

## **The complaint**

Mr N has complained about the actions of Aviva Life & Pensions UK Limited (“Aviva”) when it transferred his personal pension to a Qualifying Recognised Overseas Pension Scheme (“QROPS”) in 2015. Mr N’s QROPS was used to invest, in part, in The Resort Group (“TRG”), an overseas commercial property scheme. Investors in TRG have suffered significant losses.

Mr N says Aviva failed in its responsibilities when dealing with his transfer request. He says Aviva 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 in place at the time. Mr N says he wouldn’t have suffered the losses he did if Aviva had acted as it should have done.

## **What happened**

I have already issued a provisional decision in which I set out, in detail, the background to this complaint, and my preliminary findings. I won’t repeat what I said here. My provisional decision is, however, attached and forms part of this final decision.

In my provisional decision, I concluded Mr N’s complaint shouldn’t be upheld. Neither party had any further comments for me to consider.

## **What I’ve decided – and why**

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having reviewed the case once again, and having taken on board the fact that neither party has provided any further comments for me to consider, I see no reason to reach a different decision on Mr N’s complaint.

It follows that I don’t uphold this complaint.

## **COPY OF PROVISIONAL DECISION**

In March 2015, First Review Pension Services (“FRPS”) wrote to Aviva requesting information on Mr N’s policy and discharge forms to allow a transfer to a different pension scheme. Mr N had previously signed a letter of authority allowing FRPS to do this. Aviva responded to FRPS’s request on 26 March.

Mr N has told us he doesn’t remember much about dealing with FRPS. He told us he remembers being cold called and dealing with someone from a different firm, Choices Wealth. Mr N says he was told about investing in TRG and a more mainstream fund.

On 27 April 2015 Mr N was sent a report by Strategic Wealth Limited, a firm based in Gibraltar. According to the report, Mr N had engaged the services of Strategic Wealth Limited following his decision to transfer his UK pension to a QROPS based in Malta.

On 15 June 2015, Optimus Pension Administrators Limited (“OPAL”) wrote to Aviva requesting it transfer Mr N’s Aviva policy to the Optimus Retirement Benefit Scheme No.1 (“the Optimus Scheme”), a Maltese QROPS. OPAL was providing certain administrative functions on behalf of Integrated Capabilities (Malta) Limited, the administrators of the Optimus Scheme. Various transfer forms were attached, including a letter from HMRC to Integrated Capabilities dated 4 August 2014 confirming that the Optimus Scheme was going on the HMRC QROPS list.

On 17 June, Aviva wrote to Integrated Capabilities to say a transfer value (of approximately £46,000) had been paid to the Optimus Scheme. By the end of the year approximately half of the transfer proceeds had been invested in TRG investments with the remainder invested in a cautious fund run by a mainstream provider.

In 2020, Mr N (with the help of a claims management company) complained to Aviva. Briefly, his argument is that Aviva ought to have spotted, and told him about, a number of warning signs in relation to the transfer, including (but not limited to) the following: the transfer started with a cold call; he was offered a free pension review; unregulated advisers and introducers were involved (FRPS and Choices Wealth); Strategic Wealth Limited had provided information only; the QROPS was recently registered; he had been told to expect unrealistically high returns; and a QROPS was an unusual arrangement for someone not intending to live overseas.

Aviva didn’t think it had done anything wrong. It said, in brief, that Mr N was transferring to a scheme that was on HMRC’s QROPS list and, as it had no need to contact Mr N, it wouldn’t have been aware of the nature of Mr N’s intended investments.

Our investigator looked into the complaint. He didn’t think it should be upheld. Mr N disagreed and asked for an ombudsman to review his complaint.

### **What I’ve provisionally decided – and why**

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

#### 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 Aviva 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 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.

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, which is relevant for this complaint. This guidance referenced the potential dangers posed by "pension freedoms" (which was about to give people greater flexibility in relation to taking pension benefits) and explained that pension scams were evolving. In particular, it highlighted that single member occupational schemes were being used by scammers. At the same time, a broader piece of guidance was initiated by an industry working group covering both TPR and FCA regulated firms: the PSIG Code of Good Practice. The intention of the 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

When the Scorpion guidance was launched in 2013, it included two standard documents that scheme administrators could use to warn their members about some of the potential dangers of transferring: a short "insert", intended to be sent to members when requesting a transfer, and a longer booklet intended to be used where appropriate (for instance, when members requested more information on the subject).

The March 2015 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 and the longer version (which had also been refreshed) made available where appropriate.

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 – using the 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, SIPP, 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 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 PSIG 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 a member’s interest.

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?

The documentary evidence shows Mr N signed a letter of authority allowing FRPS to request information from Aviva on his behalf. Mr N doesn't remember dealing with FRPS other than telling our investigator its name "rings a bell". But he does recall dealing with a firm called Choices Wealth. His recollections are quite strong in this respect. I'm also aware that two individuals were directors of both Choices Wealth and FRPS. So it's clear there were links between these two businesses.

Mr N says the process started with a cold call. Given what I've said above, this was most likely from FRPS – hence the letter of authority – but he was then likely passed on to Choices Wealth, the firm he remembers dealing with and a firm that evidently had close ties with FRPS. Neither firm was authorised by the FCA and nothing turns on the precise division of labour between FRPS and Choices Wealth.

Mr N says he was told he had been contacted as part of a government review of pensions. He remembers the investments that were discussed – part ownership of a TRG development in Cape Verde that would return 7% p.a. and a more mainstream fund provided by a well-known provider that Mr N had heard of and trusted. Mr N says he didn't access his pension after the transfer, which would be in keeping with what I know of the Optimus Scheme which wasn't, as far as I'm aware, used for the purposes of pension liberation. Mr N's motivations for transferring were therefore to generate better returns for his pension rather than to access it in an unauthorised manner.

Mr N recalls twice being given the Scorpion insert by Choices Wealth. Again, his recollections on this are quite clear – he recalls it being a poor-quality photocopy the first time he saw it and a better version the second time. Around the same time, he recalls being told by Choices Wealth that his transfer wasn't a scam. So whilst it's clear Mr N was shown the Scorpion insert on two separate occasions, the overall message would seem to have been he didn't need to concern himself too much about being scammed.

Mr N recalls feeling pressure from Choices Wealth to transfer, pressure that intensified when his wife told him he should "just sign". All through the process, Mr N recalls having concerns about the transfer – in his words, he was "uncertain" and something "didn't add up".

Mr N recalls being referred to Strategic Wealth Limited by Choices Wealth. I've also seen a copy of the report produced by Strategic Wealth Limited and references on Mr N's QROPS statements to Strategic Wealth Limited and Strategic Wealth UK Limited being Mr N's "appointed adviser".

Strategic Wealth Limited was incorporated in Gibraltar and licensed by the Gibraltar Financial Services Commission. It had passported into the UK financial services regime on a services-only basis. Because it had passported into the UK, Strategic Wealth Limited appeared on the FCA register. Strategic Wealth UK Limited was its sister firm. It was based in the UK and regulated by the FCA so it also appeared on the FCA register.

The report produced for Mr N was from the Gibraltar firm, Strategic Wealth Limited. The individual who signed that report – a Mr B – also worked for the UK firm and was also authorised by the FCA. The UK firm was recorded as Mr N's adviser on at least one of his QROPS statements. So it's possible Mr N met Mr B in the run-up to the transfer. Mr N hasn't referred to this and his recollections are otherwise reasonably strong. So this doesn't appear to have happened here. Ultimately my decision doesn't turn on this for reasons that I will come on to.

Mr N was, and remains, resident in the UK. There's nothing to suggest he was planning to move overseas. He was 47 at the time.

#### What did Aviva do and was it enough?

*Due diligence:*

Aviva said it conducted due diligence on Mr N's transfer because it had evidence that the Optimus Scheme was a legitimate QROPS.

Whilst this was a necessary part of the due diligence process, Aviva has misread the extent of its obligations here. The Scorpion guidance and PSIG Code meant there was more that it should have done.

As explained above, I consider the PSIG Code to have been a reasonable starting point for most ceding schemes dealing with transfer requests. I've therefore considered Mr N'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 Aviva's actions using the 2015 Scorpion guidance as a benchmark instead.

Although Aviva's due diligence was brief, it *hasn't* argued that it fast-tracked Mr N's transfer request in line with the "Initial analysis" section (section 6.2.1) of the Code. Nevertheless, for completeness, it's worth noting the transfer request didn't come from an accepted club such as the Public Sector Transfer Club and Aviva hadn't already identified the receiving scheme/administrator as being free from scam risk bearing in mind what the Code said about this in Section 6.11.

So the initial triage process under the Code should (if deployed) have led to Aviva asking Mr N 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 have 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, 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 Aviva should have considered, as far as they were applicable, all four areas of concern and contacted Mr N in order to help with this.

Aviva did establish the legitimacy of the QROPS. But that was the extent of its due diligence. It didn't address Mr N's rationale for transferring. If it had asked Mr N about this – which it should have done, using the framework outlined above – it would have found out Mr N was transferring his pension following an unsolicited approach and that he was transferring to an arrangement that was designed for people living overseas even though he wasn't intending to do that. It would also have found out the reason for transferring overseas was to invest, in part, in TRG – an overseas property scheme of the type that was highlighted as an area of concern in the PSIG Code. Aviva should also have asked Mr N whether he had been pressured into transferring. Whilst Mr N hasn't gone as far as saying he was coerced into transferring, it's reasonable to say he did feel some pressure from Choices Wealth –

enough, in my view, to make his answers to this question another cause for concern.

Mr N also said he had been told by Choices Wealth that he had been contacted because the government was conducting a review into pensions. This was another warning sign in the guidance (not that a firm would have needed guidance to have considered this as being concerning). I see no reason why Mr N wouldn't have volunteered this information if Aviva had spoken to him. Of course, Aviva could, legitimately, have written to Mr N with a series of questions and that wouldn't have necessarily lent itself so well to a fuller answer about the supposed government review of pensions. Nevertheless, the purpose of any written questions would still have been to illicit relevant information so most reasonable processes should, in my view, have picked up on this issue. In any case, I think it's fair to say Aviva wouldn't have needed to progress too far through the Code, or asked too many questions of Mr N, for various parallels between his transfer and what the PSIG Code was warning about to have become apparent.

However, Aviva should also have asked Mr N about who was advising him. Had Aviva asked Mr N that, I'm satisfied he would have said Strategic Wealth. That's because by the point Aviva would have been asking about this, Mr N had been referred to Strategic Wealth Limited, had been through its risk profiling exercise and had been sent its report. As discussed before, it's possible Mr N may also have mentioned the UK firm – Strategic Wealth UK Limited – or a Mr B who worked for both firms and was the signatory to his report.

With that in mind, Aviva would have established that the two entities Mr N would have mentioned, Strategic Wealth UK Limited or Strategic Wealth Limited, were on the FCA register, as was the individual he was dealing with – Mr B. Although Strategic Wealth Limited was regulated by the Gibraltar equivalent of the FCA and had passported into the UK under a services passport, the PSIG Code and the checklist didn't contain any warnings about using overseas advisers that were on the FCA register.

Therefore, if Aviva had conducted further due diligence, I'm satisfied it would have ultimately concluded the threat posed by the transfer was minimal. Yes, there would have been concerns about how Mr N came to be interested in the transfer in the first place and about some of the parallels between his situation and elements of the PSIG Code and Scorpion guidance. But Mr N was transferring to a legitimate scheme and had been referred to, and had appointed, an authorised adviser. As outlined previously, firms 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 rights. The fact that Mr N had appointed a properly authorised adviser would reasonably have given Aviva comfort the transfer was unlikely to be a scam. It would have been reasonable for it to have taken the view that Mr N had ultimately engaged the services of a relevant professional acting in his best interests and therefore not someone likely to allow, or be involved with, a scam.

I recognise it's possible Mr N would have mentioned Choices Wealth in addition to Strategic Wealth. But I can't fairly say Aviva should have become concerned about this. It wouldn't have seemed unusual for an unregulated party to introduce someone to a regulated party for advice. And that's how it would have looked to Aviva. Mr N told us he was referred to Strategic Wealth by Choices Wealth so there's no reason to think he wouldn't have told Aviva the same thing.

I also recognise Mr N has argued that Strategic Wealth Limited only provided him with information rather than advice. Armed with that knowledge Aviva wouldn't, in Mr N's view, have considered the involvement of Strategic Wealth as being material which would put the spotlight back on the role played by Choices Wealth. But this would be a misreading of what Aviva's role was here. It wasn't to examine the precise role played by Strategic Wealth, or the work it produced. Aviva's role was to establish the scam threat facing Mr N. Mr N was referred to, and appointed, a regulated adviser ahead of transferring and it would have been reasonable for Aviva to have taken comfort from this for the reasons given above.

That said, I don't think the role played by Strategic Wealth can be relegated in the way Mr N suggests. It conducted a risk profiling exercise with Mr N, it was recorded as Mr N's adviser by the Optimus Scheme, it produced a 19-page report – for which it charged 3% – and, by its own admission, provided advice – albeit "limited advice". Its appointment was a condition of the Optimus Scheme. So clearly Strategic Wealth had an important role to play in making the transfer happen.

Whilst Aviva could legitimately have taken the view that Mr N was unlikely to be falling victim to a scam, there would have been enough in this particular case that Aviva ought reasonably have sent Mr N the longer version of the Scorpion warning materials – the seven page booklet. It was a straightforward step to send the booklet. And it strikes me that it was designed for a situation such as this, when a ceding scheme had no reason to block a transfer or call into question the work done by an authorised adviser but would have had reason to think the transferring member would benefit from further information. So, all things considered, I think sending the Scorpion booklet would have been a reasonable, and proportionate, response given the circumstances.

*The Scorpion warning materials:*

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.

The obvious opportunity for Aviva to have sent Mr N the Scorpion insert was when it responded to the information request, and letter of authority, sent in by FRPS. Aviva replied to FRPS on 26 March 2015, meaning it was the March 2015 insert that's the relevant one here. I've seen nothing to indicate Aviva sent Mr N (or even FRPS) the Scorpion insert at this point.

I won't consider Aviva's failing in this respect separately because, as discussed above, I think Aviva should have also sent the longer Scorpion booklet. As the messages in the insert are included within the longer booklet, the observations I'm about to make about the booklet would, by extension, also apply to the insert.

The booklet (and insert) included an infographic that highlighted the following warning signs for someone to be on the lookout for:

- Unsolicited contact and being offered a 'free pension review', 'one-off investment opportunity' or 'legal loophole'.
- Accessing a pension before the age of 55.
- Overseas transfer of funds.
- Convincing marketing materials that promise returns of over 8%.
- Paperwork delivered by courier that requires an immediate signature.
- A proposal to put money in a single investment.

Some of the warnings and actions listed didn't apply to Mr N. But some did: he was approached unsolicited, he was offered a free pension review and he was transferring funds overseas. And whilst he hasn't mentioned convincing marketing materials or returns of 8%, he has recalled being taken through how the investment worked and to expect returns of 7% which isn't too dissimilar to one of the messages in the insert.

The longer booklet also includes a case study which had *some* parallels with Mr N's situation: a cold call, an investment in an overseas hotel complex and a victim that thought the investment might be too good to be true – but was persuaded otherwise.

However, on balance, I don't think messages along the lines of the above would have been enough for Mr N to change his mind. I say this because Mr N already had his own concerns about the transfer but was ultimately persuaded – in part by his wife – to sign the transfer forms. He was also given the Scorpion insert on at least three occasions – twice by Choices Wealth and as an enclosure to the report written by Strategic Wealth Limited. That report also highlighted a number of risks that were relevant to his situation, including a section warning that FSCS protections wouldn't apply to the transfer or investment and a message to say a QROPS "may not be right" for someone with no plans to move abroad. As such, it seems unlikely to me that the Scorpion booklet would have made the



difference here. Mr N was given pertinent warnings about his transfer at various points – including scam warnings – and had some concerns in any case, and yet he transferred anyway.

I recognise Choices Wealth told Mr N he wasn't being scammed and the Scorpion inserts were presented within that context. In that light there's an argument that his lack of engagement with the Scorpion inserts *isn't* a guide to what he would have done had Aviva sent the Scorpion booklet. But the insert was short – just two pages – and Mr N remembers the quality of the insert on both occasions. It's difficult to envisage a situation in which he didn't see enough of the insert to understand its contents and aims. So whilst I take on board the context within which the inserts were provided, I think Mr N was given enough to have been able to reflect upon, and consider, the potential scam threat he was facing – especially given he had concerns of his own anyway. The fact that he didn't do so doesn't suggest to me he was minded to review his transfer in further detail at that time, especially given the additional warnings given by Strategic Wealth Limited.

Mr N's argument is also predicated on him backing out of the transfer without further thought. But this seems unlikely because the Scorpion booklet would more likely have led him to investigate the regulatory status of his adviser, given this was its opening and concluding messages. The end result of that wouldn't have given Mr N cause to think he was being scammed for the reasons given previously.

I've also considered whether the act of contacting Mr N and asking questions about his transfer – which Aviva should have done – would have prompted him to change his mind. Those questions would, for instance, have reminded Mr N of the fact that a significant financial decision had been set in train by a cold call and that he was moving his pension outside of his country of residence – both of which may have seemed less judicious on questioning and therefore potential prompts, in themselves, for further thought. Add in the Scorpion booklet, and the warnings Mr N did actually get from both Strategic Wealth and Choices Wealth, and one can make the argument that Mr N would have "joined the dots" about the risks he was taking if only Aviva had acted as it should have done. But I return to what I said before which is that Mr N's behaviour at the time didn't suggest someone who was likely to review his transfer in more detail. And should he have been prompted to think about his transfer in more detail, it's likely he would have ended up in the position of taking comfort from the regulatory status of his adviser anyway.

It therefore follows that I don't intend to uphold Mr N's complaint.

**My final decision**

For the reasons given above, my final decision is to not uphold Mr N's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 17 April 2025.

Christian Wood  
**Ombudsman**