CAS-36743-M8B0

Ombudsman's Determination

Applicant	Ms S
Scheme	Lloyds Bank Pension Scheme No.1 (**the Scheme**)
Respondents	Lloyds Banking Group Pensions Trustees Limited (**the Trustee**)

Outcome

1. I do not uphold Ms S' complaint and no further action is required by the Trustee.

Complaint summary

2. Ms S has complained that the Trustee failed to carry out sufficient due diligence checks when transferring her benefits to the Fast Pensions Plan 1 (**the FP1 Plan**) in October 2012.

Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the main points. I acknowledge there were other exchanges of information between all the parties.

4. Ms S held benefits in the Scheme, an occupational pension scheme (**OPS**), and says she was approached to transfer them to the FP1 Plan, via an unsolicited call from an unregulated adviser.

5. In August 2012, the Trustee received a letter of authority (**LOA**) signed by Ms S and a request for information about the Scheme. This LOA asked for the information to be sent directly to Fast Pensions, the trustee of the FP1 Plan.

6. On 12 September 2012, the Trustee wrote to Fast Pensions with a transfer value and requirements that needed to be met for the transfer to proceed.

7. On 21 September 2012, Ms S wrote to the Trustee confirming that she wanted to transfer to the FP1 Plan. Ms S named AC Management & Administration Limited (**AC Management**) as the administrator of the FP1 Plan and provided bank account details for payment. On 29 September 2012, Ms S returned the relevant documentation to enable her transfer to proceed.

8. On 3 October 2012, AC Management wrote to the Trustee and confirmed that the receiving scheme, the FP1 Plan, was a HMRC registered scheme. It provided a Pension Scheme Tax Reference (**PSTR**) and confirmed that Ms S wanted to transfer into the FP1 Plan. The completed release forms were included with the letter and were signed by Ms S and one of AC Management's administration team.

9. On 8 October 2012, the Trustee wrote to AC Management as the Transfer Declaration Form was incomplete, the section asking for the receiving scheme name had not been filled out. The Trustee asked for the completed form to be returned before the transfer could be progressed. On 10 October 2012, AC Management wrote to the Trustee with the completed Transfer Declaration Form.

10. On 12 October 2012, the Trustee wrote to AC Management and confirmed that the transfer had been completed and payment would be made in the next three days. In total, around £180,000 was transferred from the Scheme to the FP1 Plan. A letter confirming this was also sent directly to Ms S.

11. On 15 July 2018, The Pensions Regulator (**TPR**) appointed Dalriada as independent trustees to the FP1 Plan. Dalriada wrote to members of the FP1 Plan informing them of the decision and continued to provide further updates, the last of which was in May 2023.

12. Ms S' representatives have subsequently argued that the Trustee did not exercise its duty of care to protect its member's interests, as it was later found that the FP1 Plan was a pension liberation scheme. Also, that Ms S was exposed to loss of her pension funds due to the Trustee not following guidance put in place by TPR.

13. Ms S' representatives said that the Trustee should have followed TPR guidance, spotted the warning signs that applied and not allowed the transfer to proceed. The following warning signs were highlighted:

    - the receiving scheme being newly registered with HMRC;
    - the administrators of the scheme being a newly registered company;
    - an unsolicited approach being made to a member after applying for a loan;
    - an unregulated adviser pressuring the member into completing the transfer; and
    - the member being promised an unrealistic rate of return and a signing up bonus.

14. Ms S asked to be put into the position she would have been in had the transfer not been processed, leaving her funds invested in the Scheme instead of in the FP1 Plan.

15. On 23 December 2019, the Trustee responded to the complaint and said that it carried out the necessary checks, in line with its due diligence process in place at the time. The Trustee made the following points:-

- The FP1 Plan was a valid scheme, registered with HMRC, with a valid PSTR.
- It was not made aware of the warning signs later pointed out in the complaint and there was no evidence of Ms S being pressured into transferring quickly.
- It initially refused Ms S' transfer request as the forms were incomplete, this indicated a thorough checking process.
- Ms S signed a declaration confirming she was responsible for ensuring the transfer was suitable for her circumstances.
- It kept its own list of suspicious schemes and checked this as part of its transfer process. The FP1 Plan was not on the list, so it did not carry out any additional due diligence.
- Ms S was aware of the information provided by Fast Pensions and AC Management and was able to conduct her own due diligence or seek independent financial advice.
- The industry approach to pension liberation was still developing in 2012. Steps were taken to identify potential scams, but it was incumbent on members to understand the nature of investments and risks involved and seek appropriate advice.

16. The Trustee said that it had no concerns about the FP1 Plan at that time, having carried out a sufficient level of due diligence, so completed the transfer in line with Ms S' request.

17. The Trustee noted that TPR guidance was not published until 14 February 2013, four months after Ms S' pension had been transferred.

Adjudicator's Opinion

18. Ms S' complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee. The Adjudicator's findings are summarised below.

19. TPR guidance that Ms S' representatives referred to was published to make members, trustees and administrators aware of pensions scams and identify potential red flags to look out for. There was guidance given on checks that could be carried out to identify potential schemes that should not be transferred to.

20. The first part of this guidance was released in February 2013 and included a guide to pensions scams leaflet, also known as the Scorpion leaflet. This was to be sent out to

members who had requested a transfer so they could be aware, and make providers aware, of any elements of pension liberation present in their circumstances.

21. If members highlighted any issues, providers were expected to carry out further checks and based on the results of these either complete the transfer, ask for further information or not allow the transfer at that stage.

22. This guidance was not published until 14 February 2013, so was not in place when Ms S' transfer was completed. This means that the Trustee was not expected to have included it as part of its due diligence at the time of Ms S' request.

23. The FP1 Plan was registered with HMRC with a valid PSTR. There was no indication to the Trustee that Ms S was approached unsolicited, via a cold call or that she was offered an incentive to transfer. Ms S made the initial request for information herself and included a valid LOA. There was also nothing at the time to indicate that Ms S was promised an unrealistic rate of return and there was no pressure put on the Trustee to speed up the transfer process. As such, the warning signs mentioned by Ms S' representatives were not present.

24. The Trustee followed its due diligence process and completed the necessary checks. It had no concerns about the FP1 Plan and received a valid transfer instruction from Ms S, so had enough information to proceed with the transfer.

25. The Adjudicator said that the Trustee carried out all the relevant checks expected of it at the time.

26. Ms S did not accept the Adjudicator's Opinion, none of the parties provided any further comments or submissions and the complaint was passed to me to consider. I agree with the Adjudicator's Opinion.

Ombudsman's decision

27. Ms S' representatives highlighted issues regarding her transfer to the FP1 Plan. Most of the arguments centred around TPR's Scorpion guidance and how it should have been applied in the circumstances of Ms S' complaint.

28. However, as pointed out by the Adjudicator, TPR's guidance had not been issued when Ms S' transfer took place. Therefore, the Trustee cannot have been expected to apply the due diligence set out in the guidance at an earlier date, or send out a copy of the Scorpion leaflet to Ms S.

29. The Trustee conducted the due diligence expected of it at the time of Ms S' transfer and did not find any reason to not allow the transfer to complete. The Trustee's due diligence included checking that the FP1 Plan was a registered pension scheme and that it did not appear on its internal list of suspicious schemes.

30. The Trustee also ensured that it had received a valid transfer instruction from Ms S, and was not made aware of the warnings signs that subsequently formed a part of the complaint it received.

31. In conclusion, I do not find that the Trustee failed in its due diligence obligations at the time of the transfer.

32. I do not uphold Ms S' complaint.

Dominic Harris

Pensions Ombudsman
7 May 2024