

The complaint

Mr T has complained, with the help of his representatives, about a transfer of his ReAssure Limited ('ReAssure') personal pension to a small self-administered scheme (SSAS) in December 2014. Mr T's SSAS was subsequently used to invest in a fractional ownership of overseas hotel property with The Resort Group ('TRG'). The investment now appears to have little value and is illiquid. Mr T says he has lost out financially as a result.

Mr T's representatives said ReAssure failed in its responsibilities when dealing with the transfer request. They said 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 they say was required of transferring schemes at the time. They stated he wouldn't have transferred, and therefore wouldn't have put his pension savings at risk, if ReAssure had acted as it should have done.

What happened

On 16 October 2014, Wise Review Ltd ('Wise') wrote to ReAssure to obtain details and transfer documents in relation to Mr T's pension, referring to a letter of authority signed by him to allow the request.

ReAssure responded to Wise on 23 October 2014 with the policy information and it sent a 'Scorpion' warning leaflet, which I will discuss further below. Mr T said his interest in the transfer followed an unsolicited approach from Wise. He was 53 years old at the time of the transfer.

In December 2013, a company was incorporated with Mr T as director. I'll refer to this company as H Ltd. Mr T subsequently opened a SSAS with Cantwell Grove Ltd ('Cantwell Grove'), registered by HMRC on 12 March 2014. H Ltd was recorded as the SSAS's principal employer.

On 19 March 2014, Mr T's transfer papers were sent to ReAssure by Cantwell Grove. Included in the transfer request were:

- completed and signed transfer forms;
- a copy of the H Ltd SSAS Trust Deeds and Rules;
- HMRC registration confirmation for the H Ltd SSAS;
- key information about the scheme (including information that the intention was to invest in TRG);
- a letter signed by Mr T on 18 March 2014, declaring, amongst other things, that he was aware of the dangers of pensions liberation fraud and that he didn't want to access benefits prior to age 55.

Mr T's pension was transferred on or around 17 December 2014. The transfer value was roughly £5,500.

An investment into the fractional hotel shares with TRG was made by the H Ltd SSAS shortly after, together with two other pensions from different providers. This investment is illiquid and likely to have no actual value as it can't be sold on the open market.

On 28 August 2024, Mr T complained to ReAssure. Briefly, his representatives' argument is that ReAssure ought to have spotted, and told him about, a number of warning signs in relation to the transfer, including that the catalyst for the transfer was an unsolicited call, he had been advised by an unregulated business, and the investment was high-risk and illiquid.

ReAssure didn't uphold the complaint. It said Mr T had a legal right to transfer and it was satisfied it had conducted an appropriate level of due diligence given the requirements of the time. And that it provided Mr T with suitable warnings about his transfer and required him to sign a declaration prior to agreeing to proceed.

Our investigator was unable to resolve the dispute informally, so the matter was passed to me to decide.

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.

ReAssure has given our service consent to look into this complaint, so I have not considered whether Mr T made his complaint in time.

I've taken into account relevant law and regulations, regulatory rules, guidance and standards, codes of practice, and (where appropriate) what I consider to have been good industry practice at the relevant time. Where the evidence is incomplete or inconclusive, I've reached my decision based on the balance of probabilities – in other words, on what I think is more likely than not to have happened, given the available evidence and wider circumstances.

The relevant rules and guidance

Before I explain my reasoning, it will be useful to set out the environment ReAssure 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, The Pension Regulator (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 letter of authority.

- 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 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.
- ReAssure 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, and 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, it’s the update to that guidance on 24 July 2014 that’s most relevant to this complaint. It 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 The Pensions Advisory Service (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 content 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 – and what the evidence suggests happened

Mr T has explained that he had two meetings with an agent at his home at which the investment was presented and he was given paperwork to sign. His representatives said this followed “pressurised selling techniques”.

His representatives stated that it was First Review Pension Services ('FRPS') that met with Mr T, however I haven't seen any evidence this was the case, as the documentation such as the initial request for information from ReAssure shows Wise as the introducer and Sorensen Financial Services ('SFS'), even though it's unclear what role the latter party had.

Wise was not regulated or authorised by the FCA, but SFS was. And the letter of authority suggested Wise was an appointed introducer for SFS.

The FCA maintains a database of information about firms it regulated. This lists the appointed representatives of SFS. Wise was not listed. A business called We Review Ltd

(‘We Review’) was however listed as an appointed representative of SFS. We Review was also registered with the FCA.

Information from Companies House indicates We Review and Wise had a controlling director in common and operated from the same premises. Both businesses entered administration in 2014 and appointed the same administrator. Administrators’ statements for both Wise and We Review referred to them as being part of the same group. The Administrators statement specific to Wise described the nature of its business as being an “*introducer of pension transfer leads to various pension providers and intermediaries*”. And the specific administrators’ statement for We Review said it was “*an appointed representative of a particular pension provider*” (which again the FCA register confirms was SFS at the time) and that it received leads and conducted financial reviews for Wise.

On balance, I think it was likely Wise that first contacted Mr T. As I’ve mentioned, Wise and We Review both entered administration in April 2014, before Mr T’s transfers were concluded. I’m aware from other complaints I’ve seen that customers of Wise seem to have been passed over to FRPS once Wise entered administration. And that may well have happened here and could explain why his representatives state he was approached by FRPS. I also think it is likely that, based on the letter of authority naming SFS, which We Review was an appointed representative of, the intention was that Wise would introduce Mr T to We Review. That may not have involved him speaking to a different person, given the companies being linked. Rather the person he spoke to ‘putting on a different hat’ when it came to discussing the pension. Overall, I think it’s most likely that Mr T was approached by Wise who also facilitated the transfer; I haven’t seen evidence SFS was further involved in any advice process beyond being mentioned on the initial letter of authority.

We have not been able to speak to Mr T to hear his recollections of the transfer process, however his representatives said he was not a sophisticated investor at the time, had no investment experience, and no capacity for loss.

From the documentation on file, it would appear that he was aware of the intended investment in TRG, and he also received advice on the investment itself, from Sequence Financial Management Limited (‘Sequence’). Sequence’s role would have been limited to providing advice on the SSAS to the member trustees. Whilst I haven’t seen evidence of that advice, this indicates the advice was intended to allow the SSAS’s trustees to comply with Section 36 of the Pensions Act. Such advice given by Sequence would therefore have likely been in relation to the appropriateness of the TRG investment for Mr T’s SSAS and would likely have indicated such an investment was appropriate in that context.

Mr T had a successful claim with the Financial Services Compensation Scheme (FSCS) about Sequence’s advice on the appropriateness of the investment, after Sequence failed in January 2021. He received around £22,000 compensation from the FSCS. Mr T provided us with evidence of the reassignment of rights from the FSCS.

What did ReAssure do and was it enough?

The Scorpion inserts

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 wrote a letter in late-October 2013 to Wise, in response to the information request and letter of authority, and this referred to an insert being attached. The evidence we’ve received shows this was the shorter insert in a version from February 2013. So this leaflet

would mainly have referred to the risks of pension liberation, but not to scams. And it was not sent to Mr T directly but only his introducer firm.

However, after having received the signed transfer forms in March 2014, ReAssure wrote to Wise to request an up-to-date address for Mr T. There was then a delay while ReAssure was carrying out HMRC register checks for the SSAS as well as “further checks”, but in November 2014, ReAssure sent a longer letter to Mr T directly (I discuss this letter further below) and attached the most recent, longer Scorpion booklet.

That Scorpion booklet was focussed on warning consumers against falling victim to scams, including claiming that cash could be accessed from pensions early. This doesn't seem to have been a feature of what Mr T was being recommended, but the booklet did provide four warnings about what to watch out for. That included being cold called, which is something that Mr T said was a feature of his circumstances, and it included a scenario of a scam victim being made a director of a newly formed company, which was also similar to Mr T's situation. The booklet also listed steps that he could take to avoid becoming a victim, which included checking that an adviser was regulated and speaking to an adviser not associated with the proposal.

So even though initially ReAssure sent an out-of-date version of the insert, this was followed up by a much longer booklet of the correct date in a subsequent letter. So I'm satisfied that ReAssure met the requirements of the 'Scorpion' guidance regarding provision of the leaflets to Mr T.

Due diligence

I explained earlier why I think that firms needed to be on the lookout for signs of scams and to take appropriate action where they were aware of such risks.

The transfer request informed ReAssure that the H Ltd SSAS was newly established, and it was aware that there seemed to be an intention to use the transferred funds to invest in TRG, an unregulated overseas investment.

It does not appear that ReAssure contacted Mr T to ask him for further information about this transfer. But it did write to both Cantwell Grove and to Mr T to apologise for a delay while it was still carrying out “further due diligence”. It stated that it was required to do so under its regulatory obligations.

After receiving the transfer request and carrying out due diligence checks such as the SSAS' HMRC registration, it's clear that ReAssure had concerns and it set these out to Mr T in or around May 2014. To these concerns Mr T responded with a letter to reiterate that he was aware of pension liberation fraud and not intending to liberate his pension, and enclosing a service agreement with the scheme employer, to prove that he was employed as a director. He also responded to concerns that the SSAS scheme had no reputable provider or trustee by stating that it wasn't legally necessary for a single-member SSAS to have a professional trustee, and confirming it was a legitimate transfer to a genuine occupational pension scheme.

ReAssure wrote to him directly again with a letter dated 27 November 2014. The letter set out the following concerns:

Regulated advice

ReAssure said that it understood that the transfer may have been prompted by an unsolicited approach from an introducer company that was not regulated. It explained

in a clear way that this was not the way most pension transfers happened. And it clearly recommended that Mr T take regulated financial advice and how he could check that an adviser was regulated. And it included a leaflet from TPAS – the updated ‘Scorpion’ booklet I referred to above. I think that this represented a warning that ought to have appeared relevant to Mr T’s circumstances.

Mr T’s responsibilities

In this section, ReAssure clearly highlighted the issues with the H Ltd SSAS, including the costs associated with having his own limited company. It explained that he would be a trustee of the SSAS and, briefly, what that would entail as well as indicating where to go for more information. I think that this ought to have made Mr T aware that this transfer was not a regular pension transfer.

Charges

ReAssure pointed out that the fees for the setup and running of a SSAS can be higher than those of other pension policies, and that he should be comfortable his pension funds could sustain those.

Investments

Lastly, it referred to the intended property investment in Cape Verde. It did not comment on the suitability of the scheme, but it provided a link to the Foreign and Commonwealth Office to find out more about the risks inherent in investing in Cape Verde. And it quoted an extract from that site that suggested British nationals had experienced serious problems buying property in Cape Verde.

I think this was a very fair and clear way to draw Mr T’s attention to potential concerns with this transfer, given the fact that ReAssure was not able to provide any specific financial advice on investment choices.

The Scorpion guidance to businesses included an Action Pack and while this wasn’t a mandatory document, it provided a reasonable way for firms to put in place adequate measures to protect customers. And, given the additional information that ReAssure sent Mr T, I think that ReAssure demonstrated that it was aware of the potential risks of this transfer and took steps to inform Mr T of these.

Given the overall purpose of the Scorpion guidance and the Action Pack, I think that ReAssure took reasonable measures to inform Mr T of the risks it had identified. I think it was incumbent on ReAssure to highlight those concerns and provide Mr T with the information necessary to be able to avoid becoming a victim of a scam.

One of the biggest risk factors for Mr T was being advised by an unregulated party. And ReAssure provided clear guidance on the importance of that, and set out how Mr T could find regulated advice. Although it didn’t ask Mr T if Wise was advising him, ReAssure assumed (correctly) that it was, and gave an appropriate warning about this.

I think ReAssure’s reaction to its knowledge of the intended overseas investment was also reasonable. It clearly flagged its concerns and signposted how Mr T could find out more information about that. The same is true for the risk of the company and SSAS setup and related costs.

The declaration that Mr T signed to confirm he still wanted to go ahead stated the following:

“I confirm that I would like to proceed with the transfer of my ReAssure pension benefits to [SSAS]. I confirm that I have considered the risks and costs involved in making the transfer. I further understand that once my pension has been transferred ReAssure will have no responsibility for my pension benefits, or for any losses or costs (including, but not limited to, tax charges) that I may incur as a result.”

Given all of the information Mr T received, and the declaration he'd been asked to sign, it ought to have been very clear to Mr T that there were potential risks with this pension transfer. I think ReAssure had taken reasonable steps to highlight those and to make Mr T aware of where to find out more information. It had also provided the longer, updated Scorpion booklet that provided the link to contact TPAS and Action Fraud in response to concerns. So I think that ReAssure's actions were broadly sufficient given the guidance in place at that time.

ReAssure could have warned him that it was an offence under the law for an unregulated firm to provide advice on regulated products such as transferring a personal pension. However, ReAssure had told him to check whether his adviser was regulated, informed him of what this meant for him, and he had been told that as a result of also his investment being unregulated, he could lose everything and not be able to claim from a compensation scheme for the loss of that investment. So in that context, I think Mr T ought to have been aware of the consequences of dealing with Wise and entering into an unregulated overseas investment.

ReAssure provided warnings to Mr T which it would reasonably have expected would lead to him changing his mind if he wasn't willing to take the risks that it and other parties, such as TPAS, detailed to him. The longer Scorpion booklet contained an example of a person that was cold called, promised better returns from an overseas investment, was made a director of a newly set up company, and then lost everything they invested. This should have resonated with Mr T as these features were similar to his situation and Wise's proposal. However, Mr T ignored such a warning and went ahead with the process. So he made a reasonably informed decision to transfer in light of the risks ReAssure outlined to him, and in the circumstances of this case I consider it would have gone beyond what was reasonably expected of ReAssure at that time to attempt to find further ways in which it could try to block or halt his transfer.

In addition to this, it has become clear that in May 2014, when ReAssure voiced its concerns, the transfer was chased up by phone and a complaint was logged at the time. Whilst this may have initially been a complaint about delays due to the checks, this complaint was articulated further in Mr T's letter of 23 May 2014, in which he stated:

“Accordingly, please will you confirm in writing within 7 days of the date of this letter that you will either action my transfer value, or alternatively, explain to the Scheme administrator what further information you reasonably require in order to satisfy yourself that my request has nothing to do with pension liberation. If you are not willing to do this, please treat this letter as a formal complaint and let me have your response as a matter of urgency, so that I may refer my complaint to the Pension Ombudsman.”

Mr T's representatives stated in response to our investigator's assessment that ReAssure should have intervened more rigorously, should have taken proactive steps, and should have directly engaged with Mr T or actioned “a formal referral to regulatory authorities”. Whilst, as explained above, I'm satisfied that ReAssure carried out its due diligence correctly and gave sufficient warnings to Mr T, the above also shows that even if ReAssure had intervened further, then Mr T was prepared to lodge a formal complaint and would most likely have insisted on the transfer. It's also clear that ReAssure did intervene and engaged

with Mr T directly, in sending him a detailed letter listing all its concerns and asking him to sign a declaration if he still wanted to go ahead, despite the numerous warnings. It was also not expected from ReAssure to refer its concerns to a regulatory authority; instead it gave Mr T the information and contacts needed if he wanted to find out more about scam risks, for example from TPAS or Action Fraud.

For the above reasons, I think that ReAssure has demonstrated that its engagement with the Scorpion guidance meant it broadly complied with principles 2,6,7 and COBS 2.1.1R. It directly engaged with Mr T in a clear way. The information that it sent him ought to have seemed relevant to the specific circumstances of his transfer request, and highlighted concerns that I think it would be reasonable to expect him to have acted upon.

I'm therefore satisfied ReAssure carried out sufficient due diligence. And anything further ReAssure might have done to caution Mr T is unlikely, on the balance of probabilities, to have altered his decision to transfer.

My final decision

For the reasons given above, I don't uphold this complaint and don't make an award in Mr T's favour.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 23 April 2025.

Lea Hurlin
Ombudsman