The complaint

Mr M has complained about the transfer of his personal pension policies from The Royal London Mutual Insurance Society Limited ("Royal London") to a small self-administered scheme ("SSAS") in 2013. Mr M's transfer proceeds were invested in The Resort Group ("TRG"), an overseas hotel development that has since run into trouble. The investment now appears to have little value.

Mr M says Royal London failed in its responsibilities when dealing with his 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 in place at the time. Mr M 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

I have already issued a provisional decision in which I set out, in detail, the background to this complaint so 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 M's complaint shouldn't be upheld. Royal London had nothing further to add. Mr M, through his representatives, made a number of comments which I address below.

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.

Rather than repeat everything I said in my provisional decision, I will focus on what Mr M's representatives have said, where relevant, in response to those findings (Royal London having had nothing further to add).

<u>Defining pension liberation</u>

In my provisional decision, I noted that the Scorpion guidance pointed ceding schemes to the threat posed by pension liberation which meant the unauthorised access of a pension fund, typically (but not necessarily) when someone takes benefits from their pension before the age of 55. As Mr M had indicated in his transfer papers that he wasn't attempting to do this, or receive any incentive payment as a result of transferring, I concluded that Royal London wouldn't have had cause to question his transfer in any further detail. He had indicated, in the clearest of terms, that he was aware of, but wasn't engaged in, the activity that ceding schemes were expected to be guarding against.

In response, Mr M's representatives argue that I was incorrect to define pension liberation in those terms. In their view, when someone transfers from a UK regulated pension scheme in order to invest in high-risk, non-regulated, assets they are "liberating" their pension. In other words, ceding schemes needed to guard against a much wider range of concerns than I've allowed for, including the type of situation that was facing Mr M.

This is not a new argument from Mr M's representatives. For that reason, I covered the issue in detail in my provisional decision. Mr M's representatives have responded extensively but without adding anything substantively new. My view therefore remains as it was. Specifically, I'm satisfied it was fair and reasonable for ceding schemes to view liberation as the unauthorised access of pension funds, most likely when someone takes benefits from a pension before the age of 55. And it was this activity that the Scorpion guidance was directing ceding schemes to help guard against at the time. My view was – and remains – that Mr M's transfer request has to be seen in that light.

Royal London's concerns about consumer detriment

Mr M's representatives have pointed to internal Royal London emails about a different transfer involving someone transferring (like Mr M) to Cantwell Grove in order to invest in a TRG development. Those concerns prompted internal debate at Royal London as to how best to deal with similar transfer requests which resulted in a referral to HMRC, which gave Cantwell Grove the "all clear". The transfer in that other case was allowed, as were subsequent transfers to Cantwell Grove, including Mr M's.

In the view of Mr M's representatives, this shows Royal London failed in its responsibilities under PRIN and COBS 2.1.1R because it evidently had misgivings about Cantwell Grove, and investments in TRG, but it allowed Mr M to transfer without sharing with him those misgivings.

It's worth noting (as I did in my provisional decision) that the above indicates Royal London did conduct due diligence despite arguments to the contrary from Mr M's representatives. I also disagree with Mr M's representatives that Royal London should have shared the concerns it had about transfers like Mr M's.

I say this because Royal London couldn't give a value judgement on the TRG investment because its role wasn't to advise Mr M. Royal London's conclusion at the time – which I agree with – was that its role wasn't to intervene in the investment choices made by a transferring member.

That said, Royal London did have a duty to share its concerns if it thought the transferring member was likely to be falling victim to a scam. And this is what Mr M's representatives are arguing – that Royal London's concerns went beyond just the suitability of the investment and encompassed more fundamental concerns about the Cantwell Grove/TRG business model.

My starting point here is to note that Royal London's thoughts on the Cantwell Grove/TRG business model weren't robust enough that it should, reasonably, have shared them with anyone wanting to transfer in similar circumstances. Yes, Royal London was disbelieving of the returns being promised in the TRG marketing material and thought TRG was likely to have been paying people to promote the investment. But it's evident Royal London's concerns were based on supposition and its thoughts on how things would play out were speculative and with caveats. Royal London's comments don't suggest it had sufficient knowledge of a scam that the only reasonable response would have been to share that knowledge with transferring members.

What Royal London's comments do show, however, is that it was concerned enough that it needed to take *some* further action – which it did. It flagged the issue with HMRC. And HMRC's Counter Fraud and Avoidance Team gave Cantwell Grove the all clear. So I think it's fair and reasonable for Royal London to have considered Mr M's transfer in that light.

That is, Royal London had concerns about Cantwell Grove/TRG but those concerns had been allayed by HMRC to the extent that it could, reasonably, have considered it had no further action to take.

Clearly, the actions of HMRC and Royal London were shaped by concerns about pension liberation, which wasn't a feature here. But that focus was understandable given when the transfer request was made. As I pointed out in my provisional decision, and touched upon above, the concern in the industry at that time was pension liberation. Concerns about the type of activity that Mr M describes only made its way into the Scorpion guidance after his transfer.

I therefore don't find the argument that Royal London should have warned Mr M about a potential scam to be persuasive. It wasn't an obvious scam as was generally understood at the time. The fraud team at HMRC had confirmed as much and told Royal London it would allow Cantwell Grove to continue to register schemes. And Mr M had already indicated that he wasn't intending to do the thing Royal London had been directed by the Scorpion guidance to look out for – pension liberation.

Bearing in mind Mr M had a statutory right to transfer and the receiving scheme was validly registered, I'm satisfied there wouldn't have been sufficient reason for Royal London to have warned Mr M about the transfer in the way his representatives have suggested.

<u>Comments about consistency of outcomes</u>

Mr M's representatives have pointed to an article published by Royal London in which it outlined its approach to handling a transfer request that (at face value) appears to have had similar features to Mr M's transfer. Their argument, in brief, is that Royal London should have dealt with Mr M's transfer in the same way as that other transfer and, if it had done so, it would have uncovered a number of warning signs.

I addressed this subject in my provisional decision. I said ceding schemes would be expected to assess each transfer request on its own individual facts and that could result in different outcomes based on what look to be similar circumstances. I concluded that didn't necessarily mean the business has acted unfairly or fallen short of what it should have done. In response, Mr M's representatives have said this isn't a fair and reasonable approach when one considers the number of transfer requests coming in from Cantwell Grove, and Royal London's concerns about that business. In other words, the wider circumstances of the transfer merited further due diligence, the end result of which would have revealed the warning signs Mr M has listed.

But I don't think Mr M's argument bears scrutiny given what I've explained previously as to why the Scorpion guidance directed Royal London to the threat posed by liberation, why it could reasonably have discounted that threat here and why, given the information it had and gathered, the transfer wouldn't have appeared to have been a clear scam as generally understood at the time. Conducting further due diligence wouldn't, in my view, have been a proportionate response in those circumstances.

Finally, I won't be commenting on the ombudsman's decision that Mr M's representatives have pointed me towards. The issue before me is Mr M's transfer, my views on which I've outlined in my provisional decision and above. And for the reasons given in my provisional decision, and above, I don't uphold Mr M's complaint.

COPY OF PROVISIONAL DECISION

The complaint

Mr M has complained about the transfer of his personal pension policies from The Royal London Mutual Insurance Society Limited ("Royal London") to a small self-administered scheme ("SSAS") in 2013. Mr M's transfer proceeds were invested in The Resort Group ("TRG"), an overseas hotel development that has since run into trouble. The investment now appears to have little value.

Mr M says Royal London failed in its responsibilities when dealing with his 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 in place at the time. Mr M 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 M says he was cold called in 2013 and offered a free pension review. He took this offer up, and had a number of telephone conversations with someone from Consumer Money Matters Limited. On 7 September 2013, Royal London wrote to that firm with information on Mr M's personal pension policies and details on how to transfer them. Royal London said Mr M had provided it with a letter of authority allowing it to release that information. Mr M had two policies with Royal London.

In October, a company was incorporated with Mr M as director. I'll refer to this company as "L Ltd". On 28 November, Mr M's SSAS was registered with HMRC. L Ltd was the SSAS's sponsoring employer and Cantwell Grove Limited the scheme administrator.

On 6 December, Cantwell Grove wrote to Royal London requesting a transfer of Mr M's two Royal London policies to the newly established SSAS. Cantwell Grove's covering letter said it supported industry initiatives to tackle pension liberation – the process by which pension benefits are accessed in an unauthorised manner (before normal retirement age for example). To that end, Cantwell Grove said it had spoken to Mr M about pension liberation, had provided him with the appropriate "Scorpion" warning leaflet (the details of which I cover later) and had received confirmation from Mr M that he wasn't attempting to access his pension before the age of 55 and wasn't receiving a cash incentive to transfer.

Also included in Cantwell Grove's transfer request were a number of documents, including:

- A scheme details "Q&A" which summarised the key elements of Mr M's SSAS. Included in this was reference to Central Markets Investment Management Limited, a Financial Conduct Authority ("FCA") regulated firm, which was said to be providing advice to the trustee of the SSAS (which was Mr M) as required under Section 36 of the Pensions Act 1995. The advice in question was said to be in relation to whether TRG and a discretionary fund management service were appropriate for the aims of the SSAS.

- A signed letter from Mr M confirming that he wasn't attempting to access his pension before the age of 55 and wasn't receiving a cash incentive to transfer. The letter said Mr M was transferring in order to benefit from the investment opportunities that were available through the SSAS.

- A SSAS transfer-in request form, signed by Mr M.

- A letter from HMRC confirming Mr M's SSAS had been registered on 28 November 2013.

- The trust deed and rules for Mr M's SSAS.

On 16 December, Royal London wrote to Cantwell Grove to confirm the transfer of the two policies. The combined transfer value was approximately £31,000. On 14 February 2014, the SSAS invested £27,900 in TRG. The rest remained in cash. A discretionary fund management service wasn't used despite that appearing to have been the intention according to the SSAS's "Q&A" document.

Mr M was 46 at the time of the transfer. He didn't transfer any other policies and he hasn't indicated having any other pension arrangements at that time.

Although some income was received from TRG, it appears as though the investment has run into trouble to the extent that it now appears to be illiquid and that Mr M – like many others – will struggle to realise any further value from it. In 2020, Mr M complained to Royal London. Briefly, his argument is that Royal London 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 SSAS was newly registered, there wasn't a genuine employment link to the sponsoring employer, the catalyst for the transfer was an unsolicited call, he was pressured into the transfer, he had been promised unrealistically high investment returns and he had been advised by an unregulated business.

Royal London didn't uphold the complaint. It referred to the presence in the transfer paperwork of two FCA regulated firms: Consumer Money Matters Limited (the firm that had requested information from Royal London on Mr M's policies and the firm which Mr M says he was advised by) and Central Markets Investment Management Limited (the firm providing Section 36 advice according to the SSAS's Q&A document). Royal London thought the presence of these two firms, plus the fact that Mr M had confirmed he had read the Scorpion warning materials, was enough to give it reassurance about the transfer.

Our investigator was unable to resolve the dispute informally, so the matter was passed to me to decide. Mr M has provided further evidence and arguments since we started to investigate his complaint, all of which I've reviewed.

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.

<u>The relevant rules and guidance</u>

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.

On 14 February 2013, The Pensions Regulator ("TPR") launched the "Scorpion" guidance. The guidance was for scheme administrators dealing with transfer requests and was introduced to help prevent pension liberation. 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 booklet giving 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.

The contents of the Scorpion guidance was essentially informational and advisory in nature. 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 legal rights.

However, 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.

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.

Before moving on to discuss Mr M’s transfer, it’s worth noting that the above represents a summary. I am aware that Royal London, and Mr M’s representatives, have received ombudsman decisions that have covered similar ground in more detail so they should be familiar with the background to, and contents and status of, the relevant rules and guidance.

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

When TPR launched the Scorpion guidance in February 2013, its website said 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 to take and one that wouldn’t have got in the way of efficiently dealing with transfer requests. So, all things considered, 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.

I haven’t seen any persuasive evidence that Royal London sent Mr M the Scorpion insert or provided him with anything similar. However, included in Mr M’s transfer papers was a letter from Mr M which said the following:

“The purpose of this letter is to provide you with additional confirmation of the basis upon which I have made this request and to seek to provide a record of the fact that I am aware of the issues relating to pensions liberation. Indeed I have carefully considered my decision to request a transfer to the Scheme and have not made it lightly.”

"In making this transfer I am not seeking to access my pension benefits before age 55 and I am aware of the potentially significant tax liabilities that would arise were I attempt to do so. Indeed the trust deed and rules of the Scheme do not permit benefits to be taken prior to age 55, except in circumstances of ill health which meet HMRC requirements. I also confirm that I have not been offered any cash or other incentive by any person as part of my decision to transfer my pension to the Scheme."

Mr M signed and dated this letter. So even though Royal London didn't give Mr M the relevant warnings, there's compelling evidence to show Mr M was in any event made aware of pension liberation – what it involved, activity that was likely to constitute pension liberation and the repercussions of taking that action – and that he had given the matter due consideration. It means I don't consider Royal London's failure to be material here. It also means I'm satisfied Royal London didn't need to conduct the due diligence that Mr M has argued for which would have involved, in his view, following all parts of the check list contained in the Scorpion action pack. I say this because the Scorpion guidance pointed scheme administrators to guard against the threat posed by pension liberation. And Mr M had confirmed, in the clearest of terms, that he wasn't engaged in such activity.

Mr M has said the letter in question was obviously written for him, rather than by him, and shouldn't therefore have been treated as sufficient evidence by Royal London of his intentions. In Mr M's view, Royal London should have done its own investigation, using the action pack's check list, the results of which would have revealed a number of concerns which Mr M has set out in detail.

In addressing this, it's worth noting first of all that Mr M's letter was an accurate reflection of his intentions because he *wasn't* trying to liberate his pension. So there's a plausible reason why he signed it – because it was true. This would be a more plausible scenario to me than Mr M signing it despite disagreeing with it. And it's a more plausible scenario that Mr M signing it without having read it because he had, in his words, "numerous" other documents to sign. After all, Mr M was making a significant financial decision – the transfer of what looks to be his only pensions which were worth, in total, more than £30,000. In that context, it seems to me that Mr M would have reviewed a short, easy to understand, letter before signing it.

Nevertheless, I recognise the point Mr M is making which is that Royal London wouldn't necessarily have known any of this and, faced with a templated letter, couldn't (in his view) have properly discounted the liberation threat without further investigation. But I find the counterargument far more compelling here, which is that it was reasonable for Royal London to have taken its customer's signed declaration at face value. That strikes me as being a more reasonable, considered, approach to due diligence than assuming Mr M didn't really mean what he said in a signed letter.

More fundamentally, Mr M has argued that it is incorrect to define pension liberation as being just the early release of pension funds because it encompasses activity beyond just that. He says if the intention was to address just "early release pension liberation", providers would have been told they could ignore the Scorpion guidance if a transferring member was over the age of 55 because someone in that position would legitimately be able to release funds from their pension. The fact that the guidance didn't make such allowances is an indicator, in Mr M's view, that it was addressing more than just the early access of pension funds. By extension, the letter referred to above should only be seen as being part of the picture because it didn't address *everything* a transferring scheme needed to be aware of.

It's true that someone over the age of 55 wouldn't necessarily need to transfer to another scheme just to withdraw cash from their pension. And in that respect Mr M is correct – those over the age of 55 would have been less vulnerable (but not invulnerable) to such offers. Nevertheless, I'm satisfied that the focus of a business's due diligence didn't have to be as wide-ranging as Mr M argues. To make this point I think it's helpful to refer to the February 2013 Scorpion guidance (which is the relevant one for Mr M's complaint) and the Scorpion guidance that was issued in July 2014 (which was after Mr M's transfer):

- 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*." 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*." The 2014 Scorpion insert also warns about taking cash from a pension before the age of 55. But it also warns about the dangers of "*one-off investment opportunities*" and the potential to lose an entire pension pot. Tax isn't mentioned at all.

- The 2013 Scorpion action pack is titled 'Pension Liberation Fraud'; the 2014 action pack is titled 'Pension Scams'.

- The case studies in the 2013 Scorpion action pack are solely about people wanting to use their pension in order to access cash, 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", "cash bonus", "targeting poor credit histories", "loans to members". In contrast, the 2014 action pack included a case study about someone transferring in order to benefit from a "unique investment opportunity" – an overseas property development – which subsequently failed causing the consumer to lose his entire pension.

The above shows that at the time of Mr M's transfer, efforts to protect transferring members were directed towards the types of activity that Mr M told Royal London he was aware of and wasn't engaged in. It was only later that the dangers of being lured into an inappropriate investment – and the risk of losing an entire pension as a result – were highlighted by the Scorpion guidance and by the FCA.

In coming to this conclusion, I've considered Mr M's point that the TPR press release that accompanied the launch of the Scorpion guidance had the following statement:

"The remainder of their funds are likely to be invested in highly dubious and risky, unregulated investment structures, often based overseas. The amount that has been 'liberated' from pension schemes in this way is known to be in the hundreds of millions of pounds, with thousands of members affected."

Mr M's point is that accessing pensions early wasn't the only concern of the guidance – unregulated, overseas, investments were also a concern. But the context within which the above quote is framed is important here. On reading the press release as a whole, it's clear that attention isn't being drawn to overseas investments in order for ceding schemes to view them as a scam threat in their own right. Rather, overseas investments are presented as a possible feature of scams involving the early access of pension funds – and it is the early access of pension funds that is presented as the threat ceding schemes are told to be guarding against. The point is illustrated by the 2013 Scorpion action pack which says:

"One technique that pension fraudsters use is to send a large portion of the pension transfer overseas. This makes the funds harder to trace and retrieve when the arrangement is closed down."

The portrait of a scam as sketched out in the 2013 guidance isn't therefore one where the transferring member is motivated by a specific investment of the type Mr M invested in. Instead, the transfer overseas is a means to misappropriate the transferred funds which were transferred for other reasons – namely to access funds in an unauthorised way. As explained above, it was only in 2014 that the emphasis changed and schemes were directed towards members wanting to transfer because they had become interested in a particular investment opportunity. This needs to be kept in mind when looking at what Royal London should have done.

Mr M has also pointed to internal Royal London emails that show it had concerns about Cantwell Grove and the type of investments that were made through its SSASs. Although these emails relate to other transfers (and have been provided by Mr M's representative), the argument is that his transfer was similar enough that Royal London should have done more to help him avoid the detriment that it must have suspected might follow his investment in TRG.

The emails show that Royal London took steps to satisfy itself the schemes run by Cantwell Grove were legitimate (confirmation for which came from HMRC) and that transfers to Cantwell Grove didn't carry any liberation risk. Royal London therefore conducted due diligence with pension liberation in mind which, for the reasons given above, was what it should have been doing. It would be a misreading of Royal London's obligations to expect it to have gone on to warn someone about a transfer just because it suspected the investments in question might not perform as well as advertised. Royal London's role wasn't to provide an informal advice service in the way Mr M seems to be suggesting. The emails also show it would be incorrect to characterise Royal London as having done no due diligence which is what Mr M has done.

Mr M has also argued that Royal London should have checked his employment status in order to confirm he had a statutory right to transfer. He argues Royal London would have been concerned by the results of those checks, not least because it would have revealed the lack of a genuine employment link between him and L Ltd, the SSAS's sponsoring employer. But I disagree with Mr M's analysis. There was no obligation for ceding schemes to conduct such checks as a matter of course. And Royal London wouldn't have been given any reason to suspect Mr M didn't have a right to transfer because he was employed at the time, earning approximately £15,000 p.a. So, I see no reason why Royal London would, or should, have probed this issue any further.

Mr M has also pointed to what it believes to be an inconsistent approach between Royal London's handling of his transfer and what it has said in some publicly available commentary about its approach to another transfer from around the same time. Mr M questions why Royal London did very little in his transfer (in his view) but seems to have taken a more thorough approach in that other transfer. His 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 him unfairly.

It bears repeating that 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. With this in mind, and given the specific facts of Mr M's transfer, I'm satisfied Royal London didn't need to undertake the detailed due diligence that Mr M has suggested. Royal London could reasonably have considered (and indeed did consider) the threat it had been told to lookout for – pension liberation – was low.

For similar reasons, I won't be addressing Mr M's points about the two firms Royal London referred to in its response to his complaint. He says Consumer Money Matters Limited wasn't regulated to give the financial advice he says it provided. He thinks Royal London should have spotted this and warned him about the dangers this presented. And he says Royal London shouldn't have derived any comfort from the role played by Central Markets Investment Management Limited because he says that firm didn't advise him on TRG as indicated by the transfer paperwork. He says that advice was intended to be solely in relation to a discretionary fund management service which, ultimately, was never taken up meaning he never had any contact with that firm. I haven't addressed these points because I'm satisfied Royal London didn't need to investigate the role played by either firm because the threat of liberation was sufficiently low that it didn't need to investigate these matters further.

Finally, Mr M has argued that section 27 of the Financial Services and Markets Act ("FSMA") applies to this complaint, in essence because the arrangements to transfer his pension to Cantwell Grove constituted an "agreement" which had been made in consequence of actions carried on by Consumer Money Matters Limited in contravention of the general prohibition. His argument is that, unless relief is otherwise granted under section 28 of FSMA, he may be entitled to recover money transferred under the agreement and associated losses.

I'm not persuaded that any "agreement" with Cantwell Grove, in the context of section 27, was being made at the point Mr M exercised his rights to transfer away. He had already entered into an agreement with Royal London some time previously – which was essentially the existing personal pension policy – and transferring away meant exercising clauses in that contract. But I've seen no evidence to suggest that any party was acting in contravention of the general prohibition when that agreement was made.

END OF PROVISIONAL DECISION

My final decision

My final decision is to not uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 16 December 2024.

Christian Wood
Ombudsman