

## The complaint

Mr B has complained to ReAssure Limited (ReAssure) about the transfer of his Group Personal Pension (GPP) to a small self-administered scheme (SSAS) in June 2015. Mr B's SSAS was subsequently used to invest in an investment offered by The Resort Group (TRG). The investment now appears to have little value. Mr B says he's lost out financially as a result.

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

Mr B's GPP was originally held with HSBC Life (UK) Limited (HSBC). In 2015 ReAssure acquired HSBC's pension and annuity business. For ease, I've just referred below, in the main, to ReAssure, references to which should be taken as including HSBC where the context so requires.

## What happened

I issued a provisional decision on 5 November 2024. I've repeated here what I said about what had happened and my provisional findings.

*'Mr B was a member of a GPP which was linked to a limited company, set up in 2009, of which Mr B was a director.'*

*In March 2015 Mr B signed a letter of authority (LOA) for information about his GPP to be provided to Capital Facts Limited (CFL), an unregulated firm. ReAssure sent information to CFL on 16 March 2015. The fund value at the time was £41,324.82. Regular (four weekly) employer contributions of £56.25 were being made.*

*On the same date ReAssure wrote to Mr B. ReAssure confirmed receipt of a letter from what it termed Mr B's independent financial adviser (IFA) requesting information about his pension. The letter said, if Mr B was considering transferring his pension away, there were several factors he needed to be aware of: any fees or commission charged by an IFA; the annual management charge (AMC) levied by an alternative provider; and the available fund and investment choice. ReAssure said it offered a wide variety of fund and investment choice and a competitive AMC. There was reference, in bold, to FCA (Financial Conduct Authority) guidance and the 'seven key questions to consider' before transferring. Links to the moneymadeclear website were given.*

*On 9 April 2015 a company which I'll call B Limited was incorporated with Mr B as the sole director. The nature of the business was shown as a dormant company. On 17 April 2015 a SSAS was established by trust deed. On the same date Mr B, as trustee of the SSAS, signed an administration services agreement appointing Bespoke Pension Services Limited (BPS) as the administrator of the SSAS.*

*BPS wrote to ReAssure on 11 May 2015 saying Mr B wanted to transfer to the SSAS and confirming that the SSAS was able to accept the transfer. BPS enclosed the following:*

- A letter from HMRC showing the SSAS had been registered on 1 May 2015 and giving the Pension Scheme Tax Reference (PSTR) number.*
- A copy of the July 2014 booklet produced by The Pensions Advisory Service (TPAS) warning about the risks of pension liberation and scams and known as the Scorpion booklet (I mention the Scorpion campaign further below). The first page was signed by Mr B on 1 May 2015 next to a printed statement which read, 'I can confirm I have read this document. I am not party to any such pensions liberation activity in anyway whatsoever.'*
- A letter signed by Mr B dated 1 May 2015 (to which I've referred further below).*
- The SSAS trust deed and rules dated 17 April 2015 which had been drafted by a large London law firm.*
- A letter from that firm confirming they'd drafted the trust deed and rules which conformed to the Finance Act 2004 as a registered pension scheme and hadn't been drafted in a way which knowingly allowed the scheme to be operated other than as a registered pension scheme.*

*The letter from Mr B dated 1 May 2015 included the following:*

*'The purpose of this letter is to provide you with additional confirmation of the basis upon which I have made this request and to seek to provide a record of the fact that I am aware of the issues relating to pensions liberation. Indeed I have carefully considered my decision to request a transfer to the scheme and have not made it lightly.*

*I confirm that the scheme is a registered pension for HMRC purposes [reference number given] and that the trust deed and rules governing it only allow standard benefit options such as annuities and drawdown in accordance with the applicable legal requirements.*

*From guidance and information I have received in connection with this decision I appreciate that there has recently been a significant rise in cases of 'pensions liberation' fraud. As a result there is increased concern and scrutiny around transfer requests being made, to ensure members fully understand the implications of making a transfer.*

*I therefore wish to confirm that the transfer request is being made in order that I can take advantage of investment opportunities available under the scheme, none of which are in any way connected with pension liberation. I have received detailed information about the Scheme, how it operates, who administers it and the risks associated with making a transfer out of my existing pension arrangement.*

*In making this transfer I am not seeking to access my pension benefits before age 55 and I am aware of the potentially significant tax liabilities that would arise were I to attempt to do so. Indeed the trust deed and rules of the Scheme do not permit benefits to be taken prior to age 55, except in circumstances of ill health which meet HMRC requirements. I also confirm that I have not been offered any cash or other incentive by any person as part of my decision to transfer my pension to the Scheme.*

*On this basis I would be grateful if you could please proceed to transfer my pension to the Scheme as requested as soon as possible.'*

*Confirmation that Mr B was employed by B Limited was also provided – an agreement dated 9 April 2015 showing he'd been appointed as the managing director of B Limited, the sponsoring employer of the SSAS. BPS's letter also included transfer forms and bank details for the transfer payment. BPS confirmed they were a co signatory to the account and the*

*trustees were unable to move any funds without BPS's authority which protected the fund against any risk of pension liberation.*

*I've also seen a letter dated 11 May 2015 to ReAssure from Mr B. It read:*

*'I am writing to you today regarding my pension transfer from [ReAssure] to [the SSAS]. I would like to confirm that I am happy for this transfer to proceed and would appreciate if this could go ahead with no further delays.'*

*Mr B also asked that the letter be accepted as a LOA for ReAssure to discuss the transfer with the SSAS administrators, BPS.*

*On 13 May 2015 Mr B signed ReAssure's transfer discharge form. At section 2, 'Reason for transfer', Mr B said it was to take advantage of different investments.*

*A transfer value of £42,034.58 was paid on 24 June 2015. Subsequently £29,950 was invested in TRG – fractional ownership of hotel accommodation at the Llana Beach Resort in Cape Verde.*

*Initially Mr B's investment produced some returns. But there were then delays before the payments eventually dried up and Mr B became concerned about his investment. I understand that development of the Llana Beach Resort was beset with problems and there are problems with the legal title to the property. Mr B's investment is illiquid as there's no market for it.*

*In March 2020 Mr B, through his representative, 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, including (but not limited to) the following: the SSAS was newly registered as was the sponsoring employer; there wasn't a genuine employment link to the sponsoring employer; the catalyst for the transfer was an unsolicited call from an unregulated firm; he'd been advised by unregulated introducers; and the proposed investment was in unregulated, overseas, high risk and non diversified assets.*

*ReAssure didn't uphold the complaint. It said the 'pension scams letter' (that is, the Scorpion booklet) signed by Mr B with a declaration that he'd read it was received with the transfer request. And there was a letter from Mr B which confirmed he'd carefully considered his decision to request a transfer to the SSAS which was a registered pension scheme and allowed standard benefit options and not pension liberation; he was aware of the rise in pension liberation fraud cases; he was transferring to take advantage of the investment opportunities available with the SSAS; and he'd received information about the receiving scheme, how it operated and who administered it, as well as about the risks associated with transferring away.*

*Although ReAssure was sympathetic to Mr B's situation, ReAssure said the transfer was to an occupational pension and administrators of such schemes don't need to be regulated. There were no safeguarded rights, nor any guarantees so regulated financial advice wasn't a legal requirement. ReAssure said it wasn't responsible for any advice received from an unauthorised introducer or ensuring the suitability of any investment in the receiving scheme, nor was ReAssure allowed to give advice.*

*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.*

*Having done so, I agree with the outcome suggested by the investigator and the redress he suggested. But as I've set out my findings in more detail I'm issuing a provisional decision to that both parties have a further opportunity to comment.*

#### *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 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 SIPP and SSAS 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 in March 2015, which is relevant for this complaint. 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.*

#### *The March 2015 Scorpion guidance*

*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.*

#### *The PSIG Code of Good Practice*

*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 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.*

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

*We've been told that in 2015 Mr B was contacted by way of a cold call from CFL, offering to advise him about transferring his pension arrangement to another provider. A representative visited Mr B and said that his ReAssure pension wasn't good and wouldn't make any money for his retirement. They recommended a pension transfer and said they'd arrange a much better investment in property which would generate higher returns and increase in value up to Mr B's retirement.*

*At the time, Mr B was a self-employed builder, earning around £30,000 pa. He had a small amount of savings but no investment experience or knowledge of the different types of pensions available. He had no real understanding about investment risk. Properly ascertained, his attitude to risk was low. He wouldn't have accepted a recommendation which represented a high risk venture. He had no appetite for making speculative pension investments.*

*I think what's been said about what happened and what led up to the transfer is plausible and consistent with the documentary evidence we've seen. It shows CFL contacted ReAssure in March 2015 asking for information about Mr B's GPP which ReAssure provided. Soon afterwards, in May 2015, BPS contacted ReAssure, saying Mr B wished to transfer to the SSAS and providing a pack of signed documentation.*

*As to what happened in between, Mr B says he was visited at home by someone from CFL who told him about setting up a SSAS and investing in TRG and that he'd be better off in retirement as a result. As Mr B's only means of investing in TRG would be by using his accumulated pension fund with ReAssure. I think Mr B must've been advised – I don't think his circumstances were such that he'd likely have decided on his own, and without advice, to transfer away from ReAssure to a SSAS so he could invest in TRG – a complex, non mainstream, overseas property investment.*

*I note Mr B did have his own company aside from B Limited, the latter having been, it seems, set up purely to facilitate the SSAS. He was already making employer contributions from his other company into the GPP and I assume Mr B worked through that company. It's unclear why that company wasn't used to sponsor the SSAS if that was considered to be a more appropriate pension vehicle for Mr B.*

*Mr B also said that ReAssure didn't raise any warning signs with him and didn't send him a copy of the Scorpion insert before actioning the transfer. But ReAssure did write to Mr B on 16 March 2015. And it's clear Mr B was shown the July 2014 version of the longer Scorpion booklet – he signed a copy on the front page to confirm he'd read it and it was submitted with the transfer request. I've considered below the impact of the letter and the booklet. In doing so I've taken in to account all that's been said about the amount of documents Mr B was given to sign and how they were presented to him.*

*What did ReAssure do and was it enough?*

*The Scorpion insert:*

*For the reasons given above, my view is that personal pension providers should, as a matter*

*of course, have sent transferring members the Scorpion insert or given them substantially the same information.*

*ReAssure didn't do that. ReAssure wrote direct to Mr B on 16 March 2015 in connection with his request for information to be supplied to CFL. That would've been an opportunity for ReAssure to have sent the Scorpion insert to Mr B. If ReAssure had done that it would've been the July 2014 version. And ReAssure's letter of 16 March 2015 didn't contain substantially the same information. But, as I've said, it's clear Mr B did see the July 2014 version of the longer booklet.*

*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 ReAssure's actions using the Scorpion guidance as a benchmark instead.*

*From what I've seen, ReAssure's due diligence consisted of just checking the documents submitted in connection with the transfer request. That said, I note Mr B did write to ReAssure on 11 May 2015, confirming he wanted to go ahead with the transfer, I don't know what prompted that letter – if, for example, it was following contact from ReAssure. But, as ReAssure hasn't said that was the case, I'm going to proceed on the basis that Mr B simply wanted (perhaps encouraged by CFL and/or BPS) to ensure the transfer went ahead as soon as possible.*

*I've referred above to the initial triage process which should've led to ReAssure 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 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 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 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 ReAssure should've addressed all four sections of the SSAS due diligence process and contacted Mr B to help with that.*

#### *What should ReAssure have found out?*

*ReAssure would've found out that Mr B wasn't employed in any meaningful way by the SSAS's sponsoring employer, B Limited and which had only been incorporated on 9 April 2015. As I've mentioned, there is an agreement appointing Mr B as B Limited's Managing Director but B Limited was shown on Companies House as a dormant company. And, as I've noted, it seems Mr B worked through his other limited company which had been in place since 2009. And the SSAS had only very recently been set up (9 April 2015) and registered with HMRC (17 April 2015). The transfer request was made on 11 May 2015, less than a month later. So that should've been identified as something of potential concern.*

*Mr B would also have told ReAssure about how the idea to set up a SSAS to invest in TRG had come about – that he'd been cold called by CFL who'd then contacted ReAssure for information and, once that was to hand, had visited Mr B at home, ostensibly to review his pension arrangements. Although, in reality, I think the aim of contacting ReAssure was to find out how much Mr B might have to invest and then persuade him that his existing pension wasn't performing well and encourage him to invest in TRG via a SSAS.*

*The investment – fractional ownership in an overseas property development – may also have rung alarm bells with ReAssure. But I think ReAssure would've been particularly concerned about the involvement of CFL and the possibility that Mr B was acting on advice from an unregulated firm who wasn't registered with the FCA or authorised to provide pensions advice.*

*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 ReAssure should therefore have been concerned by CFL's involvement because it pointed to a criminal breach of FSMA. On the balance of probabilities, I'm satisfied such a breach occurred here.*

#### *What should ReAssure have told Mr B – and would it have made a difference?*

*Had it done more thorough due diligence, there would've been a number of warnings ReAssure could've given to Mr B in relation to a possible scam threat as identified by the PSIG Code (and the Scorpion action pack). ReAssure should've also 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 what I need to consider is whether, if ReAssure had alerted Mr B to the risk of a scam, that would've made any difference to what he did.*

*Mr B did see some warnings. First, ReAssure wrote to him on 16 March 2015, having received the request for information from CFL and the LOA. ReAssure wrongly referred to CFL as Mr B's IFA when, in fact, CFL wasn't a regulated firm. I think the letter was aimed at retaining Mr B's business – the letter said ReAssure offered a wide fund and investment*

choice with a competitive AMC. But and although, as I've said, ReAssure missed an opportunity to provide Mr B with the Scorpion insert, the letter did direct him to a (now defunct) website – moneymadeclear. I've looked into what Mr B would've seen if he'd accessed that website, which was hosted by the regulator.

The 'Work, Pensions and Retirement' section doesn't seem to mention anything about scams. But the 'Blog' section does take the reader to information headed 'Are you aware of pension scams? Why it pays to be careful' and which appears to have been added on 16 March 2015 when the Scorpion campaign was refreshed. The tips and advice given are to be aware of cold callers offering free pension reviews. Some of the other warning signs mentioned are very high returns from overseas or new or creative investments. Checking credentials is advised, including that the adviser is offering regulated financial advice, which could be checked by accessing the FCA website, the address for which was given.

And, as I've said, it's clear Mr B was shown the July 2014 version of the longer Scorpion booklet and he signed the front of it to confirm he'd read it. The booklet listed the warning signs of scams, which included being cold called for a free pension review and offered one-off investment opportunities which are often overseas. And the case study of 'Henry' has some similarities to Mr B's situation. The booklet concludes by warning consumers to make sure the adviser is authorised by the FCA and gives the website address and TPAS helpline number.

As I understand it, Mr B's position is that he didn't read the booklet. I note all he's said about having been given multiple documents to sign including (but not limited to) the transfer application, setting up the SSAS, B Limited and the SSAS bank account and BPS's terms of business, plus there was further documentation for the investment. Mr B's representative says consumers were taken through the paperwork swiftly at a meeting at their home and asked to sign with little opportunity for review. And the booklet (and the letter Mr B signed) may have been presented to Mr B by the unregulated introducer on the basis that it was to do with pension liberation – that is early access to pension funds – which Mr B wasn't doing. But Mr B did sign to say he'd read the booklet so I don't think it's unreasonable to assume he did read it.

The booklet was relatively short. It wasn't technical and was written in a way that was designed to be easily understood. It was an important topic – pension scams and the possibility that – as the title of the July 2014 booklet said – a lifetime's savings could be lost in a moment. I think Mr B could've worked out from what the booklet said and the examples given that his situation might be similar. So he'd have seen that some of the 'hallmarks' of a pension scam were present in his case: he'd been contacted out of the blue to discuss his pension, offered a free review, following which an overseas investment was recommended.

The booklet set out (in the 'What to do if you think you're being targeted' section) that advisers should be authorised by the FCA, which could be checked by accessing the FCA's online register, details of which was given. That echoed the moneymadeclear website. And, if Mr B had searched the FCA's register, he'd have seen that CFL didn't appear, so he'd have known they weren't authorised and regulated by the FCA.

I note what's been said about why it would've been better for the warnings to have come from the ceding scheme. And that it would be odd for a firm to give a customer a leaflet which might lead them to conclude they ought to have concerns about the very actions that firm was advising them to take. But the fact is that Mr B was shown the booklet and signed to say he'd read it so he'd have seen some scam warning signs which featured in his case and that, to protect himself, he should check out any adviser's regulatory status.

Against that background, I've thought very carefully about whether, if ReAssure had done all

*it should've done, that would've changed Mr B's mind about the transfer. On balance, I think it's difficult to conclude he'd have heeded any further warnings from ReAssure and which would've been along similar lines as to what he saw anyway. I realise, had ReAssure contacted Mr B as part of its due diligence process, any warnings given would've been direct and specific to him and so might've had more impact. But the fact is that he failed to act on the warnings he was given. He didn't do what ReAssure suggested – set out in bold and underlined, under the heading, 'FCA Guidance' – in its letter of 16 March 2015 by accessing the website to which a link was given. Nor did he act on the Scorpion booklet.*

*On balance, I'm unable to say that Mr B wouldn't have transferred his pension or suffered the losses he did if ReAssure had acted as it should've done. So it follows that I can't say ReAssure is responsible for Mr B's losses.*

*As to what's been said about inconsistencies with other cases, we decide complaints on their individual merits. Sometimes cases which may appear similar will be decided or redressed differently. So I'm not going to undertake a detailed analysis and comparison of the case cited and Mr B's. But I'd point out that the factual background of the other complaint was different. For example, the consumer had seen the February 2013 Scorpion leaflet (not the updated July 2014 version) the focus of which was on pension liberation scams – that is unauthorised (typically early) access to pension funds.'*

ReAssure didn't have anything further to add in response to my provisional decision. Mr B, through his representative, did make further comments. I've summarised the main points.

- ReAssure didn't send any version of the Scorpion insert to Mr B, whether in the letter of 16 March 2015 or otherwise. When ReAssure received BPS's transfer – on 11 May 2015 – ReAssure should've carried out proper due diligence and identified scam warning signs. ReAssure should've sent Mr B the March 2015 version of the Scorpion insert which had been published two months earlier.
- ReAssure should've contacted Mr B (most likely by letter) and told him that numerous warning signs had been identified and given him at least some information about the implications – for example, the lack of regulatory protections if relying on non FCA regulated firms. Causation should be reassessed, taking into account the fundamentally different – and more focused and directly relevant – level of communication Mr B would've received.
- Too much reliance had been placed on ReAssure's letter of 16 March 2015. The clear purpose was to try to persuade Mr B to stay with ReAssure. Although it included links to two websites, there was nothing on the face of the letter which would've indicated to Mr B that it was important for him to review those websites in detail. And any information about scam risks wasn't highlighted but contained only in a 'blog' section. There's no evidence that Mr B accessed those websites or read the blog and it isn't reasonable to expect him to have done so
- The investigator had treated the signed Scorpion booklet differently, as negligence on Mr B's part resulting in a deduction to the compensation due to him, rather than as evidence he'd have ignored any further warnings from ReAssure.
- Mr B's personal circumstances and wider financial background hadn't been taken into account. He'd held his pension with ReAssure for many years and had been contributing to it since he was 19. It was his only pension and he wouldn't have risked it. He wasn't sophisticated in terms of investments or financial regulatory issues. His financial position was modest and well managed – there's nothing to indicate he was prepared to take high risks or was otherwise reckless with money. He had unwittingly fallen victim to a pension scam which, as this service knows, was perpetrated on large numbers of consumers, so must've been convincing and compelling. His FCA regulated pension provider had failed to meet the regulatory

guidance designed to make him aware of scam signs to help him make an informed decision.

### **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 B accepted my finding that ReAssure's due diligence was lacking. He also agreed with what I'd said about what ReAssure would've found out if it had contacted him for more information. Mr B's comments centre on causation and my finding that he wouldn't have heeded further warnings from ReAssure. I've considered carefully all Mr B has said but I haven't been persuaded to change my views about that.

I accept ReAssure didn't send Mr B the Scorpion insert at any time. Had ReAssure sent it when it received the transfer request from BPS in early May 2015, it would've been the updated March 2015 version. But, in my view, the time for ReAssure to have sent the Scorpion insert was when it wrote to Mr B on 16 March 2015. That would've meant the July 2014 insert would've been sent. But Mr B saw the longer version (the booklet) anyway – a copy which he'd signed was included with BPS's transfer request.

I don't disagree that ReAssure should've contacted Mr B as part of its due diligence. And, as I noted in my provisional decision, any warnings would've been direct and specific to him and so might've had more impact. In particular, a warning that those who'd been advising him weren't regulated and may have been acting unlawfully would've been a strong message. But I still need to take into account that some warnings were given, even if not in identical terms.

I accept that ReAssure's letter of 16 March 2015 was aimed at retaining Mr B as a customer. The FCA guidance was referred to in bold type, so I think that would've indicated to Mr B that it was of some importance although, had Mr B accessed the website, the section about pension scams wasn't obvious. But, even if the letter is discounted, Mr B still saw the Scorpion booklet.

I recognise he'd have been given multiple documents to sign and that the booklet was given to him by the unregulated introducer who may have presented it in such a way as to suggest it wasn't necessary for Mr B to read it. But Mr B did sign the booklet to say he'd read it. So I maintain it's not unreasonable to assume he did read it at the time.

I bear in mind what's been said about Mr B's lack of investment and financial experience generally and that he'd have wanted to protect his accumulated (and only) pension savings. But the booklet was aimed at consumers and designed to be read and understood by those without any financial expertise. The headline – *'A lifetime's savings lost in a moment'*, and the imagery used were deliberately striking. And the warnings given early on in the booklet, under the heading, *'Types of scam to watch out for'*, were directly pertinent to Mr B's situation – he'd been cold called, offered a free pension review and the proposed investment was overseas. The *'What to do if you think you're being targeted'* section said to make sure the adviser was authorised by the FCA with the link to the FCA's online register given.

Mr B didn't think those warnings were relevant. They weren't enough to make him change his mind or check out CFL's regulatory status. Checking the online register isn't a difficult step to take – it's a quick and easy tool to use. When a search against CFL didn't return any results, Mr B would've known he'd been dealing with an unregulated firm. All in all my view is

that, although ReAssure's due diligence fell short, Mr B was given enough information (and even if it didn't come directly from ReAssure) to know, if he'd done what the Scorpion booklet advised, that the advice he'd received was unregulated. He didn't heed the warnings he did see so I'm not convinced he'd have acted differently if ReAssure had given him further warnings.

### **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 B to accept or reject my decision before 23 December 2024.

Lesley Stead  
**Ombudsman**