't think it would have made a material difference here had Royal London provided Mr B with the Scorpion inserts and given him similar warnings.

Due diligence:

I'm mindful here that Royal London received Mr B's transfer request on 19 March 2015, which was only a few days after the PSIG Code was introduced and the March 2015 guidance updated. But Royal London still needed to take into account the relevant guidance at the time. And in any event, even under the previous July 2014 Scorpion guidance, Royal London ought to have investigated the transfer further.

But in this particular case, Royal London does not appear to have carried out any due diligence, beyond some basic checks, before processing Mr B's transfer request. In its final response letter it said that, because there was nothing to suggest pensions liberation was a factor, and because Mr B had completed the necessary transfer form to indicate he wanted to transfer his benefits, it did what Mr B asked.

Mr B's letter enclosed with the transfer pack said he was not liberating. So, I agree with Royal London that it was reasonable for it to have considered the risk of that taking place was low. But importantly here, as I said above, given the timing of the transfer, the risks were broader than just pension liberation covering wider scams more generally. So, this should not have satisfied Royal London that the transfer posed no threat to Mr B's pension.

So, Royal London should have turned to the PSIG code to conduct its 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 B'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 Royal London's actions using the Scorpion guidance as a benchmark instead.

The initial triage process of the Code should have led to Royal London asking Mr B 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 three of them would have 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 promised a specific/guaranteed rate of return?

- 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 SSAS section of the Code (Section 6.4.3) points to the following as being potential areas of concern:

a) Employment link: a lack of an employment link to any member of the SSAS.

b) Geographical link: a sponsoring employer that is geographically distant from the member.

c) Marketing methods: a SSAS being marketed through a cold call or an unsolicited approach.

d) Provenance of receiving scheme: a SSAS registered within the previous six months or a recently registered sponsoring employer or administrator one operating from ‘virtual’ offices, or using PO Boxes for correspondence purposes.

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, and given the relatively limited information it had about the transfer, I think in this case Royal London should have addressed all four sections of the SSAS due diligence process and contacted Mr B to help with that.

<u>What should Royal London have found out?</u>

If Royal London had carried out the necessary steps above, it would’ve established that the SSAS was not only recently established, but also that it was connected to a company that wasn’t trading. Also, Mr B was the sole director yet he wasn’t employed by it in a meaningful way. Royal London would also have found out that Mr B was being advised to invest in a holiday resort abroad. In my view, this investment included some features that might be implicated in a pension scam (overseas, unregulated and/or unusual or creative techniques).

Furthermore and most importantly, Royal London would have learned from Mr B that he had initially been cold called prompting him to agree to a review of his pension, and he appeared to be taking advice from FRPS. I think this is the business Mr B would’ve named based on the evidence and my conclusions earlier on. And that firm was unregulated.

Being advised by an unauthorised firm to transfer benefits from a personal pension plan would have been a breach of the general prohibition imposed by FSMA, which states no one can carry out regulated activities unless they’re authorised or exempt. Anyone working in this field should have been aware that financial advisers need to be authorised to give regulated advice in the UK. The PSIG Code (and the Scorpion guidance) make much the same point.

Indeed, the PSIG Code says firms should report individuals appearing to give regulated advice that aren't authorised to do so.

My view is that Royal London should therefore have been concerned by FRPS' involvement because it pointed to a criminal breach of FSMA. On the balance of probabilities, I'm satisfied such a breach occurred here.

<u>What should Royal London have told Mr B?</u>

I think if Royal London done more thorough due diligence, there would have been a number of warnings it could have given to Mr B in relation to a possible scam threat as identified by the PSIG Code (and the Scorpion action pack).

Royal London should have been aware of the close parallels between Mr B's transfer and the warnings the FCA gave to consumers in 2014 (and subsequently passed on to firms) about transferring to SSASs in order to invest in unusual investments.

But in my view, the gravest oversight was Royal London's failure to uncover the threat posed by a non-regulated adviser. Its failure to do so, and failure to warn Mr B accordingly, meant it didn't meet its obligations under PRIN and COBS 2.1.1R.

With those obligations in mind, it would have been appropriate for Royal London to have informed Mr B that the firm he had been advised by was unregulated and could put his pension at risk.

I don't think this would have been a disproportionate response given the scale of the potential harm Mr B was facing and Royal London's responsibilities under PRIN and COBS 2.1.1R. And I don't think any such warnings would reasonably have caused Royal London to think it was running the risk of advising Mr B, that it was replicating the responsibilities of the receiving scheme or that it was putting in place unnecessary barriers to exit.

<u>Would this have made a difference?</u>

While I think it was appropriate for Royal London to have given Mr B the warnings above, I'm not currently persuaded that it would've made a difference here. I'll explain why.

As I said earlier on, I think the warnings Mr B's other pension provider gave him – and its ultimate refusal to carry out his transfer request – are relevant to my consideration of what Mr B would more likely than not have done had Royal London given him similar warnings. In doing so, I'm mindful that the other provider's refusal to action Mr B's transfer request happened after the Royal London transfer, albeit a matter of weeks. Also, I accept it could be argued that what happened after the event in question, and the fact that Royal London seemingly waived through the transfer without any checks, means the circumstances are somewhat different to those had Royal London given Mr B similar warnings first. But, I can't ignore the fact that the other transfer was happening around the same time. So I think Mr B's actions in light of the warnings his other provider gave him are relevant to my consideration of what he would more likely than not have done, had Royal London done more.

I've already said that Mr B's other pension provider sent him two Scorpion leaflets, which he ought reasonably to have read. And I think the warnings given here ought to have resonated with Mr B – he should've recognised that all these warnings applied to his situation – given the features of the transfer and the events leading up to it. These including him being cold called, being promised returns of over 8% and investing in a single overseas investment.

In addition, despite Mr B's other pension provider refusing to carry out the transfer telling him that it thought his pension monies were at risk if he moved to the SSAS, and recommending he seek independent financial and/or legal advice, Mr B appears to have ignored these warnings and continued to pursue the transfer with the assistance or support of CGL. And from what I can see, he appears to have done so at least up until 2017.

I've also considered what Mr B told us during a telephone conversation he had with our Investigator. Here he told us that, following the other pension provider's refusal to carry out the transfer, he contacted FRPS because he was concerned the proposed investment couldn't now go ahead but he was still paying the full amount for the fees. Mr B also contacted CGL to have a similar discussion with them. Mr B said he was reassured by what CGL told him. But Mr B doesn't appear to have spoken with his other pension provider at this time – the business I think he ought to have trusted and the one that had told him it believed his pension monies were at risk – instead choosing to speak to both FRPS and CGL. It strikes me that this is evidence Mr B trusted or was 'under the spell' of the adviser. Mr B said he trusted the information he was given by them, which is why he went ahead with things. I understand Mr B ultimately told the other provider not to go ahead because of his concerns, but I think this was sometime later on. He still appears to have ignored or paid little attention to the earlier warnings – warnings which I think should reasonably have resonated with him sooner and prompted him to seek independent advice as his other provider recommended he do or alternatively seek guidance as outlined in the Scorpion insert .

Also, during the same conversation Mr B told us that shortly after the transfers he told his mortgage adviser what he had done. And they said, had he told them beforehand, they could have put him in touch with a pension adviser. But in any event Mr B did speak with an adviser. He told us they said while they couldn't give advice without charging him (he didn't want to pay) they knew of people who'd been scammed out of a lot of money doing it abroad. He said they told him while they weren't saying what he had done was a scam, there were scams out there, so made him aware. Mr B went on to say that alarm bells started ringing when his other provider refused the transfer and he questioned whether they were doing the right thing by him.

So, by this point Mr B had received various warnings from his other pension provider that his monies were at risk, it had refused the transfer, it recommended he seek advice and he'd also spoken with a regulated pension adviser who told him that he knew people who'd been scammed from investing abroad. And investing abroad was a feature of Mr B's transfer. All of this should've resonated with Mr B. Yet despite this, and despite seemingly having concerns, Mr B continued to engage with and pursue the transfer with the other provider for quite some time afterwards.

So, taking all of this into account, it strikes me that even if Royal London had done more and provided Mr B with warnings that his pension might be a risk if he transferred, Mr B wouldn't more likely than not have acted differently by heeding the warnings and either sought paid-for advice or free guidance elsewhere, and ultimately decided not to go ahead with the transfer. Indeed when Mr B had the opportunity to pay for advice when he spoke with the pensions adviser he'd been recommended to, he chose not to. And even after that conversation where he'd been told they knew of people who'd been scammed doing what he had done, Mr B still wasn't persuaded to walk away.

So, I don't intend to uphold this complaint.

Responses to my provisional decision

Both parties responded and both said they had nothing further to add.

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, because neither party has given me anything new to consider, I’ve no reason to change my mind. So, I’ve decided to reach the same conclusion and for the same reasons as set out in my provisional decision.

My final decision

For the reasons above and in my provisional decision I’ve decided to not uphold this complaint, so I make no award in Mr B’s favour.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr B to accept or reject my decision before 16 December 2024.

Paul Featherstone
Ombudsman