DRN-5387665

The complaint

Mr G has complained about a transfer of his pension with The Royal London Mutual Insurance Society Limited ('Royal London') to a small self-administered scheme ('SSAS') in November 2013. Mr G's SSAS was subsequently used to invest in Commercial Property in Cape Verde via The Resort Group ('TRG'). The investment now appears to have little value. Mr G says he has lost out financially as a result.

Mr G says Royal London failed in its responsibilities when dealing with the transfer request. He says that it should have done more to warn him of the potential dangers of transferring, and undertaken greater due diligence on the transfer, in line with the guidance he says was required of transferring schemes at the time. Mr G says he wouldn't have transferred, and therefore wouldn't have put his pension savings at risk, if Royal London had acted as it should have done.

What happened

Mr G had a pension with The Co-operative Insurance Society Ltd, who became part of Royal London. Royal London is therefore the respondent business for this complaint and for simplicity I will refer to Royal London in this decision.

Mr G says his interest in the transfer followed a conversation with an acquaintance that had invested with TRG. He says he was attracted by the prospect of improved investment returns in TRG, so agreed to meet with the representative who'd arranged the investment for his acquaintance. The representative was from First Review Pension Services ('FRPS'). Mr G was told that he would receive 7% a year return on his investment.

On 23 July 2013, Mr G signed a letter of authority allowing FRPS to obtain details, and transfer documents, in relation to his pension. On 26 July 2013, FRPS wrote to Royal London, enclosing Mr G's letter of authority and information request. Royal London sent FRPS the requested information. FRPS wasn't authorised by the Financial Conduct Authority ('FCA').

On 2 July 2013, a company was incorporated with Mr G as director. I'll refer to this as Firm A. A SSAS was set up for Firm A with Cantwell Grove Limited ('CGL') – the Firm A SSAS. Firm A was recorded as the SSAS's principal employer. Mr G was the sole member of the Firm A SSAS.

On 12 September 2013 Mr G's transfer papers were sent to Royal London. These were sent in by CGL. Included in the transfer papers were: completed transfer discharge forms; a copy of the SSAS Trust Deed and Rules; a copy of the HMRC registration confirmation showing that the SSAS was registered on 25 July 2013; a letter signed by Mr G on 22 August 2013 explaining that he understood the rise in pension liberation fraud and the tax implications and that he was not transferring for that purpose.

On 19 September 2013 CGL wrote again to Royal London addressing concerns that it had made about the transfer. In it CGL re-iterated its commitment to comply with UK pension

legislation. It provided a copy of a letter from HMRC from 16 August 2013 indicating that it was opening an enquiry into CGL's registration of multiple pension schemes. It also provided a letter from HMRC, dated 10 September 2013, that updated that HMRC had concluded its enquiry and confirmed that CGL could resume its pension business. Both letters were certified as genuine by a solicitor. CGL also provided Royal London with a '*Key Scheme Details Q&A*' document that provided further information. That provided scheme information, including that the scheme's proposed investment provider would be Sequence – an FCA registered firm. It also indicated that the intended investments under consideration were a discretionary fund management service with Parmenion (an FCA registered firm), and a commercial property investment with TRG.

On 25 September 2013 Royal London wrote directly to Mr G about his transfer request. It explained that the Pensions Regulator had issued guidance that meant it had checks to perform before making the transfer. It said that the checks were designed to ensure that pension savings were used for the purpose they were intended for. It enclosed a copy of a booklet produced by the Pensions Regulator. It included a checklist of additional information that it required entitled '*transfer out information request and declaration*'.

On 1 October 2013 Royal London received further correspondence about Mr G's transfer from CGL. It addressed concerns that had been raised. Enclosed with the letter was correspondence CGL had received from HMRC. The first, dated 16 August 2013, informing CGL that HMRC was opening an enquiry into its registration of multiple pension schemes, in order to ensure that the schemes were not involved in pension liberation. The second letter, dated 10 September 2013, updated CGL that HMRC had concluded its enquiries and confirmed that CGL could resume its pension business. CGL also enclosed a '*Key Scheme Details Q&A*' document.

On 3 October 2013 CGL sent Royal London further information which included the completed and signed '*Transfer out information request and declaration*' form. It indicated that Mr G had been given advice about the transfer and that he hadn't been offered any loan, cash back or incentive and had not been advised that he could access his pension before age 55. It also indicated that he hadn't been advised that his transfer proceeds would be invested overseas. The correspondence included a copy of an agreement between Firm A and Mr G setting out his position in the company.

Royal London has an internal note from a third-party audit, dated 15 October 2013 indicating that the SSAS and Cantwell Grove were on a 'caution list'. The note identified that the sponsoring employer was geographically distant from Mr G. And updated that it had received an HMRC letter confirming that HMRC had successfully concluded its fraud audit of Cantwell Grove and approved it to continue administration of SSAS's. The note recommended that the transfers should be refused. But that the decision needed to be made by Royal London.

On 5 November 2013 Royal London authorised Mr G's transfer. And later in November 2013 Mr G's pension was transferred. His transfer value was around £107,500. He was 47 years old at the time of the transfer.

Funds in the Firm A SSAS were invested in fractional ownership of hotel accommodation in Cape Verde via TRG. This failed to produce the indicated returns and there is no secondary market for investors to sell the investment and recover the capital.

In November 2020, Mr G complained to Royal London via a legal representative. The complaint accepts that Mr G had a statutory right to transfer. But the complaint argues that Royal London ought to have told Mr G about the warning signs in relation to the transfer, which it says Royal London identified. These included (but were not limited to) the following: the SSAS was newly registered, the sponsoring employer was newly incorporated and

geographically distant from Mr G, intention to invest overseas, Mr G had been advised by an unregulated business.

Royal London didn't uphold the complaint. It said Mr G had a legal right to transfer. It explained that it sent Mr G the Scorpion booklet and that it requested further information before agreeing to the transfer. Prior to the transfer it explains that it:

- obtained confirmation that the SSAS was registered with HMRC.
- obtained the SSAS Trust Deed and Rules.
- had confirmation that HMRC had investigated CGL and found no ongoing concerns about pension liberation.
- had signed confirmation from Mr G that he understood pension liberation and was not going to do that.

Overall, Royal London was satisfied it had conducted an appropriate level of due diligence given the requirements of the time.

Mr G made a separate claim to the Financial Services Compensation Scheme against Sequence Financial Management Ltd ('Sequence'). This was for the advice that Mr G had been given as trustee of the SSAS and was for the same loss to his pension that was the subject of his complaint about Royal London.

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

What I said in my provisional decision:

I issued a provisional decision to explain why I thought Mr G's complaint shouldn't be upheld and offered both parties the opportunity to provide further evidence or arguments. In summary, the reasons I gave for my provisional outcome were:

- I summarised what I thought the relevant rules, legislation and industry good practice meant for the way that Standard Life should have dealt with Mr G's transfer request.
- I was persuaded that Mr G had approached FRPS regarding a potential investment opportunity.
- I thought it was more likely that Mr G had been advised to set up the Firm A SSAS following a recommendation from FRPS. And that subsequent advice from Sequence was, more likely than not, given to him as the Firm A SSAS trustee, in relation to s.36 of the Pensions Act 1995.
- I thought that Royal London had sent Mr G the Scorpion booklet (explained later) to warn him of the risks of pension liberation. But I accepted that the risk identified at that time were not, in fact, apparent in Mr G's transfer request.
- I explained why I thought that Royal London performed due diligence and identified certain reasons to be concerned.
- On balance, I thought that Royal London had enough information to be able to, correctly in Mr G's case, discount the risk of pension liberation. So it was not unreasonable of it to transfer his pension.

Responses to my provisional decision:

Mr G disagreed with my provisional outcome and responded, via his legal representative. I have read the submissions in full and summarise the arguments as follows:

- Royal London should have picked up on the fact that FRPS was advising Mr G in breach of the general prohibition in FSMA.
- It considered that Royal London did a reasonable level of due diligence and identified a number of warning signs, including: the SSAS and administrator being on a National Fraud Intelligence Bureau ('NFIB') watchlist, the SSAS being newly registered, the sponsoring employer being geographically distant from Mr G, Capita's recommendation of 15 October 2013 that the transfer be refused, that Royal London had concluded that the intended investment was in TRG. But disagreed with my provisional finding on the way that Royal London should have interpreted these warnings signs.
- It disagreed that it was reasonable for Royal London to have proceeded with the transfer in spite of the warning signs that its due diligence identified. It accepts that Royal London could reasonably have taken some comfort from the fact that HMRC had investigated Cantwell Grove and allowed them to continue. And that Royal London could reasonably have concluded that Mr G wasn't going to access his pension early. But argued that Royal London should have made further contact to share the warning signs it found and its concerns with Mr G.

It queried why my provisional decision had not addressed Royal London's being able to refer this complaint to an ombudsman having first accepted our investigator's opinion that Mr G's complaint should be upheld. It explained that Mr G's response to that investigator's opinion had only raised issues regarding how things should be put right in the light of further information that had not yet been provided to the investigator.

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.

I will start by explaining why I am issuing a final decision. Which is the same reason that was correctly explained by our investigator already. Quite simply, our service delegates responsibility to investigators to resolve complaints informally by giving opinions and seeking agreement. Cases therefore only usually require decisions from an ombudsman where that stage fails. For instance, where either party disagrees with the opinion that our investigator has given.

In this case our investigator explained that he thought Mr G's complaint should be upheld and what he thought Royal London should do to put things right. Whilst Royal London was prepared to accept that initially, Mr G explained through his representative that he was not. I understand that Mr G was prepared to accept that his complaint was upheld, but he did not accept the proposed redress which was an integral part of the view. Mr G instead suggested an alternative means of redress. It was accompanied by supporting evidence that indicated that Mr G had made a successful claim to the FSCS. This evidence had not been provided to our investigator previously.

This reject of his view meant that our investigator then had to try to mediate a resolution by engaging with Royal London further. That led Royal London to consider the reasons that Mr G rejected our investigator's suggested redress method. Based on that and the additional

evidence accompanying it, Royal London no longer agreed that the investigator's outcome was fair.

As this complaint remained unresolved by our investigator, he was correct to refer the matter for an ombudsman's final decision. And he correctly notified all parties of that. My consideration of the merits of this case was not constrained to the disputed redress. My role requires me to consider all of the circumstances and give my independent determination in order to resolve this complaint.

The relevant rules and guidance

Personal pension providers are regulated by the Financial Conduct Authority (FCA). Prior to that they were regulated by the FCA's predecessor, the Financial Services Authority (FSA). As such Royal London was subject to the FSA/FCA Handbook, and under that to the Principles for Businesses (PRIN) and to the Conduct of Business Sourcebook (COBS). There have never been any specific FSA/FCA rules governing 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.

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 indeed they may also have a right to transfer under the terms of the contract). This right 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. At various points, regulators issued bulletins warning of the dangers of taking such action. But it was only from 14 February 2013 that transferring schemes had guidance to follow that was aimed at tackling pension liberation – the "Scorpion" guidance.

The Scorpion guidance was launched by The Pensions Regulator (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. The guidance comprised the following:

- An insert to be included in transfer packs (the 'Scorpion insert'). The insert warns readers about the dangers of agreeing to cash in a pension early 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 liberation. Guidance provided by TPR on its website at the time said this longer leaflet was intended to be sent to members who had queries about pension liberation fraud.

- An ‘action pack’ for scheme administrators that highlighted the warning signs present in a number of transfer examples. It suggested transferring schemes should “look out for” various warning signs of liberation. 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 transferring schemes still had concerns, they were encouraged to write to members to warn them of the potential tax consequences of their actions; to consider delaying the transfer; to seek legal advice; and to direct the member to TPAS, TPR or Action Fraud.

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 legal rights.

That said, the launch of the Scorpion guidance was an important moment in so far as 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.

<u>What did personal pension providers need to do?</u>

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. 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. With that in mind, I take the view that personal pension providers dealing with transfer requests needed to heed the following:

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

2. When TPR launched the Scorpion guidance in February 2013, its press release said the Scorpion insert should be provided in the information sent to members requesting a transfer. It said on its website that it wanted the inclusion of the Scorpion insert in transfer packs to "become best practice". The Scorpion insert provided an important safeguard for transferring members, allowing them to consider *for themselves* the liberation 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 pension liberation scams and undertake further due diligence and take appropriate action where it was apparent their client might be at risk. The action pack 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.

<u>The circumstances surrounding the transfer – what does the evidence suggest happened?</u>

I noted in my provisional decision that Mr G explained that he was put in touch with FRPS by a third party because he was interested in the investment opportunity. As I said in my provisional decision, I have no reason to doubt this testimony so do not think that Mr G would have considered himself to have been cold-called or approached out of the blue had he been asked at the time.

The fact that FRPS sent a request for information to Royal London (including Mr G's signed letter of authority) supports Mr G's explanation regarding approaching FRPS for a pension review. But it is not conclusive evidence that FRPS advised him on the suitability of the transfer. This is because of the involvement of Sequence.

CGL's correspondence named Sequence as the scheme's investment provider. In the key facts document CGL provided it referred to its requirement under section 36 of the Pensions Act 1995 for trustees to obtain appropriate advice. And it explained "*the appropriate advice is being taken from Sequence Financial Management Limited (an independent Financial Adviser …), and under consideration are the following investments…*". It then listed the two investment options I referred to above. I think this likely meant that Sequence was intended

to provide advice on the investments in the SSAS once the transfer had been made. But, it would have implied to Royal London that Mr G was likely to have had some regulatory protection from the SSAS investment advice if it was indeed given by Sequence.

I am aware that Mr G has had a successful claim through the FSCS against Sequence, which is now in default. I have requested copies of that FSCS referral and it is clear that it was submitted on the basis that Sequence had provided trustee advice to Mr G after the transfer. Which was a distinct role to the providing of advice on his personal pension in advance of the transfer. Furthermore, that referral additionally names FRPS as the firm that recommended the transfer to the SSAS to invest in TRG. The content of the FSCS referral corroborates Mr G's account to our service that it was FRPS that advised him to transfer his personal pension.

Overall, I am persuaded that Mr G, more likely than not, considered that FRPS was providing him with advice to transfer the Royal London pension. And that he was likely interested in the intended investments as he approached FRPS about them. This was, on balance, prior to any recommendation or endorsement from Sequence. And I accept that his involvement with Sequence didn't happen until after the transfer had completed.

What did Royal London 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.

In response to the requested transfer from CGL, Royal London took the step of writing to Mr G to provide him with the Scorpion booklet. This was the longer booklet that was available to send to consumers where ceding schemes identified concerns about pension liberation. I am satisfied that Royal London provided Mr G with adequate information to warn him generally of the risks that had been identified at that time.

The Scorpion booklet at that time was focussed on the risk of pension liberation. It warned of consumers being offered 'pension loans; or cash incentives to transfer. Mr G was not offered any cash incentives to transfer his pension. And he was not told that he could access his pension before age 55. As a result, I do not think that the Scorpion insert, even though he was sent it, ought to have made an impact on him. It warned him of risks associated with something that he wasn't about to do.

Due diligence:

As I explained in my provisional decision, I think firms ought to have been on the look-out for the tell-tale signs of pension liberation that were highlighted in the Scorpion guidance. And needed to undertake further due diligence and take appropriate action if it was apparent their customer might be at risk of pension liberation. This was based on the guidance introduced in February 2013 referred to earlier and before the guidance was given a broader scope to cover scams more generally. The standard that I am holding them to is whether or not they did enough to eliminate the risk of pension liberation as that was the threat that the guidance highlighted and focussed on. If, in doing so, it identified other concerns that I would expect it to act. But I don't think that meant it had to persist in enquiries once it was apparent that pension liberation wasn't likely. Which it wasn't in this case.

The evidence here satisfies me that Royal London did consider the risk of pension liberation and take reasonable steps. It is evident from its case notes that it had specific concerns

about CGL when the transfer request was received. So, it didn't process it straight away. Instead, it sent warning information to Mr G and requested further information to further understand the circumstances. I think that this was a positive response.

Royal London had the letter signed by Mr G that confirmed that he understood pension liberation fraud and was not intending to access his benefits early. So, I think that Royal London could reasonably assume that Mr G understood what pension liberation fraud was. Especially given that it also sent him the Scorpion booklet that further re-iterated that. There is an argument that, given the information Royal London had following CGL's initial transfer request, Royal London could have been satisfied that Mr G was not about to fall victim of the type of scam it was alert to at that time. But I think that it had identified concerns so it explored further. Which I think was reasonable in the circumstances.

I think that Royal London appear to have carried out reasonable due diligence given the guidance in place at the time. It identified the scheme and CGL as being on a pension liberation watch list with NFIB. And it correctly identified that the Firm A SSAS was recently registered, and that Firm A was geographically distant from Mr G even though he was the sole employee and member of the scheme. So, it is evident that Royal London did in fact establish many of the things that the Scorpion Action pack identified as good practice. And that it therefore identified some warning signs relating to this transfer.

But it also separately verified that HMRC had carried out an investigation into CGL and had cleared it to continue the administration of SSASs. And it was informed that Mr G was likely to be receiving regulated advice from Sequence prior to making any investments.

Royal London was evidently aware of the involvement of FRPS as an introducer by virtue of the fact it requested information. But it doesn't follow that FRPS were also providing advice on the transfer. In deciding this I have considered the inferences that Mr G's representative says that Royal London ought to have made from FRPS's letter of authority. Which were that Royal London should have concluded that FRPS was the advising party because the letter of authority referred to Mr G as its client, and he was authorising it to act in his behalf in this transaction. But I don't agree that either of these statements obviously infer that it was giving financial advice. I think suggesting that is placing an unreasonable expectation on the recipient at Royal London. I think it was reasonable to view it as an authorisation to provide information. And not as a statement of the exact nature of Mr G's client relationship with FRPS.

I also note that Mr G's representative has referred to an internal document of 6 August 2013 as evidence that Royal London knew that FRPS had given financial advice to Mr G. That document is entitled "Phase 2 TV Sep 2013 (simplified) version". It is a template document with fields to be populated with details of the policy holder to generate the transfer value in response to FRPS's request for information. The pre-populated fields have a heading 'IFA – Full name to send to" where the clerk completing it inputted FRPS. There is no field for introducer or representative. I think this input most likely reflects that the administrative clerk who is populating this understood that FRPS were the intended recipient of the information. And the format was worded in the way it was because it would normally be an IFA requesting such information. I don't think it's evidence that Royal London made a qualitative judgement after receiving the LOA that FRPS were providing financial advice.

I think that it is in fact evident that Royal London had not made the assumption that FRPS were the financial adviser when looking at its internal correspondence about its due diligence. It didn't feature amongst the list of concerns that it identified.

In my provisional decision I said that Royal London were also unaware of exactly what investment Mr G was likely to make with his transferred fund. That's because the information

from CGL indicated that two types of investment were being considered. One of which was an FCA regulated investment product and the other an overseas property investment. It wouldn't have known the balance between those options. Although I do accept that it was aware of the likelihood that TRG was an intended investment and it identified that.

As I referred to above, Royal London requested additional information via its '*transfer out information request and declaration*'. I think that this addressed the required due diligence in a fair way. It questioned whether:

- Mr G was employed by the sponsoring employer and requested proof of that.
- Mr G was given advice about the transfer (providing details of the adviser if so).
- whether Mr G had been offered a loan, savings advance, cash back, cash bonus or other incentive to transfer.
- Mr G had been advised that the transfer proceeds would be transferred overseas.

This form gave Mr G an opportunity for Royal London to fairly assess any other warning signs of pension liberation. But the answers that were provided indicated the following:

- Mr G was employed by the sponsoring employer, and an agreement was provided as evidence of that fact.
- that Mr G was given advice although Mr G did not provide details of who, in spite of that being requested.
- Mr G was not offered any cash incentive.
- Mr G was not advised that his transfer would be invested overseas.

This form was signed by Mr G on 26 September 2013 as being accurate. So, I think it was reasonable for Royal London to accept the answers it gave. Key here is that it again ruled out pension liberation as well as eliminating the concern of an overseas investment. It confirmed advice had been given although didn't identify the adviser.

Royal London was also aware that CGL had been subject of an enquiry by HMRC that cleared it to continue registering and administering pensions. I think that it was reasonable for Royal London to add considerable weight to this information as it was an independent and recent review into pension liberation concerns. And I think that the information Royal London had from CGL, that was signed by Mr G, gave persuasive reassurance that Mr G was not going to be liberating his pension. So, in spite of the existence of evident misgivings, including a recommendation not to proceed with the transfer from a technical adviser, ultimately a decision was made that Mr G was not going to be a victim of the type of scam it was looking for. Based on the evidence Royal London had, Mr G had a statutory right to transfer, and wasn't likely to be liberating his pension. Which was, in fact, correct. In these circumstances, I think that Royal London's decision to process the transfer was fair and reasonable.

I have considered whether Royal London ought to have questioned Mr G yet again about the identity of the person giving him advice on the transfer. But I don't think that it's fair or reasonable to consider this was a failing by Royal London. Mr G had the opportunity to provide that information. And, given the overall context of the information it had, I think that Royal London had enough information to, correctly, rule out the likelihood of a pension

liberation scam of the type ceding schemes were asked to be alert to. It was also aware that there was a stated intention to obtain regulated financial advice on the investments once the funds were in the SSAS which I think would also have provided some comfort to Royal London.

I have considered whether the circumstances behind the transfer were unusual enough in themselves for Royal London to have done more to warn Mr G about what he was intending to do, even if the pension liberation threat would have appeared minimal. But I think that would misread what should, reasonably, have been expected of transferring schemes at that time. Investigations into the receiving scheme and sponsoring employer were a means to an end: to establish the risk of liberation. Once that threat was discounted then I think it reasonable for ceding schemes to consider the scam threat as being minimal and process the transfer as normal.

I understand that Mr G's representative considers that Royal London should still have pointed out the warning signs it had found – but discounted when determining the risk of pension liberation. But I disagree. As I've said previously, a firm needed 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. Expecting a firm to share its due diligence "workings" in this way would cut across this (and could potentially be viewed as a self-serving tactic to hold on to a customer). I don't think that the Principles of business or COBS 2.1.1R imply this. Royal London had provided Mr G with the longer version of the Scorpion information so had provided him with fair and reasonable warnings based on the guidance at the time. I am satisfied that it acted appropriately.

Summary

I understand that Mr G has suffered a loss as a result of the investment that was made after this transfer, which has not fully been compensated for following his claim for Sequence's part in it. I therefore appreciate that he will be disappointed with this decision. But the guidance that TPR had put in place, at the time that Mr G's transfer request was completed, focussed on the risk of consumers falling victim to a pension liberation scam. And for the reasons I've explained above, even though Royal London correctly identified a number of warning signs, it ultimately correctly discounted the risk of that in the transfer request it received. So, I don't think it would be fair or reasonable in these circumstances to suggest that Royal London ought to have delayed the transfer process to provide information (beyond that in the Scorpion booklet) about those risk warnings it had identified. I don't think that Royal London identified the involvement of an unregulated adviser, and given the confirmation it had that pension liberation was not going to happen, I don't think it was at fault for not digging deeper and then uncovering that fact.

My final decision

For the above reasons I am not upholding Mr G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 10 April 2025.

Gary Lane
Ombudsman