

The complaint

Mr B has complained, with the help of a professional third party, about the transfer of his personal pension to a small self-administered scheme ("SSAS") in March 2015. Mr B says he can no longer access his pension and all benefits have been lost.

His personal pension was held with a business Phoenix Life Limited has since become responsible for. So, to keep things simple, I'll largely just refer to Phoenix throughout my decision.

Mr B says Phoenix failed in its responsibilities when dealing with the transfer request. He says that it should have 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 Phoenix had acted as it should have done and warned him about the potential risks.

What happened

On 19 April 2013, Phoenix wrote to a company called Plan65 Ltd, providing information about Mr B's pension plan, a transfer valuation and a copy of the relevant forms that were required to apply to transfer the policy to a new provider. Plan65 Ltd was authorised and regulated by the Financial Conduct Authority ('FCA').

On 29 August 2014, a company was incorporated with Mr B as director. I'll refer to this company as F Ltd. A SSAS was established shortly afterwards. F Ltd was recorded as the SSAS's principal employer and Cantwell Grove Limited ('CGL') was recorded as the administrator. CGL was not subject to regulation by the FCA. HMRC subsequently sent a letter to CGL confirming that the SSAS had been registered with it on 16 September 2014.

On 24 September 2014, CGL wrote to Phoenix enclosing transfer paperwork. The covering letter said CGL was aware of concerns around pension liberation, it supported the efforts of the pension industry and that its business model, as a pensions administrator, had been vetted by HMRC. It also said CGL supported the Scorpion campaign of The Pension Regulator ('TPR') – which I expand upon below – had spoken to Mr B and confirmed no cash incentive or other inducements had been offered and he was not accessing pension benefits before age 55. And it said that the Scorpion information leaflet had been shared with Mr B.

CGL said it enclosed completed application forms for the transfer, a confirmation letter from Mr B, copies 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 confirmation letter which CGL referenced was signed by Mr B. This letter said he was aware there had been a rise in cases of pension liberation fraud and 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 stated he was not seeking to access his pension before age 55 and had not been offered a

cash or other incentive to transfer.

The Q&A document said that the investments under consideration were a commercial property investment provided by The Resort Group ('TRG') and a discretionary fund management service. The document said that appropriate advice, under section 36 of the Pensions Act 1995, was being taken by the trustees of the SSAS from Central Markets Investment Management Limited ('CMIM'). CMIM was also recorded as the provider of the discretionary fund management service mentioned. CMIM was regulated and authorised by the FCA.

On 1 October 2014, Phoenix wrote to Mr B thanking him for his recent transfer request. It said *"There is currently an increase in the number of companies offering arrangements to facilitate the transfer of pension funds. In some instances, this involves a practice known as pension liberation."* It said more information was provided in the enclosed leaflet, issued by TPR. It also stated, *"Any financial advisers should be registered with the FCA."* Phoenix said to ensure Mr B's transfer request was dealt with safely he should contact the Action Fraud helpline before confirming his instruction. And in the meanwhile, it had suspended the request and would only proceed if Mr B gave instruction to do so, explaining that this process was with a view to safeguarding Mr B's best interests.

Phoenix wrote to Mr B again on 28 October 2014. It noted that it hadn't had a response to its previous letter, which it repeated included a recommendation to contact the Action Fraud helpline. Phoenix said that if it didn't hear anything else from Mr B, it would assume he didn't want to go ahead with the transfer. Phoenix then confirmed in another letter to Mr B on 19 November 2024 that, as it still hadn't received a response, it assumed he didn't wish to proceed.

Phoenix says Mr B contacted it by phone on 4 December 2014, confirming he'd received its previous letter and still wanted to proceed. As his previous application had been abandoned, Phoenix sent another transfer quotation and a further copy of the required forms to transfer Mr B's pension to him directly on the same day.

On 16 December 2014, CGL returned the transfer form to Phoenix. This had been signed by Mr B on 10 December 2014.

Following receipt of the further application to transfer, Phoenix wrote to Mr B directly again on 24 December 2014. The letter, similar to its letter of 1 October 2014, repeated that there was an increase in businesses offering to facilitate transfers. It referred to this practice as being *"known as pension scams (formerly known as pension liberation)"*. It said it enclosed a leaflet from TPR about this. And it also enclosed a further leaflet from the FCA entitled 'Protect your pension pot'. It said to refer to these leaflets and if he was considering transferring to get advice from an authorised financial adviser first. The letter again said to contact the Action Fraud helpline before proceeding and that the request would be suspended until Mr B confirmed that he wanted to transfer.

Phoenix says Mr B contacted it by phone on 8 January 2015 saying he wanted to go ahead with the transfer. In response, Phoenix sent Mr B another letter on 9 January 2015. This said it had informed him of the risks associated with transferring by writing to him on 24 December 2014, providing him a copy of TPR's Scorpion leaflet, providing the FCA's 'Protect your pension pot' leaflet and recommending he contact Action Fraud. It drew Mr B's attention to the FCA's advice to make sure the adviser is authorised by checking its website – and included a link to the FCA register. Phoenix said it continued to remain concerned about the current threat to pension transfers. And it wanted to re-iterate what it had said. It noted though that Mr B had said he still wanted to proceed. So, it asked him to sign the attached declaration, noting its actions had been to make Mr B aware of the risks and

consequences of transferring and the views of independent bodies whose roles encompassed protection of consumers.

Mr B signed the declaration in Phoenix's letter on 16 January 2015. This said Mr B acknowledged, confirmed and accepted the risks and potential consequences of transferring and agreed to the contents of Phoenix's letter of 9 January 2015 – setting out what it had done. And it confirmed he wanted to proceed, these risks notwithstanding.

The declaration was returned to Phoenix. It completed the transfer of Mr B's pension benefits on 9 March 2015 and wrote to CGL and Mr B to confirm this. The amount transferred was £5,356.22. Mr B was 56 at the time.

In July 2020, Mr B complained to Phoenix that it hadn't done enough due diligence and it was because of that the transfer had gone ahead and his money had been placed into high-risk investments and was now lost.

Phoenix didn't uphold the complaint. It said it had provided copies of TPR's Scorpion leaflets and the FCA's warning leaflet to Mr B, as well as asking him to contact Action Fraud and to get authorised financial advice. So, it believed it had provided him with all of the relevant warnings, but he had still chosen to go ahead.

The complaint was referred to the Financial Ombudsman Service. I issued a provisional decision in October 2024 explaining that I didn't intend to uphold Mr B's complaint. Below are extracts from my provisional findings, explaining why, which form part of my final decision.

The relevant rules and guidance

Before I explain my reasoning, it will be useful to set out the environment Phoenix was operating in at the time with regards to pension transfer requests, as well as any rules and guidance that were in place. Specifically, it's worth noting the following:

- The Pensions Schemes Act 1993 gives a member of a personal pension scheme the right to transfer the cash equivalent value of their accrued benefits to another personal or occupational pension scheme if certain conditions are satisfied (and a member may also have a right to transfer under the terms of the contract). This came to be exploited, with people encouraged to transfer to fraudulent schemes in the expectation of receiving payments from their pension that they weren't entitled to – for instance, because they were below minimum retirement age.*
- On 10 June 2011, the Financial Services Authority ('FSA') issued a warning about the dangers of "pension unlocking" and specifically referred to consumers transferring to access cash from their pension before age 55. (As background to this, the normal minimum pension age had increased to 55 in April 2010.) The FSA said that receiving occupational pension schemes were facilitating this. It encouraged consumers to take independent advice. The announcement acknowledges that some advisers promoting these schemes were FSA authorised.*
- At around the same time, TPR published information on its website about pension liberation, designed to raise public awareness and remind scheme operators to be vigilant of transfer requests. The warnings highlighted that websites and cold callers were encouraging people to transfer in order to receive cash or access a loan.*
- TPR launched its Scorpion campaign on 14 February 2013. The aim of the campaign was to raise awareness of pension liberation activity and to provide guidance to scheme*

administrators on dealing with transfer requests in order to help prevent liberation activity happening. The FSA, and the FCA which had succeeded the FSA, endorsed the guidance. The guidance was subsequently updated, including in July 2014. I cover the Scorpion campaign in more detail below.

- In late April 2014 the FCA 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’s 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.
- Phoenix was subject to the FCA Handbook and under that to the Principles for Businesses (‘PRIN’) and to the Conduct of Business Sourcebook (‘COBS’). There have never been any specific FSA/FCA rules governing pension transfer requests, but the following have particular relevance:
 - Principle 2 – A firm must conduct its business with due skill, care and diligence;
 - Principle 6 – A firm must pay due regard to the interests of its customers and treat them fairly;
 - Principle 7 – A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading; and
 - COBS 2.1.1R (the client’s best interests rule), which states that a firm must act honestly, fairly and professionally in accordance with the best interests of its client.

The Scorpion guidance

The Scorpion campaign was launched on 14 February 2013 by TPR. It 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. This was initially focused just on pension liberation – namely, the access to pension funds in an unauthorised manner (such as before normal minimum pension age). However, the guidance was updated on 24 July 2014 and widened the focus from pension liberation specifically, to pension scams – which it said were on the increase.

The materials in the Scorpion campaign comprised:

- An insert to be included in transfer packs (the ‘Scorpion insert’). The insert warns readers about the dangers of pension scams and identifies a number of warning signs to look out for.
- A longer booklet issued by TPAS which gives more information, including example scenarios, about pension scams. Guidance provided by TPR said this longer leaflet was intended to be used in ongoing communications with members so that could become aware of the scam risks they were facing.
- An ‘action pack’ for scheme administrators that highlighted the warning signs present in a number of transfer examples. It suggested transferring schemes should “watch out for”

various warning signs of a scam. If any of the warning signs applied, the action pack provided a check list that schemes could use to help find out more about the receiving scheme and how the member came to make the transfer request. Where a transferring scheme still had concerns, they were encouraged (amongst other things) to contact the member to establish whether they understood the type of scheme they were transferring to and – where a member insisted on transferring – directing the member to Action Fraud or TPAS.

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

The FSA's endorsement of the Scorpion guidance was relatively informal: it didn't take the form of Handbook Guidance, because it was not issued under s.139A of the Financial Services and Markets Act ('FSMA'), which enabled the FSA to issue guidance provided it underwent a consultation process first. Nor did it constitute "confirmed industry guidance", as can be seen by consulting the list of all such FSA/FCA guidance on its website.

I take from the above that the contents of the Scorpion guidance was essentially informational and advisory in nature and that deviating from it doesn't necessarily mean a firm has broken the Principles or COBS rules. Firms were able to take a proportionate approach to transfer requests, balancing consumer protection with the need to also execute a transfer promptly and in line with a member's statutory rights.

That said, the launch of the Scorpion guidance 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 transfer 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.

What did personal pension providers need to do?

For the reasons given above, I don't think personal pension providers necessarily had to follow all aspects of the Scorpion guidance in every transfer request. However, I do think they should have paid heed to the information it contained. In deciding how to apply the guidance, they needed to consider the guidance as a whole, including the various warning signs to which it drew attention, the case studies that highlighted different types of scam, and the checklist and various suggested actions ceding schemes might take. And where the recommendations in the guidance applied, absent a good reason to the contrary, it would normally have been reasonable, and in my view good industry practice, for pension providers at least to follow the substance of those recommendations:

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

2. *The Scorpion insert provided an important safeguard for transferring members, allowing them to consider for themselves the scam threat they were facing. Sending it to customers asking to transfer their pensions was also a simple and inexpensive step for pension firms to take and one that wouldn't have got in the way of efficiently dealing with transfer requests. So, all things considered, I think the Scorpion insert should have been sent as a matter of good industry practice with transfer packs and direct to the transferring member when the request for the transfer pack had come from a different party.*
3. *I also think it would be fair and reasonable for personal pension providers – operating with the regulator's Principles and COBS 2.1.1R in mind – to ensure the warnings contained in the Scorpion insert were provided in some form to a member before a transfer even if the transfer process didn't involve the sending of transfer packs.*
4. *The Scorpion guidance asked firms to look out for the tell-tale signs of scams and undertake further due diligence and take appropriate action where it was apparent their client might be at risk. The guidance points to the warning signs transferring schemes should have been looking out for and provides a framework for any due diligence and follow-up actions. Therefore, whilst using the action pack wasn't an inflexible requirement, it did represent a reasonable benchmark for the level of care expected of transferring schemes and identified specific steps that would be appropriate for them to take, if the circumstances demanded.*
5. *The considerations of regulated firms didn't start and end with the Scorpion guidance. If a personal pension provider had good reason to think the transferring member was being scammed – even if the suspected scam didn't involve anything specifically referred to in the Scorpion guidance – then its general duties to its customer as an authorised financial services provider would come into play and it would have needed to act. Ignoring clear signs of a scam, if they came to a firm's attention, or should have done so, would almost certainly breach the regulator's principles and COBS 2.1.1R.*

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

Mr B says he was cold called to discuss his pension. He says the discussions took place over the phone, and he believes these were with CGL, different options to invest in were discussed and he was told the chosen investment was in property and he'd receive returns from the investment. But he doesn't recall what attracted him to the transfer.

I haven't seen anything to suggest Mr B had more than a limited experience of pensions and investments. Nor have I seen anything about his circumstances or what he's said that leads me to think he'd likely have embarked on such a complicated arrangement on his own – setting up a new company, opening a SSAS, transferring his existing pension and investing overseas. So, I think it is unlikely he'd have sought to set up this arrangement if this hadn't been suggested to him. And I don't have a reason to dispute that he was cold called.

Regarding whom suggested this arrangement to him, Mr B has said that this was CGL. But it was the administrator of the new pension scheme. Based on what we've seen about CGL in other complaints, along similar lines to Mr B's, its role didn't usually go beyond acting as the SSAS administrator. I haven't seen an example of it directly providing advice. To do so would likely create a conflict of interests. And it was not regulated or authorised by the FCA to provide this type of advice – although I do recognise that unregulated businesses were providing advice when they shouldn't have been.

As I've explained the evidence shows that a transfer pack was requested by, and sent to,

Plan65 Ltd over a year before the application to transfer was submitted to Phoenix. Phoenix says that CGL and Plan65 Ltd were the only businesses that it had contact with. It isn't clear if Plan65 Ltd, which was FCA authorised, was involved throughout or whether it gave advice. But what this does suggest is that Mr B was thinking about transferring his pension for some time, before he actually did so. And it also appears his initial application was made based on the forms provided to Plan65 Ltd.

The trust deed for the SSAS was witnessed by a representative of a business called First Review Pension Services ('FRPS'). The scheme Q&A indicated an investment with TRG being considered. So, FRPS being involved would be consistent with a large number of other complaints we've seen – as FRPS seems to largely have been established with the goal of securing investment in TRG. And it often did so by recommending a transfer, even though it wasn't authorised by the FCA to do so.

But we have seen cases where FRPS acted as an introducer to another business. So, I can't rule out that FRPS introduced Mr B to Plan65 Ltd and remained involved in the transaction just to facilitate the completion of relevant documents.

In terms of whether Mr B was advised to transfer, again we have seen a large number of cases where investing in TRG through a SSAS was recommended to customers, with guaranteed returns often quoted. But here Mr B says he was given different options for investing. And he can't remember what drew him to transfer. Which suggests that while transferring was introduced to him as an option, rather than being advised he may have been provided information to make a decision about whether to go ahead himself. And it isn't clear if he received advice here.

I also haven't seen evidence of how Mr B's funds were ultimately invested. So, it isn't clear whether he has suffered a loss as he says. I would note though that Mr B says he was told the investment he decided on involved property. The Q&A document CGL sent to Phoenix suggested an investment in TRG was being considered. And TRG's investments tended to involve fractional ownership of commercial property ventures in Cape Verde. So, on balance it looks likely that this was how Mr B's funds were invested. And from what we know these investments have largely stopped providing returns and are illiquid with little market for re-sale. So, I think Mr B is likely correct about the status of his pension.

What did Phoenix 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.

Phoenix's letter to Mr B on 1 October 2014 said it included an information leaflet issued by TPR. I'm satisfied that this was likely the Scorpion insert and that this was received by Mr B – as he indicated he'd received Phoenix's warnings when requesting a further transfer pack.

The contents of the letter of 1 October 2014 leads me to think that the version of the Scorpion insert sent at that time was likely the older version, first published in February 2013. That is because the letter referred solely to pension liberation as the thing being warned against. And it referenced a section in the leaflet on five steps to avoid being a victim, which was in the February 2013 version but not the July 2014 one, as the format changed. So, the version sent at that time by Phoenix appears to have been out of date.

However, the transfer didn't proceed at that stage and a further transfer pack was requested.

After that was submitted, Phoenix wrote to Mr B again on 24 December 2014. This letter also referenced providing a leaflet from TPR, which again I'm satisfied was the Scorpion leaflet. And the contents of that letter – which referred to pension scams more widely – leads me to think on balance that the version included was the updated July 2014 one.

So, I think Mr B was sent both versions of the Scorpion leaflet by Phoenix. And I think he received and read them. As I mentioned, Phoenix's records indicate that he confirmed to it, when he requested a second transfer pack, that he'd receiving its earlier letters. And the declaration he then signed following the letter of 9 January 2015 confirmed he'd been sent the TPR leaflet and he understood the risks of transferring.

Due diligence:

In light of the Scorpion guidance, I think firms ought to have been on the look-out for the tell-tale signs of a pension scam and needed to undertake further due diligence and take appropriate action if it was apparent their customer might be at risk.

Given the information Phoenix had at the time, the Scorpion guidance indicated that two features of Mr B's transfer would have been potential warning signs of a scam: the SSAS was recently registered, and the proposed transfer involved an investment overseas – as the Q&A talked about investing with TRG, all of who's investments were based abroad.

The Scorpion action pack for businesses provided a check list that a business could use to structure its due diligence into a transfer. The check list provided a series of questions to help transferring schemes assess the potential threat by finding out more about the receiving scheme and how the consumer came to make the transfer request. Some items on the check list could have been addressed by checking online resources such as Companies House and HMRC. Others would have required contacting the consumer.

I think using the checklist would have been an appropriate way for Phoenix to structure its due diligence. But I don't think it would always have been necessary to follow the check list in its entirety. Nor do I think an answer to any one single question on the check list would usually be conclusive in itself. A transferring scheme would therefore typically need to conduct investigations across several parts of the check list to establish whether a scam was a realistic threat.

I haven't seen evidence of what further due diligence Phoenix carried out here. It had evidence, by way of written confirmation from HMRC that the receiving scheme was correctly registered. It also knew that Mr B was over the age of 55 when the application to transfer was received and it had a letter signed by him confirming that the motivations for transferring were not related to and did not involve pension liberation. The request for transfer information had initially come from Plan65 Ltd – an FCA regulated business. And the scheme Q&A document referred to another FCA regulated business – CMIM – as being involved in providing advice (although its involvement was noted as being limited to advising Mr B as a trustee not in a personal capacity about whether the transfer was suitable for him). So, it may be that Phoenix took comfort from some of this information and decided that sending Mr B warnings was enough. But given the warning signs that were present, I think it should still have done further due diligence.

If it had done more, I think Phoenix would have established that, in addition to the SSAS being newly set up, the sponsoring employer was also newly registered. And Mr B did not have a genuine employment link to this business. I think Mr B would also have told it he had been initially cold called.

But even if it had established these things, I'm satisfied Phoenix wouldn't have considered

there to be reason to provide any further warnings to Mr B. As I've said, I'm satisfied that it had already provided Mr B both the February 2013 and July 2014 Scorpion inserts. Both of which warned that cold calling was a potential sign of a scam and provided links to access further information from TPR and TPAS. And Phoenix's letter of 24 December 2014 also said it included the FCA's 'Protect your pension pot' leaflet – which the declaration Mr B completed acknowledged he received. This provided further information about risks and highlighted scenarios that were similar to Mr B's. For example, it asked if the scheme a consumer was considering transferring to was a newly established SSAS – which was the case in Mr B's transfer. It said if the answer was yes to read on and went on to warn consumers to be very wary, noted professional advice was not free and professional advisers acting in a consumer's best interests were unlikely to cold call. It also explained the risks included that; unusual investments tended to be high risk, returns were not guaranteed, companies making these offers were mostly unregulated and consumers could lose all of their pension savings.

Mr B had signed a letter as part of his application saying he understood the risks of pension liberation. He'd also contacted Phoenix twice by phone to say he wanted to proceed. And he signed a declaration confirming he understood the risks of transferring as set out in those warning documents. So, I think it was reasonable for Phoenix to have thought he'd understood the warnings presented and still wanted to proceed.

As I've said, it isn't clear which party suggested a potential transfer to Mr B. He said he thought this was CGL, but as I've already explained, I think that is unlikely. The documents also point to FRPS having some involvement. Neither of these were authorised by the FCA. 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. And Phoenix could have been prompted to warn Mr B about this as a result of further due diligence.

But the 'protect your pension pot' leaflet said to make sure the adviser is authorised to give pension advice, and provided a link to the FCA register so Mr B could check this. The February 2013 Scorpion insert also said any financial advisers should be registered with the FCA. Phoenix's letters of 1 October 2014, 24 December 2014 and 9 January 2015 also repeated the same information, with the latter saying it wanted to draw Mr B's attention to the FCA's advice to check an adviser was regulated and including another link to the relevant register. So, the need for an adviser to be regulated was drawn to Mr B's attention several times. And this didn't deter him from proceeding.

Again, at least to begin with, Plan65 Ltd, a regulated business, was involved. This may explain Mr B not acting on the repeated suggestions to check the status of his adviser – as he may have considered he was already taking regulated advice. But in that scenario, if Phoenix had asked further information about who advised him, it's likely Mr B would have said Plan65 Ltd – which wouldn't have prompted further warnings about unregulated advisers. And as I've said, it isn't clear if Mr B was actually advised in any event.

Taking everything into account, while I think Phoenix potentially ought to have done further due diligence, I don't think this would necessarily have resulted in it providing any further warnings to Mr B. And ultimately, Mr B was provided with the relevant Scorpion warnings as well as the FCA's warning leaflet. He applied to transfer twice to the SSAS – after the first application was suspended and didn't proceed. So, the initial warnings didn't deter him. And he confirmed he understood the risks of transferring but still wanted to proceed, even after further warnings had been provided and highlighted. So, in Mr B's specific circumstances, even if Phoenix had provided further warnings, I don't think I can fairly say this would have deterred Mr B, given the quantity of warnings that failed to do so, or that he'd be in a different position.

Responses to my provisional decision

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

Phoenix didn't respond to my provisional findings.

Mr B's representatives asked me to continue and issue my final decision on the matter. But they and Mr B provided no further comments for me to consider.

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, given that neither party have provided any additional information or arguments for me to consider, I'm not inclined to depart from my provisional findings. So, for the reason I've explained, while I think Phoenix ought to have carried out some further checks and due diligence in respect of the transfer, I don't think this would've prompted it to provide additional warnings to Mr B beyond the ones it did.

And that notwithstanding those warnings Phoenix gave, which were over several letters and enclosures, didn't deter Mr B from proceeding with the transfer, even though they described scenarios that had similarities with Mr B's. And so, even if Phoenix had provided further warnings, I don't think the contemporaneous evidence supports that Mr B would've withdrawn from the transfer.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 2 January 2025.

Ben Stoker
Ombudsman