Financial Ombudsman Service

The complaint

Mrs B complains that Virgin Money Unit Trust Managers Ltd (Virgin Money) transferred her pension to the United Members Pension Trust administered by Apex Pensions in 2018. Mrs B says she didn't give her authority to transfer to Apex, and she'd not heard of them until after the transfer occurred. Mrs B says Virgin Money should've done more to verify the transfer and sent more information and letters to her before transferring.

What happened

I issued a provisional decision on 28 May 2025, setting out the background to the complaint and my provisional findings. This is attached at the bottom of this decision and forms part of this decision.

In response Mrs B has said she doesn't accept the decision. She's explained how unwell this has made her and how stressful this situation has been for her. She's said following the fraud she had to get a new passport and had to change her phone number.

She says she holds Virgin Money to blame as she got statements telling me how much her money was making from the firm where she thought her money had been transferred to – and for four years. She's explained when she became aware her money had been taken, she got straight onto Virgin Money but it wasn't very helpful. She says she was passed from pillar to post.

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'm very sorry to hear about how this situation has made Mrs B so unwell. And I can understand it must be very upsetting and stressful to have lost a lot of her pension. However, I can only hold Virgin Money responsible for her loss, if it did something wrong that led to Mrs B suffering a loss.

For the reasons I explained in my provisional decision, I don't think that it did. Mrs B gave clear instructions as to where she wanted the money to be transferred and that she was 100% percent sure she wanted the transfer to go ahead. Virgin Money let her know they had concerns and asked her further questions, but Mrs B didn't answer those questions truthfully. Mrs B ignored warnings given to her that this may be a scam and whilst Virgin Money ought to have done more in terms of the warnings it gave to Mrs B in the telephone conversations it had with her, I don't think this would've made a difference.

Unfortunately Mrs B was under the spell of the people who her convinced her to transfer her pension with promises of great returns and cash sums. Virgin Money did ask questions that would've uncovered this, but Mrs B gave them what appears to have been prepared answers. And pushed for the transfer to proceed. So for the reasons summarised here and as detailed in my provisional decision, I cannot find it responsible for Mrs B's losses.

My final decision

I do not uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs B to accept or reject my decision before 16 July 2025.

Simon Hollingshead
Ombudsman

Provisional decision

The complaint

Mrs B complains that Virgin Money Unit Trust Managers Ltd (Virgin Money) transferred her pension to the United Members Pension Trust administered by Apex Pensions in 2018. Mrs B says she didn't give her authority to transfer to Apex, and she'd not heard of them until after the transfer occurred. Mrs B says Virgin Money should've done more to verify the transfer and sent more information and letters to her before transferring.

What happened

The background here sets out Mrs B's recollections alongside the documented evidence that we have.

Mrs B's told us that in 2017, she got in touch with an adviser as she wanted to transfer out of a workplace pension to ensure her children could access the funds in the event of her death. The workplace pension appears to originate from a Pension Sharing Order from her ex-husband. Mrs B says she was introduced to Sterling Hamilton Wealth for further investment advice. Sterling Hamilton Wealth wasn't regulated by the Financial Conduct Authority (FCA).

Mrs B says that Sterling Hamilton Wealth explained to her they would transfer her work pension to Virgin Money. And then an investment would be made in a scheme called Liquid Rock which would achieve significant returns.

I can see from documents that Virgin Money have provided that originally Mrs B's work pension was transferred to Virgin Money on 26 September 2017. A total of £74,831.04 was transferred.

Mrs B says she was unaware of her pension then being transferred to Apex and thought it had gone to Liquid Rock.

Virgin Money say that on 14 February 2018, Apex got in touch with it to request a transfer of Mrs B's pension to the United Members Pension Trust. And the transfer request was signed by Mrs B and that this signature was consistent with prior requests made by Mrs B.

Five days later, on 19 February 2018, Mrs B called Virgin Money to check they'd received the paperwork from Apex (Virgin have provided all of these calls).

On 20 February 2018, Virgin Money wrote to Mrs B to confirm they'd received a request from a third party to transfer her pension. And said the below:

Thank you for getting in touch with us via your agent about transferring your pension benefits to another provider. If you did not instruct a third party to arrange transferring your pension, or suspect that someone is fraudulently trying to access your pension funds please call us on **03456 10 20 30**.

Important information about pension fraud
If you are contacted by a company claiming to help you cash in your pension early without incurring any tax penalties or that they are authorised by the FCA to provide the guidance guarantee about your retirement options, please be aware that it is highly likely to be a scam, which can actually result in you facing a tax bill of more than half your pension savings. Please read the leaflet we have included, which gives you more information and some notes on what to look out for.

Mrs B then called Virgin Money on 5 March 2018 to check if they'd received her completed transfer forms. Mrs B confirmed the transfer was to Apex and was concerned about the value of her pension falling whilst waiting for this to transfer.

On 10 March 2018, Virgin Money says it received the completed forms back from Apex.

Mrs B then made a number of calls to Virgin Money – it set out a table of these in its final response as set out below.

12 Mar 2018	Chasing paperwork, you said you were transferring out to Apex and would have expected Apex to have forwarded your forms on to us by now
13 Mar 2018	We confirmed forms from Apex were still under review
14 Mar 2018	Checking if we needed more paperwork, Apex named – call disconnected
14 Mar 2018	(2nd call - you called back) Apex named, we asked you 10 'risk warning' questions designed to help identify any risk of scams and explained Apex were not FCA registered – your answers at this time offered no 'warning flags' (see table below for summary of answers given)
15 Mar 2018	General chaser, Apex named
16 Mar 2018	Virgin Money representative asked if you 100% wanted to proceed, because Apex aren't FCA registered, you confirmed yes
19 Mar 2018	Virgin Money representative said we must stress Apex aren't FCA registered and that we had concerns, but you could proceed if you were sure, you said yes and confirmed had said yes many times already and the delays were costing you money
21 Mar 2018	Virgin Money representative confirmed cheque issued to Apex

The onward transfer of £74,012.22 was completed on 20 March 2018. Virgin Money wrote to Mrs B on 23 March 2018 to confirm this. Mrs B explained to our investigator that she has found her money was transferred away from Apex again to the 'Express occupational pension scheme', which she now understands was the means of making the Liquid Rock investment. That investment is now believed to be lost.

In its final response, Virgin Money also set out the answers Mrs B had given to key questions in 2018 before the transfer. Compared to what she had since told them in 2023 when the complaint was made. I've set this out below:

Question (in short)	Your 2018 answer (in short)	Your 2023 information (in short)
How became aware of scheme	Friend is in it and happy	[redacted] of Sterling Hamilton Wealth was involved and handling it all
Can you access before age 55	No, you're very aware of 55 restrictions	You had £24,500 released from the pension circa 2018, circa 53
Benefit / why transfer	Lower AMC of 0.5%, estimate 3-4% growth but not guaranteed	Guaranteed return of investment value plus 8% per year
Any advice sought	Yes, but only from friends, not financial advice	Indicated had been involved with [redacted] albeit not confirmed if they advised you
Offered any lump sum access or other payments	No, nothing at all	£24,500 paid into bank account from 'Express'
Charges	Just 0.5% AMC nothing else	£14,000 difference taken from the pension after cash lump sum and remaining pension investment
Any research	Nothing other than friend being in scheme and happy with it	[redacted] of Sterling Hamilton Wealth was involved and handling it all

Our investigator looked into matters but didn't uphold the complaint, she said it was clear that Mrs B had been aware that the transfer was to Apex. And that Virgin Money had provided the appropriate warnings.

Mrs B disagreed, she maintains that she didn't know the pension was going to Apex. She told us that she had been told what to say (by people connected to unregulated pension firms) about the transfer but still thought it was going to Liquid Rock. Mrs B said she thought Apex was part of Liquid Rock.

The investigator said she understood other parties were influencing Mrs B, but Virgin Money wouldn't have known that and reasonably relied on Mrs B's answers to their questions.

Mrs B still felt that Virgin hadn't sent her enough letters and done enough checks. Mrs B mentioned that documents she had, had been signed by other parties before she signed them. She said she would send these into us but hasn't (and we're now eight months from the date she said this). We have since re-requested the transfer forms from Virgin Money who have now been able to provide them and I can see that the Apex trustee signed them on 26 February 2018, one day before Mrs B did.

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 FCA. Prior to that they were regulated by the FCA's predecessor, the Financial Services Authority (FSA). As such Virgin Money 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.

In a similar vein, in April 2014 the FCA had also started to voice concerns about the different types of pension arrangements that were being used to facilitate pensions scams. In an announcement to consumers entitled "Protect Your Pension Pot" the increase in the use of SIPPs and SSASs in pensions scams was highlighted, as was an increase in the use of unregulated and/or illiquid investments. The FCA further published its own factsheet for consumers in late August 2014. It highlighted the announcement to insurers and advisers in a regulatory round-up published on its website in September 2014.

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 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.

<u>The Scorpion guidance</u>

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 leaflet to be sent when someone requested a transfer pack.

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 2017 update to businesses contained similar messages to those from 2015 but emphasised some of the actions it suggested more directly. The update asked schemes to direct members to TPR's two-page Scorpion "booklet" which set out how to spot a scam. The update also said to use its checklist and carry out due diligence on all transfer requests. It said ceding schemes should proactively engage with members they considered at risk and if, after due diligence, they suspected that a receiving scheme may be involved with a scam, this should be communicated to members and a record kept of this communication.

<u>The PSIG Code of Good Practice</u>

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. (I noted the contents of some of those alerts earlier in my decision.)*

- *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. The next update to the PSIG Code didn't happen until June 2018, which is after Mrs B's transfer.

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. However, Virgin Money looks to me to have sought to apply the TPR Checklist in its action pack and I've taken that into account.

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.*

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

Mrs B's evidence suggests that she was involved with unregulated introducers/advisers, and they told her to transfer her pension into Virgin Money. They then advised her to transfer to the United Members Pension Trust administered by Apex Pensions which it seems was a liberation pension scheme. Mrs B says that she was coached on what to say to Virgin Money to avoid suspicion.

Virgin Money sent Mrs B a copy of the Scorpion booklet. It also gave a number of warnings in telephone conversations to Mrs B about the transfer, Mrs B answered these questions in such a way that suggested she wasn't looking to liberate her pension and that the transfer was for legitimate reasons. However, the answers given, we now know weren't a true reflection of her plans. And Mrs B did receive a large payment from the pension after transferring aged 53, which meets the definition of pension liberation. It seems the rest of her investment has subsequently been taken fraudulently.

<u>What did Virgin Money do and was it enough?</u>

The Scorpion booklet:

For the reasons given above, my view is that personal pension providers should, as a matter of course, have sent transferring members the two-page booklet referenced in TPR's 2017 guidance, or given them substantially the same information.

I am satisfied that Virgin Money did send a copy to Mrs B as it sent us a copy of a letter which refers to enclosing this booklet.

Due diligence:

As explained above, I consider the PSIG Code to have been a reasonable starting point for most ceding schemes. But I don't think it would make a difference to the outcome of the complaint if I had considered Virgin Money's actions using the 2017 Scorpion guidance as a benchmark instead.

I've firstly looked at what due diligence Virgin Money carried out in this case to consider whether it was sufficient.

Virgin Money had contact with Mrs B a number of times to gather further information about the transfer, which shows it was in the process of conducting due diligence on the request.
On 20 February 2018, Virgin Money wrote to Mrs B as set out in the 'what happened' section of this decision, warning Mrs B about pension liberation fraud and it also included a copy of the Scorpion booklet. The warnings within the letter about gaining early access to cash (as quoted above) would've been relevant to Mrs B's situation.

The initial triage process of the PSIG Code meant Virgin Money needed to ask Mrs B questions about the transfer as per Section 6.2.2 of the Code ("Initial analysis – member questions").

Virgin Money did speak to Mrs B over the phone on 14 March 2018 to ask her questions about the transfer.

It didn't ask all of the initial questions in the exact format given in the Code but this call did cover much of the same ground. It also asked some of the follow up questions that PSIG says should be asked if the initial answers throw up concerns. In this call, Mrs B confirmed:

- *She had become aware of the Apex scheme through a friend. They were with Apex and happy with their returns. Mrs B said it was a better deal as the Apex scheme had lower running costs and she would receive around 3-4% interest per year. Mrs B wasn't always confident on these figures and at times was a little confused in her answers.*

- *She hadn't been promised she could take her pension early. Apex had told her about these restrictions.*
- *She hadn't received advice other than through her friend– who was part of the scheme and told her it was good.*
- *She hadn't been offered any payments or other lump sums from her pension.*
- *She wasn't under any pressure to transfer and it was her decision to do so.*

However, in separate calls after this call, Virgin Money stressed to Mrs B that Apex weren't FCA regulated and they had some concerns about the scheme. It asked if she did still wish to transfer and Mrs B said she was 100% sure she wanted to go ahead with it. Virgin Money indicated it had concerns about the Apex scheme regardless of Mrs B's answers. And after listening to her answers which weren't particularly convincing I think they were right to be concerned.

But I don't think Virgin Money's warnings went far enough at this point. It focussed on Apex not being FCA regulated but didn't go further to explain why it was concerned. In response to the complaint Virgin Money said because of the way Mrs B answered the questions it asked, it didn't find out information that would've caused it to take further action. But I think it clearly did have some concerns at the time with regards to Apex Pensions and I think therefore it ought to have continued to follow the PSIG Code.

The Apex scheme was an Occupational Pension Scheme, which Virgin Money would need to have established in order to confirm it could validly make the transfer. But Mrs B had evidently told it in the initial questions that she was transferring to the scheme on the recommendation of a friend, rather than because it was the scheme for her employer.
So, I think had Virgin Money asked the additional questions set out in the PSIG Code it would've discovered that Mrs B didn't have a genuine employment link with the Occupational Pension Scheme she was transferring to. Virgin Money should've explained to Mrs B that this wasn't the sort of scheme someone working elsewhere would join. And in light of this it was believed it could be a scam.

What would Mrs B have done if Virgin Money had asked further questions and given better warnings?

Mrs B didn't give honest answers to the questions asked by Virgin Money in the call referred to above. Mrs B's testimony is she was told what to say and I think the evidence supports this. But she'd already given away that she was joining the scheme because a friend (not colleague) was in it and had recommended it. There was no mention of her working for the employer. And had she been asked about her employment status and where she worked (she's told us she was working at the time) I think it would've been difficult for her to lie and say she worked for the sponsoring employer. I'm not sure she was even aware of the name of the scheme she was transferring to, as she only referred to Apex who were the administrators of the scheme. And the answer she gave about the friend, suggests she hadn't been coached to say she worked for the sponsoring employer of the scheme.
I've thought about what impact being told the scheme was likely a scam would've had on Mrs B but having carefully considered this, I'm not persuaded it would have changed matters here.

I say this because Mrs B was prepared to conceal the truth from Virgin Money giving answers she'd been fed by the people advising her to transfer her pension – many of which she knew not to be true. I think she already ought to have had some concerns about having to do so. And whilst Virgin Money didn't go far enough in the warnings it gave, it did tell her it was concerned about the transfer and it did tell her that the scheme was unregulated.
Occupational Pension Schemes aren't in fact regulated by the FCA in any event – but whilst this isn't a major concern where they are organised by a genuine employer, it is very much a concern where Mrs B had no employment link to the scheme and it was likely to be used for fraudulent purposes. This lack of FCA regulation meant that there were much more limited options for Mrs B to recover her money if she was the victim of fraud.

Pension schemes that individual consumers (without an employment connection) join, such as Mrs B's existing Virgin Money personal pension, are required to be regulated by the FCA. So the Apex scheme was, in effect, a personal pension pretending to be an occupational pension - so that it *wasn't covered by FCA regulation. Although I therefore think Virgin Money could have explained the nature of its concerns better, it was right to highlight to Mrs B the lack of regulation as being an issue.*

I note Mrs B in her complaint to us said she wouldn't have transferred to an unregulated pension scheme, yet the evidence we have subsequently uncovered, shows that at the time this is exactly what she did. She ignored Virgin Money's warnings about this and said she was 100% sure she wished to transfer.

I think Virgin Money's prompts to her on more than one occasion to confirm she was sure she wanted to go through with the transfer, ought to have raised concerns. These warnings were given at a time when Mrs B was already aware she was having to give prepared answers hiding the actual truth of the matter.

Mrs B had also received a letter from Virgin Money explaining that being promised cash sums after transfer was the sign of a scam and she could lose half her savings in tax. It seems from our calls with Mrs B that she was aware she'd receive payment on transfer from the pension. So this ought to have alerted her to the risk of it being a scam. The scorpion booklet also set out warnings that were relevant to her such as making sure you are dealing with FCA registered companies.

But Mrs B ignored all of these warning signs. When listening to the calls where Virgin Money warned her about the unregulated nature of Apex, I can't hear any doubt in her mind. She was adamant that she wished to transfer and appeared somewhat annoyed about being questioned about it. Mrs B showed no signs of being concerned at all. She didn't engage with the warnings and was only worried about getting the transfer through as quickly as possible. Unfortunate though this clearly is, I think she was firmly under the spell of those advising her and whatever it was that they promised her.

We can never be completely sure how Mrs B would have acted in a different set of circumstances, so I must make my decision on the balance of probabilities. Here I don't think it's likely that further warnings would've dissuaded Mrs B, even to the point of being told it was likely a scam. The evidence shows in reality she was prepared to ignore warnings and information she was given that pointed to this being a scam, alongside being prepared to conceal the truth from Virgin Money to get the transfer through. I think the evidence points to the fact that Mrs B had been enticed by the promises of cash payments and investment returns to the point that she was prepared to ignore clear warning signs about the transfer.
Mrs B confirms that after transferring she took a cash lump sum out of the pension, so this suggests this was one of the things driving her to transfer. She wouldn't have been able to do so with a provider that intended to meet its regulatory obligations – as Virgin Money had explained to her. So I think she would've known she was taking significant risk in going ahead with the transfer.

It's important to remember that Mrs B had a statutory right to transfer her pension, which is why whether the transfer proceeded or not depends on Mrs B changing her mind in response to Virgin Money's warnings. And I can't conclude on balance that this would likely have happened here.

<u>Did Virgin Money transfer the money to Apex without Mrs B's consent/authorisation?</u>

Mrs B argues that she didn't request the money to be sent to Apex and Virgin Money made a mistake in transferring the money to them. However, the phone calls Virgin Money have sent us, make it clear that Mrs B did request a transfer to Apex. She mentions this multiple times in individual calls and across the calls. Virgin Money have also since the investigator's view been able to produce the transfer paperwork. Mrs B has said she didn't send this in and it was forged but the evidence suggests this isn't the case. Mrs B in the calls refers to the transfer forms and having sent them into Virgin Money, she asked Virgin Money if they had received it.

Mrs B has also raised that the dates didn't match on the paperwork. I can see that on the transfer paperwork, Mrs B's signature is a day after the signature of the pension trustee (Apex). So this maybe what she is referring to. But one is her declaration to sign and the other is the trustee's declaration, that these were signed on different days isn't a sign of anything untoward in my view.

So I am satisfied that Virgin Money acted on Mrs B's instructions when it transferred her pension to Apex.

I am sorry to hear about the situation Mrs B has found herself in and the losses to her pension. I know this must have caused a lot of upset, stress and worry and it seems certain she has fallen foul of a scam. However, I could only ask Virgin Money to put things right if it had done something wrong and it acting differently would make a difference to the outcome. And for the reasons explained I don't think it is responsible for Mrs B's losses. And therefore I cannot uphold this complaint.

My provisional decision

For the reasons explained, I do not intend to uphold this complaint.

Simon Hollingshead
Ombudsman