

The complaint

Mr B, through his representatives, has complained about a transfer of his personal pension he held with Aviva Life & Pensions UK Limited to a small self-administered scheme (“SSAS”) with Cantwell Grove in 2014. His SSAS was subsequently used to invest in a hotel development with the Resort Group (TRG) in Cape Verde. The investment was high risk and now has no realisable value. Mr B says he has lost out financially as a result.

Mr B says Aviva failed in their responsibilities when dealing with the transfer request. He says that they should have done more to warn him of the potential dangers of transferring, and undertaken greater due diligence on the transfer, in line with the guidance he says was required of transferring schemes at the time.

What happened

Aviva received a transfer request from Cantwell Grove in October 2013. Aviva wrote to Mr B to inform him that there were increased concerns in the industry about Pension Liberation which involved customers being able to access their pension before the age of 55 and incurring significant tax charges. They had asked Cantwell Grove for more information about their scheme and after reviewing these they remained concerned about Mr B’s proposed transfer. Aviva informed Mr B that for this reason they wouldn’t proceed with the transfer. They said he could contact Aviva if he had any questions.

In January 2014 Cantwell Grove and Mr B contacted Aviva again to ask for the transfer to proceed. Cantwell Grove said they supported the efforts in the financial industry to tackle Pension Liberation and had provided full disclosure about the scheme to Aviva. Mr B confirmed that he was fully aware of the risks of Pension Liberation and wasn’t intending to access his pension before 55. He said he was transferring for the investment opportunities available under the scheme.

In June 2014 Aviva wrote to Mr B and explained that they had seen no evidence of Pension Liberation in relation to the Cantwell Grove SSAS, so they would allow the transfer if Mr B still wanted to proceed. However, they had additional concerns about the transfer which they wanted to bring to Mr B’s attention and which they thought Mr B might not yet have considered. These were:

Cold calling

Aviva said that it understood that Mr B’s decision to transfer may have been prompted by an unsolicited phone call from an introducer company. It explained that this was not the way most pension transfers happened and stressed that the introducer company would not have been in a position to give Mr B financial advice about transferring his pension.

Aviva strongly recommended Mr B should take regulated financial advice and provided information how he could check that an adviser was regulated and how to find a regulated adviser.

Mr B’s responsibilities

Aviva highlighted that in order to open a SSAS he needed to establish his own limited company to act as sponsoring employer which would create responsibilities for Mr B including submitting annual audited accounts to HMRC and Companies House and annual tax returns. There would be additional costs associated with this which Mr B would have to pay for directly or indirectly.

Aviva also explained that Mr B would be a trustee of the SSAS and would ultimately be responsible for the proper running of the scheme and that he would be required to have the necessary knowledge and understanding of the scheme and the law applying to it in order to fulfil his responsibilities in this regard. Aviva explained that if he had any doubts about these responsibilities he could find more information on the Pension Regulator's website.

Charges

Aviva explained that Mr B had to pay an upfront charge of at least £1,500 and ongoing fees of £600 a year in his new pension. They asked him to carefully consider the current size of his pension savings and the impact on those fees on his pension.

Investments

Aviva said they understood Mr B was planning to invest at least in part into property investments in Cape Verde. It provided a link to the Foreign and Commonwealth Office (FCO) to find out more about the risks inherent in investing in Cape Verde and follow their advice. It quoted an extract from that site which said many British nationals had experienced serious problems when buying property in Cape Verde and before buying property in Cape Verde consumers should seek independent legal advice.

Aviva explained that if Mr B still wanted to proceed they also needed him to sign a disclaimer. This asked Mr B to confirm he had considered the risks and costs involved in transferring his pension from Aviva to the SSAS and that he understood:

- He was replacing his pension with higher risk investments in Cape Verde which the FCO had issued serious warnings about and was advising to seek independent legal advice
- He understood the fees he would incur in the SSAS which would likely be higher than in his existing pension and may have an adverse impact on his pension
- He would become a trustee of the SSAS and he understood the obligations on him that this created
- Aviva strongly recommended seeking independent financial advice from a regulated financial adviser before proceeding
- His current pension was protected by the Financial Services Compensation Scheme (FSCS), but if he transferred into a Cantwell Grove SSAS and invested into overseas property then he would not be protected and if anything went wrong he could lose part or all of his pension.
- He would be solely responsible for selling any hotel room he invested in including all associated costs relating to a sale and Mr B would not be able to take his pension benefits until he had found a buyer for the room.

Aviva sent Mr B the same letter again on 8 September 2014. Mr B signed the disclaimer the next day and the transfer proceeded a few days later.

Mr B complained in 2025 that Aviva didn't do enough to warn him about the risks of the transfer.

One of our investigators considered that Aviva had provided appropriate warnings to Mr B and didn't uphold the complaint.

Mr B's representatives disagreed and so the complaint was referred to me for an ombudsman's decision.

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.

There is no dispute between the parties that Aviva should have undertaken some due diligence here taking into account the Scorpion guidance published by the Pensions Regulator in 2013 (and updated in July 2014). As a regulated firm, Aviva also had to follow the Principles for Businesses (PRIN) and COBS 2.1R (the client's best interest rule).

I'm satisfied Aviva did undertake due diligence on Mr B's transfer and because they had unresolved concerns about potential pension liberation through the Cantwell Grove SSAS they didn't proceed with Mr B's transfer in 2013.

Until late July 2014, the Scorpion guidance was focused on early release pension liberation, so any due diligence and warnings were reasonably focused on this. These concerns were legitimately resolved in my view when Mr B confirmed he understood the risks of accessing his pension before age 55 and he wasn't intending to do so and Cantwell Grove had provided more information to Aviva about the scheme.

Nonetheless, after having undertaken due diligence on the scheme and proposed investments in TRG, Aviva warned Mr B about additional concerns they had beyond Pension Liberation and clearly set out aspects of his transfer he needed to carefully consider. I think their actions here were fair and reasonable.

I acknowledge Mr B's representatives' argument that Aviva didn't ask Mr B who specifically advised him; and if they had he likely would have told him that he had been contacted and advised by First Review Pension Services (FRPS) who were unregulated. They say Aviva should have then told Mr B that they were acting outside the law and that his pension would be at risk which in turn would have caused Mr B not to proceed with the transfer or seek regulated advice.

Given Aviva had concerns about the transfer I agree it was reasonable to expect them to take active steps to provide some relevant warnings to Mr B. However, it's important to note that 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. I'm satisfied Aviva did take the essence of the guidance into account. They took active steps to identify any potential issues with the transfer and gave appropriate warnings about cold calls from introducers and that such introducers were not in a position to advise on a pension transfer.

They strongly recommended that Mr B should seek regulated financial advice and gave Mr B the tools to check for himself whether the company he was relying on -which he says was

FRPS- was regulated. And they set out the risks of not being protected by the FSCS and losing his pension if things went wrong. They also provided Mr B with information which showed that setting up a SSAS was complicated, costly and unusual and provided specific warnings about higher risk property investments in Cape Verde and that Mr B would be responsible for selling the property and until a buyer was found before he could access any benefits from his pension.

All of these warnings were specific to Mr B's transfer. They were reasonable warnings to make Mr B aware that he might not understand the complexities of this transfer and the investment and to seek regulated financial advice and independent legal advice. Aviva might not have asked Mr B who exactly advised him but they obviously understood it was a real possibility that Mr B had been cold called by an introducer firm and they told him that these introducers (here FRPS) weren't in a position to advise and unsolicited contact was not how most pension transfers were initiated.

I accept that Aviva could have provided slightly different or other warnings. However, overall, I think they provided appropriate warnings in the circumstances to allow Mr B to stop and think about who he was dealing with, what he was doing and some of the risks he was facing which included losing his money or not being able to access his pension easily when he needed it. So I don't consider they treated Mr B unfairly or failed in their regulatory responsibilities towards him.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 May 2026.

Nina Walter

Ombudsman