

The complaint

Mrs W complains about the transfer of her personal pension with Scottish Friendly Assurance Society Limited (Scottish Friendly) to a Qualifying Recognised Overseas Pension Scheme ('QROPS') in June 2016. Mrs W's QROPS was used to invest via Reyker Securities plc (Reyker). Mrs W's pension fund now appears to have little value. Mrs W says she's lost out financially as a result of transferring.

Mrs W says Scottish Friendly failed in its responsibilities when dealing with the transfer request. She says it should've done more to warn her of the potential dangers of transferring, and undertaken greater due diligence on the transfer, in line with the guidance she says was required of transferring schemes at the time. Mrs W says she wouldn't have transferred, and therefore wouldn't have put her pension savings at risk, if Scottish Friendly had acted as it should've.

What happened

Mrs W had a pension policy with Marine & General Mutual Life Assurance Society Limited (MGM). She also had pension benefits in a former employer's final salary occupational pension scheme (OPS).

I've seen that Mrs W signed a letter of authority (LOA) in October 2014 for MGM to provide information about her pension policy. I don't know who requested the information as the details have been redacted from the copy correspondence supplied. MGM provided the information requested, including current fund and transfer values.

There was a transfer of business by MGM to Scottish Friendly on 1 June 2015.

On 11 August 2015 Scottish Friendly received Mrs W's signed LOA giving a firm called Profile Financial Solutions Limited (PFSL) authority to request information about her pension policy. Information was sent to PFSL.

On 3 March 2016 Optimus Pension Administrators Limited (OPAL), based in the Isle of Man, wrote to MGM requesting a transfer of Mrs W's policy to the Optimus Retirement Benefit Scheme No 1 (the Optimus Scheme), a Malta based QROPS. OPAL said that Integrated Capabilities (Malta) Limited (ICML) was the Scheme administrator but OPAL carried out certain administrative functions on behalf of ICML. OPAL confirmed the Optimus Scheme was a Recognised Overseas Pension Scheme (ROPS) and shown on HMRC's list of ROPS, a link to which was given. Transfer forms were enclosed, including a receiving scheme declaration signed by Mrs W and ICML, two HMRC forms (CA1890 and APSS263) signed by Mrs W on 18 February 2016 (both of which showed HMRC's QROPS reference number) and an undated letter signed by Mrs W authorising ICML to speak to MGM about the transfer.

Because Mrs W's policy had by then been transferred to Scottish Friendly, the paperwork was returned to OPAL with a request to send it to Scottish Friendly instead which OPAL did. Scottish Friendly received OPAL's letter on 10 March 2016 which included the same information as previously.

On 15 March 2016 Scottish Friendly wrote to Mrs W saying it had received the transfer request but not the original policy document which was required. If she didn't have it, she should complete the enclosed policy declaration and return it with identification documents. Once that had been received Scottish Friendly would be in a position to proceed with the transfer. Scottish Friendly wrote again on 3 May 2016 requesting the documents. I assume Scottish Friendly got them as the transfer was completed on 7 June 2016 – Scottish Friendly sent £7,153.16 to the Optimus Scheme. Three days later £4,838.57 was sent to Reyker – a FCA (Financial Conduct Authority) authorised fund custodian which held cash and assets on behalf of its clients.

Reyker later ran into financial difficulties and, in discussion with the FCA, steps were taken to place Reyker into Special Administration in October 2019. Reyker's clients were transferred to one of several nominated brokers. I've seen a transaction summary for Mrs W. It's not up to date. But it shows the payment of £7,153.16 from Scottish Friendly and the transfer of £4,838.57 to Reyker. Some monies were later returned by Reyker. Taking into account fees and charges since inception of the account, a remaining balance of £1,451.61 was transferred on 18 May 2022 to the new broker.

In May 2023 Mrs W made a claim to the Financial Services Compensation Scheme (FSCS) against Gerard Associates Limited (GAL). FSCS wrote to Scottish Friendly on 23 May 2023 for information about Mrs W's policy. On 14 August 2023 FSCS emailed Mrs W saying it had completed its investigation into her claim. FSCS said there wasn't enough evidence to show GAL was at fault. FSCS's investigations suggested advice had been given to Mrs W by Strategic Wealth Limited (SWL), a Gibraltar based company, which wasn't regulated by the FCA or covered by FSCS. The Optimus Scheme had confirmed the adviser was SWL who was also the Scheme's investment adviser. There was evidence that GAL had prepared a pension transfer analysis report regarding the proposed transfer of benefits from the OPS but that transfer hadn't taken place. But there was no evidence that GAL was involved in the transfer from Scottish Friendly, the establishment of the QROPS or the investment purchases.

Mrs W, with the help of her representative, complained to Scottish Friendly in November 2023. Mrs W said Scottish Friendly had failed to complete sufficient due diligence on the adviser firm who'd recommended the transfer to the QROPS and the underlying investments. She'd been contacted by cold call on behalf of an EEA authorised adviser and offered a free pension review and subsequently been advised to transfer her Scottish Friendly pension to the Optimus Scheme and invest the majority of her pension fund in Reyker, a high risk investment. The adviser had recommended a large number of clients to transfer to the Optimus Scheme to invest in high risk investments. Scottish Friendly should've had processes in place to monitor this activity and flag it up to Mrs W and the regulator. Scottish Friendly should've collected relevant information from Mrs W and had failed to use the Scorpion action pack (I mention the Scorpion campaign further below).

Scottish Friendly said it was unable to look into the complaint as it had been made too late – more than six years after the event complained of and more than three years from the date on which Mrs W became aware (or ought reasonably to have become aware) she had cause for complaint.

I issued a jurisdiction decision on 14 November 2024. I said the complaint had been made within the applicable time limits. Although it had been made outside the primary six year period, it had been made within three years of when Mrs W became aware (or ought reasonably to have become aware) she had cause for complaint.

The investigator then began to look into the merits of the complaint. When we asked Scottish Friendly for its business file, it said it had been unable to locate it all, despite a thorough search, including its archives. So it was unable to confirm what documents it had sent Mrs W following the transfer request. But it was confident it had robust procedures in place and would've followed all guidelines and regulations at the time. Mrs W was using a regulated adviser, the fund was regulated by the FCA and, in 2016, there was no reason to assume it would fail in the future. According to FSCS's website, it wasn't until October 2019 that Reyker went into administration and subsequently failed in March 2020. Scottish Friendly also said it hadn't heard further from FSCS and its position was that Mrs W couldn't make the same claim to it as she'd made to FSCS.

The investigator was unable to resolve the complaint informally and so it was referred 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.

I've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time.

The relevant rules and guidance

Personal pension providers are regulated by the FCA. Prior to that they were regulated by the FCA's predecessor, the Financial Services Authority (FSA). As such Scottish Friendly was subject to the FSA/FCA Handbook, and under that to the Principles for Businesses (PRIN) and to the Conduct of Business Sourcebook (COBS). There have never been any specific FSA/FCA rules governing how personal pension providers deal with pension transfer requests, but the following have particular relevance here:

- Principle 2 – A firm must conduct its business with due skill, care and diligence;
- Principle 6 – A firm must pay due regard to the interests of its customers and treat them fairly;
- Principle 7 – A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading; and
- COBS 2.1.1R (the client's best interests rule), which states that a firm must act honestly, fairly and professionally in accordance with the best interests of its client.

In February 2013, The Pensions Regulator (TPR) issued its Scorpion guidance to help tackle the increasing problem of pension liberation, the process by which unauthorised payments are made from a pension (such as accessing a pension below minimum retirement age). In brief, the guidance provided a due diligence framework for ceding schemes dealing with pension transfer requests and some consumer-facing warning materials designed to allow members decide for themselves the risks they were running when considering a transfer. The Scorpion guidance was described as a cross-government initiative by Action Fraud, The City of London Police, HMRC, the Pensions Advisory Service (TPAS), TPR, the SFO, and the FSA/FCA, all of which endorsed the guidance, allowing their names and logos to appear in Scorpion materials.

The FSA's endorsement of the Scorpion guidance was relatively informal: it didn't take the form of Handbook Guidance, because it was not issued under s.139A of the Financial Services and Markets Act (FSMA), which enabled the FSA to issue guidance provided it underwent a consultation process first. Nor did it constitute "confirmed industry guidance", as can be seen by consulting the list of all such FSA/FCA guidance on its website. So the content of the Scorpion guidance was essentially informational and advisory in nature. Deviating from it doesn't therefore mean a firm has necessarily broken the Principles or COBS rules. Firms were able to take a proportionate approach to transfer requests, balancing consumer protection with the need to also execute a transfer promptly and in line with a member's right to transfer.

That said, the launch of the Scorpion guidance in 2013 was an important moment in so far it provided, for the first time, guidance for personal pension providers dealing with transfer requests – guidance that prompted providers to take a more active role in assessing those requests. The guidance was launched in response to widespread abuses that were causing pension scheme members to suffer significant losses. And the guidance's specific purpose was to inform and help ceding firms when they dealt with transfer requests in order to prevent these abuses and save their customers from falling victim to them.

In those circumstances, I consider firms which received pension transfer requests needed to pay regard to the contents of the Scorpion guidance as a matter of good industry practice. It means February 2013 marks an inflection point in terms of what was expected of personal pension providers dealing with transfer requests as a matter of fulfilling their duties under the regulator's Principles and COBS 2.1.1R.

The Scorpion guidance was updated in July 2014. It widened the focus from pension liberation specifically, to pension scams more generally – which included situations where someone transferred in order to benefit from "too good to be true" investment opportunities such as overseas property developments. An example of this was given in one of the action pack's case studies.

There was a further update to the Scorpion guidance in March 2015. This guidance referenced the potential dangers posed by "pension freedoms" (which were about to give people greater flexibility in relation to taking pension benefits) and explained that pension scams were evolving. In particular, it highlighted that single member occupational schemes were being used by scammers. At the same time, a broader piece of guidance was initiated by an industry working group covering both TPR and FCA regulated firms: the Pension Scams Industry Group (PSIG) Code of Good Practice. The intention of the PSIG Code was to help firms achieve the aims of the Scorpion campaign in a streamlined way which balanced the need to process transfers promptly with the need to identify those customers at material risk of scams.

The March 2015 Scorpion guidance

The March 2015 update to the Scorpion guidance asked schemes to ensure they provided their members with "regular, clear" information on how to spot a scam. It recommended giving members that information in annual pension statements and whenever they requested a transfer pack. It said to include the pensions scam "leaflet" in member communications. In the absence of more explicit direction, I take the view that the member-facing Scorpion warning materials were to be used in much the same way as previously, which is for the shorter insert (which had been refreshed in March 2015) to be sent when someone requested a transfer pack and the longer version (which had also been refreshed) made available when members sought further information on the subject.

When a transfer request was made, transferring schemes were also asked to use a three part checklist to find out more about a receiving scheme and why their member was looking to transfer.

The PSIG Code of Good Practice

The PSIG Code was voluntary. But, in its own words, it set a standard for dealing with transfer requests from UK registered pension schemes. It was “welcomed” by the FCA and the Association of British Insurers (amongst others). And several FCA regulated pension providers were part of the PSIG and co-authored the Code. So much of the observations I’ve made about the status of the Scorpion guidance would, by extension, apply to the PSIG Code. In other words, personal pension providers didn’t necessarily have to follow it in its entirety in every transfer request and failure to do so wouldn’t necessarily be a breach of the regulator’s Principles or COBS. Nevertheless, the Code sets an additional benchmark of good industry practice in addition to the Scorpion guidance.

In brief, the PSIG Code asked schemes to send the Scorpion “materials” in transfer packs and statements, and make them available on websites where applicable. The PSIG Code goes on to say those materials should be sent to scheme members directly, rather than just to their advisers.

Like the Scorpion guidance, the PSIG Code also outlined a due diligence process for ceding schemes to follow. However, whilst there is considerable overlap between the Scorpion guidance and the PSIG Code, there are several differences worth highlighting here, such as:

- The PSIG Code includes an observation that: *‘A strong first signal of [a scam] would be a letter of authority requesting a company not authorised by FCA to obtain the required pension information; e.g. a transfer value, etc.’* This is a departure from the Scorpion guidance (including the 2015 guidance) which was silent on whether anything could be read into the entity seeking information on a person’s pension.
- The Code makes explicit reference to the need for scheme administrators to keep up to date with the latest pension scams and to use that knowledge to inform due diligence processes. Attention is drawn to FCA alerts in this area.
- Under the PSIG Code, an ‘initial analysis’ stage allows transferring schemes to fast-track a transfer request without the need for further detailed due diligence, providing certain conditions are met. No such triage process exists in the 2015 Scorpion guidance – following the three-part due diligence checklist was expected whenever a transfer was requested.
- The PSIG Code splits its later due diligence process by receiving scheme type: larger occupational pension schemes, SIPPs, SSASs and QROPS. The 2015 Scorpion guidance doesn’t distinguish between receiving scheme in this way – there’s just the one due diligence checklist which is largely (apart from a few questions) the same whatever the destination scheme.

TPR began referring to the Code as soon as it was published, in the March 2015 version of the Scorpion action pack. Likewise, the PSIG Code referenced the Scorpion guidance and indicated staff dealing with scheme members needed to be aware of the Scorpion materials.

Therefore, in order to act in the consumer’s best interest and to play an active part in trying to protect customers from scams, I think it’s fair and reasonable to expect ceding schemes to have paid due regard to both the Scorpion guidance and the PSIG Code when processing

transfer requests. Where one differed from the other, they needed to consider carefully how to assess a transfer request taking into account the interests of the transferring member. Typically, I'd consider the Code to have been a reasonable starting point for most ceding schemes because it provided more detailed guidance on how to go about further due diligence, including steps to potentially fast-track some transfers which – where appropriate – would be in the interest of both parties.

The considerations of regulated firms didn't start and end with the Scorpion guidance and the PSIG Code. If a personal pension provider had good reason to think the transferring member was being scammed – even if the suspected scam didn't involve anything specifically referred to in either the Scorpion guidance or the Code – then its general duties to its customer as an authorised financial services provider would come into play and it would have needed to act. Ignoring clear signs of a scam, if they came to a firm's attention, or should have done so, would almost certainly breach the regulator's principles and COBS 2.1.1R.

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

There's only limited information as to what happened. Our investigator would've liked to have spoken direct to Mrs W to get her recollections but that didn't prove possible. So I've considered what was said when the complaint to Scottish Friendly was made and what we've been told since about how Mrs W came to transfer away from Scottish Friendly.

In March 2016, when Scottish Friendly received the transfer request, Mrs W was approaching her 50th birthday. In her complaint to Scottish Friendly she said she'd been cold called on behalf of an EEA authorised adviser and subsequently advised to transfer her Scottish Friendly pension to a QROPS (the Optimus Scheme) and invest the majority of her pension in Reyker, a high risk investment which had failed.

Mrs W doesn't recall being contacted by Scottish Friendly during the transfer process. And she says she was unaware the transfer had gone ahead or what had happened to her funds. When she reached age 56 she attempted to access her Scottish Friendly pension. I think she wanted to take it as a cash lump sum. She then discovered it had been transferred to the Optimus Scheme. She says she didn't receive any statements from that Scheme.

In response to the investigator's view Mrs W's representative said, although Scottish Friendly had received a LOA from PFSL in August 2015, PFSL had no involvement in the transfer which had been arranged by an unregulated company: SWL, based in Gibraltar. Scottish Friendly hadn't conducted sufficient due diligence. If they'd properly assessed the situation, significant risks to the client would've been identified. Basic checks would've confirmed she was at high risk of financial loss and Scottish Friendly should've refused to proceed with the transfer.

I reach my conclusions about what happened on the balance of probabilities – that is, what I consider is likely to have happened, based on all the available evidence (which might be incomplete, inconclusive or contradictory) and the wider surrounding circumstances. Here, as I've said, there's limited evidence as to what happened. But I'm satisfied I can fairly reach conclusions on the basis of what I've seen.

I don't accept all that's been said on Mrs W's behalf. She says she was unaware that her Scottish Friendly pension had been transferred to the Optimus Scheme. But I've seen she completed documents in relation to the transfer such as the receiving scheme declaration and HMRC forms. And, as I've mentioned, Scottish Friendly did write to her in April and May 2016 about the transfer. So I think, at the time, she'd have known that she was transferring.

Looking at what led to the transfer, as I've noted above, in October 2014, Mrs W had signed a LOA in favour of a firm whose identity is unknown. It's possible that firm was the one that had originally cold called her. And it suggests Mrs W may have been looking into transferring since 2014. But nothing seems to have come of it as no transfer request was made. The same is true of what happened in August 2015. Scottish Friendly received a LOA signed by Mrs W in favour of PFSL. But it wasn't until about seven months later that Mrs W's transfer request was made. Mrs W's representative says that wasn't anything to do with PFSL and I've seen nothing to suggest otherwise.

In considering what led to the transfer request made in March 2016, I accept Mrs W was an unsophisticated investor who didn't know much about pensions or investments generally. A QROPS is a relatively unusual type of pension. It's an overseas pension arrangement and a somewhat odd choice for someone in Mrs W's circumstances – she was resident in the UK with no plans to move or retire abroad. I can't see she'd have decided to transfer to a QROPS – or even known that type of pension existed – unless she'd been told about it by someone. Nor do I think she'd have come up with the idea of investing via Reyker unless it had been suggested to her. Further, I think she'd only have been prepared to transfer if she'd been given to understand she'd be better off as a result when she came to retire. That would amount to a personal recommendation or advice to transfer. I accept Mrs W was advised to transfer – which is what she says happened.

As to who gave that advice, Mrs W's claim to FSCS named GAL. As I've mentioned, Mrs W also had benefits in an OPS which she was also planning to transfer to the QROPS. I haven't seen full details of what Mrs W told FSCS or what evidence in support she supplied – for example a copy of any report she received from GAL. But it appears from FSCS's investigation that GAL's advice was limited to the OPS. And, as that transfer didn't go ahead, Mrs W didn't suffer any losses in respect of her OPS. And, if GAL's involvement didn't extend to the transfer of Mrs W's Scottish Friendly policy, GAL wouldn't be responsible for any losses Mrs W has sustained as a result of that transfer.

Further, FSCS's investigations suggested Mrs W had been advised by SWL. I don't think we've seen the evidence FSCS has referred to – it appears FSCS contacted the Optimus Scheme. But it's consistent with what we've seen in other cases involving SWL where a standardised report was sent to the consumer with information on different types of pensions, including the advantages and disadvantages of a QROPS, and information about the proposed investment(s). The reports say SWL had been engaged by the trustees of the Optimus Scheme to give the consumer information about their options and appears to have been a condition of the trustees accepting the funds into the Optimus Scheme. The reports included a copy of a warning leaflet – which I think would've been the Scorpion leaflet.

I haven't asked FSCS for sight of the evidence it's seen because Mrs W's own evidence is consistent with FSCS's conclusions – that it was SWL who advised her to transfer from Scottish Friendly. I say that because when Mrs W complained to Scottish Friendly she said she'd been cold called on behalf of an EEA authorised adviser and subsequently advised to transfer her Scottish Friendly pension to a QROPS. As I've explained below, SWL's status – as a firm that had been passported into the UK from Gibraltar – is consistent with that. And, in response to the investigator's view, Mrs W's representative named SWL, based in Gibraltar, as the firm who'd arranged the transfer. So I accept Mrs W was advised by SWL to transfer to the QROPS to invest via Reyker.

What did Scottish Friendly 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. Scottish Friendly says it had robust procedures in place and it would've followed all the relevant guidance and regulations. But Scottish Friendly can't produce anything to evidence that the Scorpion insert was sent to Mrs W and she doesn't recall getting anything from Scottish Friendly. So I can't conclude it was sent.

I'd have expected Scottish Friendly to have sent the Scorpion insert when the transfer pack was requested. I've noted that a request appears to have been made in October 2014. If the Scorpion insert had been sent then it would've been the July 2014 version, entitled '*A lifetime's savings lost in a moment*'. There was a further request for information in August 2015 and a transfer request in March 2016. Scottish Friendly also had opportunities to send the insert when it wrote to Mrs W in March and May 2016 about the information it required if the original policy had been lost. If the insert had been sent then it would've been the March 2015 version entitled '*Scamproof your savings*'.

Due diligence

As explained above, I consider the PSIG Code to have been a reasonable starting point for most ceding schemes. I've therefore considered Mrs W's transfer in that light. But I don't think it would make a difference to the outcome of the complaint if I had considered Scottish Friendly's actions using the Scorpion guidance as a benchmark instead.

Although, from what I've seen, Scottish Friendly carried out limited due diligence, it hasn't argued that it fast tracked Mrs W's transfer request in line with the 'Initial analysis' section (6.2.1) of the PSIG Code. I don't think the "accepted club" part of that section of the Code is applicable here. Neither could Scottish Friendly have considered the receiving scheme or administrator as being free of scam risk. So the initial triage process should've instead led to Scottish Friendly asking Mrs W further questions about the transfer as per Section 6.2.2 ("Initial analysis – member questions"). I won't repeat the list of suggested questions in full. Suffice to say, at least two of them would've been answered "yes":

- Did receiving scheme/adviser or sales agents/representatives for the receiving scheme make the first contact (e.g. a cold call)?
- Have you been informed of an overseas investment opportunity?

Under the Code, further investigation should follow a "yes" to any question. The nature of that investigation depends on the type of scheme being transferred to. The QROPS section of the Code (Section 6.4.4) has the following statement:

"The key items to consider are the rationale for moving funds offshore, and the likelihood that the receiving scheme is a bona fide pension scheme, as if HMRC determine retrospectively that it is not, there may be a scheme sanction charge liability regardless of whether the receiving scheme was included on the list or not."

In order to address those two items – the rationale for moving funds offshore and the legitimacy of the QROPS – the Code suggests the transferring scheme should broadly follow the same due diligence process as for a SSAS (Small Self Administered Scheme) which outlined four areas of concern under the following headings: employment link, geographical link, marketing methods and provenance of the receiving scheme. Underneath each area of concern, the Code set out a series of example questions to help scheme administrators assess the potential risk facing a transferring member.

Not every question would need to be addressed under the Code. Indeed, the Code makes the point that it is for scheme administrators to choose the most relevant questions to ask (including asking questions *not* on the list if appropriate). But the Code makes the point that a transferring scheme would typically need to conduct investigations into a “wide range” of issues to establish whether a scam was a realistic threat. With that in mind, I think in this case Scottish Friendly should’ve addressed all four areas of concern and contacted Mrs W in order to help with this.

What should Scottish Friendly have found out – and would it have made a difference?

Scottish Friendly did see, from the documents supplied in support of the transfer request, that the QROPS was registered with HMRC and on its list of ROPS. But establishing the legitimacy of the QROPS seems to have been the extent of its due diligence. Scottish Friendly didn’t address Mrs W’s rationale for transferring. If it had asked Mrs W about this – which it should’ve, using the framework outlined above – it would’ve found out she was transferring her pension following an unsolicited approach and transferring to a type of arrangement more commonly used by people living overseas, even though she wasn’t intending to do that. So, had Scottish Friendly followed the guidance, some warning signs would’ve become apparent.

But Scottish Friendly should’ve also asked Mrs W if she’d received advice and, if so, who’d given that advice. I think Mrs W would’ve told Scottish Friendly that, although things had started off with a cold call, she’d been advised by SWL in connection with the transfer and investments.

The Scorpion checklist recommends that, in order to establish whether a member has been advised by a non-regulated adviser, the transferring scheme should consult the FCA’s online register of authorised firms. Scottish Friendly should’ve taken that step, which isn’t difficult. Had it done so, it would’ve discovered that SWL appeared on the FCA register as a firm that was passported in from Gibraltar to the UK. This means that, for UK purposes, throughout the period of this transfer, SWL was an authorised person under section 31(1)(b) of FSMA and Schedule 3 to that Act.

The PSIG Code and the checklist didn’t, at the time, contain any warnings about using overseas advisers who were on the FCA register. Or asking schemes to determine the precise nature of an adviser’s involvement or exactly what the adviser’s regulatory permissions were – it was enough that they were on the FCA register. Once Scottish Friendly had confirmed the receiving scheme was legitimate and that a regulated adviser was involved, I don’t think Scottish Friendly needed to look further – the requirements of the Scorpion guidance and the PSIG Code at the time had substantively been met, along with Scottish Friendly’s wider obligations under the Principles and COBS 2.1.1R. SWL was an overseas adviser. But Mrs W was transferring to a QROPS, so it wouldn’t be unusual that overseas parties would be involved. The rules in place at the time allowed firms, that were properly regulated in an EEA state, to have passporting rights to legitimately provide services in the UK. I don’t see that Scottish Friendly, at the time, ought to have concluded that advice from a properly regulated firm with passporting rights was inferior to that of UK FCA regulated firm.

Mrs W might say that Scottish Friendly should’ve warned her that it was unusual for her to be transferring a pension overseas – and checked whether the reason for doing that was because she was moving or planned to move overseas. But whether it was appropriate for Mrs W transferring her pension to Malta was a financial planning matter that it wasn’t Scottish Friendly’s role to intervene in and when, as I’ve said, it would’ve established that Mrs W had taken advice on that.

For completeness I'd mention that a similarly named firm – Strategic Wealth (UK) Limited – has been mentioned in some complaints we've seen. It's no longer (since November 2022) authorised but it was from 22 March 2013. So, if Mrs W had mentioned Strategic Wealth (UK) Limited instead of SWL, the outcome would've been the same – a search of the FCA's register would've shown that firm was regulated. And, as the investigator pointed out, PFSL was a registered firm too, as was Carnwyllon Wealth Management Ltd (who I think was the original adviser on the policy). So it would've appeared that all of the firms who might've been involved (although, as I've said, I think Mrs W would've named SWL as her adviser) were regulated anyway.

Therefore, if Scottish Friendly had conducted further due diligence, I'm satisfied it would've ultimately concluded that the threat posed by the transfer was minimal. Not only was Mrs W transferring to a legitimate scheme but there was also the involvement of an advisory firm on the FCA register. There'd have been no grounds for blocking the transfer and no reason to provide Mrs W with any warnings about the transfer and so she'd have had no reason to question what she was doing.

That said, I acknowledge it's possible that Scottish Friendly just asking questions about why she was transferring to an overseas pension arrangement might've raised doubts in Mrs W's mind about the transfer and whether what she'd been told she should do was appropriate. But, in the same way as Scottish Friendly would've been reassured by the presence of a registered adviser, I think Mrs W would've thought that, as she was dealing with an adviser who was authorised by the FCA, she wasn't being scammed and she could safely rely on the advice she'd been given.

Scottish Friendly should've sent Mrs W the Scorpion insert. As I've noted, it's possible, if she received a report from SWL, it would've included a copy of Scorpion insert. But I haven't seen any report that Mrs W got from SWL so I'm not going to assume she did get the Scorpion insert from that source. So, as Scottish Friendly didn't send it, she didn't see it.

The July 2014 version said that pension scams were on the increase and the '*scammers have a variety of tricks to catch you out*'. Which included being approached out of the blue and offered a free pension review. And the March 2015 Scorpion insert '*Scamproof your savings*' included a section headed '*How to spot the warning signs*' which set out '*some of the most common tactics used by scammers to trick you out of your savings*'. These included a cold call offering a free pension review and overseas transfer of the funds. So, if Mrs W had seen the inserts she might've recognised some of the warning signs as being present in her case. But, even if she'd been prompted to check things out, I think she'd have been reassured by the fact that the firm she was dealing with – SWL – did appear on the FCA's register.

As I've mentioned, Mrs W was also intending to transfer benefits held in a final salary OPS. I haven't looked into how that transfer request was handled and why it didn't proceed and if Mrs W was given any warnings by the OPS. If she went ahead with the transfer from Scottish Friendly even though she'd been warned against transferring by the OPS, that could indicate her commitment to the transfer and that, even if Scottish Friendly had done more, she wouldn't have been deterred. But I mention that largely in passing. Although I agree that Scottish Friendly didn't do enough, even if it had done all it should've, I think Mrs W would likely be in the same position as she's in now. So I can't say Scottish Friendly has caused the losses she's suffered in consequence of transferring to the Optimus Scheme and I'm unable to uphold her complaint.

My final decision

I don't uphold the complaint and I'm not making any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 21 April 2025.

Lesley Stead
Ombudsman