DRN-3107440

The complaint

Mr B has complained, with the help of a professional third party, about a transfer of his personal pensions, previously held with The Royal London Mutual Insurance Society Limited ('Royal London') to a small self-administered scheme ("SSAS") in June 2014. Mr B's SSAS was subsequently used to invest in an overseas property development with The Resort Group ('TRG'). The investment now appears to have little value and Mr B says he has lost out financially as a result.

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

What happened

Mr B says he was cold called and offered a pension review. He says someone subsequently visited his home and told him he should transfer his Royal London pensions and invest in TRG. Mr B says he was told he'd receive guaranteed returns of 9 – 10% and that the new pension would outperform his existing scheme and provide a much better pension. Mr B says he was also told he'd have easy access to his pension.

On 2 October 2013, a company was incorporated with Mr B as director. I'll refer to this company as B Ltd. Shortly after this Mr B signed documents, including a trust deed, to open a SSAS. B Ltd was recorded as the SSAS's principal employer and Cantwell Grove Limited ('CGL') was recorded as the administrator. CGL was not subject to regulation by the Financial Conduct Authority ('FCA'). HMRC sent a letter to CGL confirming that the SASS had been registered with it on 3 February 2014.

On 20 May 2014 CGL wrote to Royal London enclosing documents to allow Mr B's pensions to be transferred to the SSAS. The letter said CGL was aware of concerns around 'pension liberation', it supported the efforts of the pension industry and that its business model, as a pensions administrator, had been vetted by HMRC. It also said CGL supported the 'Scorpion' campaign of The Pension Regulator ('TPR') and that the 'Scorpion' information leaflet, which warned about the risks of pension liberation, had been shared with Mr B.

CGL enclosed completed application forms, copies of the scheme trust deed and rules, the HMRC registration confirmation and a scheme details Q&A document which gave answers to some general questions, including which investments were under consideration.

The Q&A document said that the investments under consideration were a commercial property investment provided by TRG and a discretionary fund management service. The document said that appropriate advice, about whether the investments were satisfactory for the aims of the scheme, was being taken by the trustees of the SASS from Central Markets Investment Management Limited ('CMIM'). The letter said CMIM was registered with and regulated by the FCA.

I note at this point that there is no evidence that CMIM in fact did provide any advice to Mr B. The trustee advice was provided by another firm which I'll mention further below.

Also enclosed was a letter signed by Mr B. This letter said he was aware there had been a rise in cases of pension liberation fraud and he was aware of the issues relating to this. The letter said Mr B wanted to confirm he was requesting a transfer to take advantage of investment opportunities, none of which were connected with pension liberation. And it stated he was not seeking to access his pension before age 55 and had not been offered a cash or other incentive to transfer

Royal London wrote to CGL on 2 June 2014 confirming it had transferred the proceeds of Mr B's pensions held with it, to the SSAS. The total amount transferred was £41,559.72.

On 5 June 2014, Broadwood Assets Ltd ('BAL'), wrote to Mr B. The letter explained that it was providing him with advice, in his capacity as trustee of the SSAS, on the potential suitability of the TRG investment *"both as a specific example of an overseas commercial property investment, and more generally as an investment to be held within a SSAS*". It said it had not advised on the establishment of the SSAS and was not providing advice that would be deemed regulated - as BAL was not regulated or authorised by the FCA.

On 19 June 2014, following BAL's advice, Mr B signed documents to invest £31,650 in an overseas property development with TRG.

On 22 July 2014, another business called Sequence Financial Management Ltd (SFM') wrote to Mr B. The letter provided information about a potential cash and investment management service it offered, through a preferred provider, that Mr B could choose to use for the remaining funds in his SSAS. The letter stated that it did not represent personalised advice and was a direct offer. It did note that SFM was authorised and regulated by the FCA and could provide independent financial advice if Mr B requested that it do so. I haven't seen anything to show further advice was provided but statements for the SSAS indicate that the service offered was taken up in February 2015.

Annual statements indicate that the pension was providing regular monthly credits until February 2018. But these credits appear to have stopped from that point.

In May 2020, Mr B complained to Royal London. Briefly, he said Royal London ought to have spotted, and told him about, a number of warning signs in relation to the transfer. These included but were not limited to: the involvement of unregulated introducers and advisers, Mr B not receiving regulated advice, Mr B having been cold called, the lack of a regulated investment structure with CGL being unregulated, the intended investment being overseas assets, the SSAS was newly registered and the sponsoring employer was not genuine. And he said if Royal London had properly informed him of these warning signs, he wouldn't have transferred.

Royal London didn't uphold the complaint. It said it had received a request to transfer signed by Mr B and that CGL had told it that it had shared the scorpion leaflet with him, so it hadn't provided a further copy. It said that the scheme Q&A document referred to a regulated adviser CMIM, providing advice to the trustee (Mr B) so it deemed he had been in contact with an independent adviser. As a result, it didn't feel CGL being unregulated was cause for concern and had completed the transfer in good faith.

Mr B asked our service to consider his complaint. I issued a provisional decision last month explaining that I didn't intend to uphold Mr B's complaint. Below are extracts from my provisional findings, explaining why.

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 Royal London was subject to the FSA/FCA Handbook, and under that to the Principles for Businesses ('PRIN') and to the Conduct of Business Sourcebook ('COBS'). There have never been any specific FSA/FCA rules governing pension transfer requests, but the following have particular relevance here:

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

The Pensions Schemes Act 1993 gives a member of a personal pension scheme the right to transfer the cash equivalent value of their accrued benefits to another personal or occupational pension scheme if certain conditions are satisfied (and they may also have a right to transfer under the terms of the contract). This right came to be exploited, with people encouraged to transfer to fraudulent schemes in the expectation of receiving payments from their pension that they weren't entitled to – for instance, because they were below minimum retirement age. At various points, regulators issued bulletins warning of the dangers of taking such action. But it was only from 14 February 2013 that transferring schemes had formal guidance to follow that was aimed at tackling pension liberation – the "Scorpion" guidance.

The Scorpion guidance was launched by TPR. It was described as a cross-government initiative by Action Fraud, The City of London Police, HMRC, the Pensions Advisory Service ('TPAS'), TPR, the Serious Fraud Office ('SFO'), and the FSA/FCA, all of which endorsed the guidance, allowing their names and logos to appear in Scorpion materials. The guidance comprised the following:

- *An insert to be included in transfer packs (the 'Scorpion insert'). The insert warns readers about the dangers of agreeing to cash in a pension early and identifies a number of warning signs to look out for.*
- *A longer leaflet issued by TPAS which gives more information, including example scenarios, about pension liberation. Guidance provided by TPR on its website at the time said this longer leaflet was intended to be sent to members who had queries about pension liberation fraud.*
- *An 'action pack' for scheme administrators that highlighted the warning signs present in a number of transfer examples. It suggested transferring schemes should "look out for" various warning signs of liberation. If any of the warning signs applied, the action pack provided a check list that schemes could use to help find out more about the receiving scheme and how the member came to make the transfer request. Where transferring schemes still had concerns, they were encouraged to write to members to warn them of the potential tax consequences of their actions; to consider delaying the transfer; to seek legal advice; and to direct the member to TPAS, TPR or Action Fraud.*

TPR issued the guidance under the powers at s.12 of the Pension Act 2004. Thus, for the bodies regulated by TPR, the status of the guidance was that it provided them with information, education and/or assistance, as opposed to creating any new binding rule or legal duty. Correspondingly, the communications about the launch of the guidance were predominantly expressed in terms that made its non-obligatory status clear. So, the tenor of the guidance is essentially a set of prompts and suggestions, not requirements.

The FSA's endorsement of the Scorpion guidance was relatively informal: it didn't take the form of Handbook Guidance, because it was not issued under s.139A of the Financial Services and Markets Act (FSMA), which enabled the FSA to issue guidance provided it underwent a consultation process first. Nor did it constitute "confirmed industry guidance", as can be seen by consulting the list of all such FSA/FCA guidance on its website.

I take from the above that the contents of the Scorpion guidance was essentially informational and advisory in nature and that deviating from it doesn't necessarily mean a firm has broken the Principles or COBS rules. Firms were able to take a proportionate approach to transfer requests, balancing consumer protection with the need to also execute a transfer promptly and in line with a member's statutory rights.

That said, the launch of the Scorpion guidance 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.

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

For the reasons given above, I don't think personal pension providers necessarily had to follow all aspects of the Scorpion guidance in every transfer request. However, I do think they should have paid heed to the information it contained. And where the recommendations in the guidance applied, absent a good reason to the contrary, it would normally have been reasonable, and in my view good industry practice, for pension providers at least to follow the substance of those recommendations. With that in mind, I take the view that personal pension providers dealing with transfer requests needed to heed the following:

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

2. *When TPR launched the Scorpion guidance in February 2013, its press release said the Scorpion insert should be provided in the information sent to members requesting a transfer. It said on its website that it wanted the inclusion of the Scorpion insert in transfer packs to "become best practice". The Scorpion insert provided an important safeguard for transferring members, allowing them to consider for themselves the liberation threat they were facing. Sending it to customers asking to transfer their pensions was also a simple and inexpensive step for pension firms to take and one that wouldn't have got in the way of efficiently dealing with transfer requests. So, all things considered, I think the Scorpion insert should have been sent as a matter of*

good industry practice with transfer packs and direct to the transferring member when the request for the transfer pack had come from a different party.

3. *I also think it would be fair and reasonable for personal pension providers – operating with the regulator's Principles and COBS 2.1.1R in mind – to ensure the warnings contained in the Scorpion insert were provided in some form to a member before a transfer even if the transfer process didn't involve the sending of transfer packs.*

4. *The Scorpion guidance asked firms to look out for the tell-tale signs of pension liberation scams and undertake further due diligence and take appropriate action where it was apparent their client might be at risk. The action pack points to the warning signs transferring schemes should have been looking out for and provides a framework for any due diligence and follow-up actions. Therefore, whilst using the action pack wasn't an inflexible requirement, it did represent a reasonable benchmark for the level of care expected of transferring schemes and identified specific steps that would be appropriate for them to take, if the circumstances demanded.*

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

<u>The circumstances surrounding the transfer and Mr B's recollections</u>

Mr B says he agreed to a review of his pension following a cold call. He says someone then visited his home to discuss this. Mr B has been unable to recall the name of the business that called him. He thought that it might have been CGL but couldn't be sure. Royal London said it understood that CMIM, a regulated adviser, was involved in the transfer advice.

Mr B said he hasn't heard of CMIM and is not aware that it had any involvement at all in the transfer. Beyond the mention of CMIM in the Q&A document CGL sent to Royal London, there is no evidence that it was involved in the advice to transfer. The document which mentions CMIM also indicates that its involvement, if there was any, was only to give advice to the trustees of the SSAS about whether the proposed investment was appropriate to its aims, not to advise Mr B as a consumer about the transfer. And it appears that CMIM wasn't even involved in that capacity. The advice to Mr B, in his capacity as trustee, about the investment in the SSAS was actually being given by BAL, an unregulated business. So, based on the available evidence I don't think CMIM was involved in providing advice or that it cold called Mr B.

I've seen a copy of a bank statement that was provided as a form of identification during the transfer process by Mr B. This was certified by a business called First Review Pension Services ('FRPS') in October 2013 – around the time that B Ltd was established, in order to act as sponsoring employer for the SSAS that was subsequently set up. The signature of the person certifying the document matches that which was later recorded as a witness to the trust deed when Mr B's SSAS was established. In both documents the person signing was referred to as a 'consultant'. And I think it was likely FRPS that cold called Mr B and subsequently met with him and advised him to transfer. I'm aware from other complaints that FRPS acted as an 'introducer' for CGL. And FRPS was not regulated or authorised by the FCA to provide advice.

Mr B says the person he met with, who I think was likely from FRPS, told him if he transferred his pension, and invested in an overseas property development, he'd receive returns of roughly 10% per year to his pension. Mr B says he was persuaded to transfer on the basis of the return being offered, which he was told were greater than his Royal London pension would pay and would result in him having a larger pension. And he says he believed the adviser, who he was under the impression was authorised to provide advice. Mr B says he was presented with a lot of paperwork to sign but he wasn't contacted at all by Royal London during the transfer process.

Mr B's recollections appear to be plausible. And they are consistent with other evidence about the transfer. For instance, I can't see any evidence of Royal London contacting him during the process. Nor have I seen anything to suggest he received a payment as incentive to transfer. So, the reason Mr B transferred appears to have been the higher returns that he was told he'd receive. I haven't seen anything to indicate Mr B was an experienced investor. Nor have I seen anything about his circumstances or what he's said that leads me to think he'd likely have embarked on such a complicated arrangement on his own – setting up a new company, opening a SSAS, transferring his existing pension and investing overseas.

Mr B has though acknowledged that he was aware how the pension would be invested, in a hotel development overseas, and he has confirmed he wasn't offered any cash incentives to transfer. And Mr B signed a letter as part of the application, saying that he was aware of the risks of pension liberation, had carefully considered the request to transfer and decided he wanted to proceed for the investment opportunities this provided. The letter also stated he was aware of the risks of pension liberation and confirmed that he wasn't planning to access his pension before age 55 and asked Royal London to complete the transfer promptly.

This letter appears to have been pre-prepared for Mr B to complete. But it is only a page long and expresses that Mr B is aware of what pension liberation is and that he wasn't planning to access his pension early.

<u>What did Royal London do and was it enough?</u>

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. But I can't see any evidence that Royal London sent Mr B the Scorpion insert or the information it contained in another format. And it has suggested that it did not do so, citing that CGL had said that it had already provided this information.

It isn't clear if CGL did share the Scorpion leaflet with Mr B. And given it was an unregulated business that stood to gain from the transfer, I don't think it was enough to rely on their assurances alone. However, Mr B signed the letter explaining why he wanted to go ahead with the transfer, part of which declared that he understood the risks of liberation and was not seeking to release pension funds before age 55. Therefore, in this case, even though Royal London should have sent the Scorpion insert, I don't think that it would have made a material difference if it had. This is because the evidence suggests that Mr B was, more likely than not, already aware of the very risks that the Scorpion insert was intended to warn him of.

Due diligence:

In light of the Scorpion guidance, I think firms ought to have been on the look-out for the tell-tale signs of pension liberation and needed to undertake further due diligence and take appropriate action if it was apparent their customer might be at risk of pension liberation. I

would just note though that the action pack for businesses published by the TPR at the time of the transfer here gave warning signs and a checklist of things to look out for in the context of "looking out for pension liberation fraud" (the heading under which this information was listed). And the transfer here took place before the guidance was given a broader scope to cover scams more generally.

Royal London's complaint investigation notes indicate that no further due diligence was undertaken at the time. It said this is because CGL said it had shared the Scorpion leaflet with Mr B and the documentation indicated a regulated adviser was involved.

As I've already said, I don't think it was necessarily reasonable for Royal London to have relied on another party sharing the Scorpion leaflet, particularly one that stood to gain from the potential transfer. It's correct that a regulated firm was mentioned in the Q&A document. However, it was clear from the documents that the firm, if that firm was involved – and the evidence suggests it was not - was providing advice to Mr B as the trustee of the SSAS under the section 36 of the Pension Act on the appropriateness of the investment in a SSAS. This is different to giving advice on the actual pension transfer. I don't think the involvement of that regulated firm should have reassured Royal London that Mr B was getting the type of advice that the Scorpion guidance recommended he should be getting.

Despite this though, I think that the information that Royal London had received from CGL would have reasonably reassured it that Mr B was not at risk of a pension liberation scam.

It is true that a warning sign of pension liberation that TPR told businesses to watch out for was present here. The SSAS had only recently been registered, which Royal London was aware of.

So, Royal London could have made further enquiries using the checklist provided. But using the checklist was optional and represented extra steps Royal London could have taken to establish further information, as a means to an end, to determine if there was a risk of pension liberation. But here Royal London had documentary evidence that suggested Mr B was aware of pension liberation fraud and was not about to become a victim of it.

Although it isn't clear whether the Scorpion leaflet was shared with Mr B, as I've said I think it was more likely than not he had been made aware of the risks that the leaflet was intended to warn him about. And Royal London had the letter signed by Mr B that confirmed that he understood pension liberation fraud and was not intending to access his benefits early. And I think it was fair and reasonable for Royal London to accept that information and consider the threat of pension liberation to have been discounted. So, I think it was reasonable for Royal London, in the specific circumstances of this transaction, to consider the threat of pension liberation to be minimal and proceed with the transfer.

Responses to my provisional decision

I gave both parties an opportunity to make further comments or send further information before I reached my final decision.

Royal London said it had nothing further to add.

Mr B's representatives said that he disagreed with my provisional findings. In summary, they said they felt my decision was not consistent with how Royal London had acted in respect of another consumer's complaint, the TPR guidance or a decision by the Financial Ombudsman Service on another complaint. And they also disagreed with what they said was my conclusion – that Mr B wasn't the victim of a scam.

The representative disagreed with me that the July 2014 update broadened the types of situations pension providers were asked to look out for. Rather they said that Royal London and other businesses should have been looking out for warning signs of a wide range of scams from when the guidance was first published, rather than just signs of early release pension liberation scams. They also said that they didn't agree fully with my summary of what pension providers should have done, as they said Royal London should also, as a matter of course, have checked Mr B's employment status.

The representative said there were a large number of warning signs of a potential scam that Royal London should've picked up on and investigated further. But said I hadn't commented on these in my provisional decision. They also said it was unreasonable to rely on the letter Mr B had signed to say he wasn't liberating his pension as Mr B had been presented with a large number of documents which he wasn't taken through in any detail. And unwittingly procuring a signature was a common tactic in such scams.

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.

Mr B's representative has argued that Royal London should have checked Mr B's employment status so as to ensure he had a right to transfer. They say the outcome of those checks would have caused Royal London concerns because of a lack of employment link to the SSAS's sponsoring employer.

I've outlined the obligations businesses had in my provisional decision. I won't repeat them here other than to say they didn't include an obligation for ceding schemes to check, as a matter of course, whether the transferring member was earning. Royal London had no reason to think Mr B wasn't earning either. And indeed, I understand he was employed at the time of the transfer application. So, I see no reason why Royal London would, or should, have probed this issue any further.

And, as I explained in my provisional decision, Royal London had received a letter signed by Mr B saying he was aware of the risks of pension liberation, had carefully considered his request to transfer and was not doing so for any reasons of pension liberation. So, not only do I think Royal London had no reason to probe Mr B's employment status, I also remain of the opinion that it was reasonable of Royal London to conclude that the risk of pension liberation, the thing TPR warned businesses about, was low.

Mr B's representatives have said that I've interpreted TPR's guidance about what ceding schemes should be on the lookout for at the time incorrectly and too narrowly. And they don't accept this was broadened by the July 2014 update but rather that Royal London should always have been on the lookout for more than just early access to pensions.

When the Scorpion guidance was initially published in February 2013 the campaign referred to pension liberation fraud. And TPR talked about this being a transfer to a fund that allowed members to gain access to pension funds not by way of a regular payment at retirement which could be considered an unauthorised payment. That doesn't mean unauthorised payments were just confined to a scenario where someone was offered a loan or cash incentive to transfer before age 55. But these scenarios were the focus of the literature at the time, whereas the messaging in 2014 changed.

For example, the front page of the 2013 Scorpion insert has the following message: "*Companies are singling out savers like you and claiming that they can help you cash in your pension early. If you agree to this you could face a tax bill of more than half your pension*

savings." So, it singled out early access to a pension, and cash incentives and enticements to do this as the area of concern. Whereas the front page of the 2014 Scorpion insert says the following: *"A lifetime's savings lost in a moment…Pension Scams. Don't get stung."*

The 2013 Scorpion insert goes on to say: "*Pension loans or cash incentives are being used alongside misleading information to entice savers as the number of pension scams increases. This activity is known as 'pension liberation fraud' and it's on the increase in the UK. In rare cases – such as terminal illness – it is possible to access funds before age 55 from your current pension scheme. But for the majority, promises of early cash will be bogus and are likely to result in serious tax consequences."* Again, the emphasis is on the promise of 'early cash' and 'early access' to pension benefits before the pension scheme age and the associated tax consequences that could follow. The 2014 Scorpion insert also warns about taking cash from a pension before the age of 55 but without a mention or emphasis on tax consequences. And it also warns about the dangers of *"one-off investment opportunities"* and the potential to lose an entire pension pot.

The 2013 Scorpion action pack for businesses was titled 'Pension Liberation Fraud' whereas the 2014 action pack is titled 'Pension Scams'. And the case studies in the 2013 action pack are solely about people wanting to use their pension in order to access cash before age 55, the repercussions of which were tax charges and the loss of some pension monies to high administration fees. The warning signs that were highlighted followed suit: "accessing a pension before age 55", "legal loopholes", "cash bonus", "targeting poor credit histories", "loans to members". Once again therefore the focus, and what TPR was emphasising that pension liberation was, was around enticements promising access to pensions before age 55. In contrast, the 2014 action pack included a case study about someone transferring in order to benefit from a "unique investment opportunity" which subsequently failed causing the consumer to lose his entire pension.

This shows that at the time of Mr B's transfer, transferring schemes were being directed to the threat posed by people wanting to take cash from their pensions in an unauthorised manner which was seen as being most likely when someone was under the age of 55. The potential for people to lose money, and suffer tax charges, from suspect investments was commented upon but only in so far as it was seen as being part and parcel of someone taking an unauthorised payment from their pension, rather than being something to look for in isolation. That particular concern came more into focus later on.

So, I'm satisfied that it was reasonable for Royal London to have relied on the emphasis and focus of the February 2013 guidance, applicable at the time of Mr B's transfer, when considering his request and deciding whether further due diligence was required. And Royal London had to take a proportionate approach and balance any caution and due diligence with the fact that consumers were entitled to request a transfer. And I don't think delaying all transfer requests, such as Mr B's, in order to carry out extensive due diligence in every case would've been proportionate. Rather I think it was fair that Royal London made a judgement call based on the information available to it. And as I've explained, I think it was reasonable, based on the evidence given to it, for Royal London to consider the risk of this transfer to be low.

That isn't to say that the risk did not exist or that there weren't other warning signs that Royal London could've become aware of if it had asked further questions. But for the reasons given previously, I think it was reasonable for Royal London, in the context of taking a proportionate response, to decide here that it didn't have good reason to delay the transfer and ask additional questions.

Mr B's representatives have said that it was unreasonable for Royal London to have relied on the signed letter sent in on Mr B's behalf. They said Mr B had been presented with a lot of

paperwork to sign and not been taken through this. And they've also said the letter Mr B signed was pre-printed and so wasn't a genuine indication of his thinking. But I think a reasonable person in his position, having been contacted out of the blue by a company that they were not familiar with and advised to transfer his pension savings that he'd built up over a significant period of time, would, even with very little financial or investment experience, take the time to familiarise themselves with the documents they'd signed and agreed to. More than that though I also think it was fair of Royal London to assume Mr B had done so. And I don't think Royal London would, reasonably, have considered the nature of the paperwork indicated a scam was in progress. So, I see no persuasive reason why it shouldn't have taken Mr B's signed declarations at face value.

Mr B's representative has pointed to what it believes to be an inconsistent approach between Royal London's handling of Mr B's transfer and its handling of another transfer, some of the details of which entered into the public domain following judgements by the Pensions Ombudsman and the High Court. Mr B's representative points out that Royal London unearthed a number of warning signs in that other transfer which prompted it to block it. The representative says that the circumstances of the two transfers are very similar so it questions why Royal London did very little in Mr B's transfer but undertook a "more interventionist" approach in the other transfer. The argument is that Royal London's approach in the other transfer was the correct one, that it is illogical for it (and us) to endorse a different approach and that Royal London has, by its own standards, treated Mr B unfairly.

I should make it clear that I've reached my decision based on the specific circumstances in Mr B's individual complaint. These are different to those in complaints and transfer requests made by other consumers. I'd expect a transferring scheme to assess each transfer request on its own individual facts. So that may well result in different outcomes based on what looks to be similar circumstances. That doesn't necessarily mean the business has acted unfairly or has fallen short of what it should have done. And, given the specific facts of Mr B's transfer, I'm satisfied – for the reasons given previously – that Royal London didn't need to undertake the detailed due diligence Mr B's representative have suggested, as it could reasonably consider the threat of the thing it had been told to lookout for, pension liberation, was low.

Summary

I understand that Mr B has lost out financially by investing in high-risk investments which were unlikely suitable for him. But the guidance that TPR had put in place at the time when Mr B's transfer request was made was focussed on the risk of consumers falling victim to a pension liberation scam. And for the reasons I've explained above, I think there was enough information for Royal London to reasonably discount the risk of that in the transfer request it received. So, while I know this is likely to come as a disappointment to Mr B, I don't think it would be fair or reasonable in these circumstances to suggest that Royal London ought to have delayed the transfer process to conduct further checks simply to further safeguard against an outcome type that it should have already reasonably discounted.

My final decision

For the reasons I've explained, I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 August 2024.

Ben Stoker
Ombudsman