

Ombudsman's Determination

Applicant	Mr N
Scheme	Legal and General Personal Pension Scheme (the Scheme)
Respondents	ReAssure

Outcome

1. I do not uphold Mr N's complaint, and no further action is required by ReAssure.

Complaint summary

2. Mr N has complained that the Scheme was negligent when agreeing to transfer the benefits in the Scheme to the STM GIB Pension Transfer Plan (**the Receiving Scheme**).

Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
4. On 17 January 1991, Mr N became a member of the Legal & General Personal Pension Scheme administered by Legal & General Assurance Society Limited (referred to, together with its successors including ReAssure, as the "Scheme Administrator").
5. On 14 February 2013, The Pensions Regulator (**TPR**) launched a new awareness campaign regarding pension liberation schemes. Part of this campaign involved issuing cautionary documentation informing members about the potential risks of pensions scams. This comprised of:-
 - a two-page warning note, which TPR wanted administrators and pension providers to include in the information they provided to members who requested a transfer;
 - an information leaflet (**the Scorpion Leaflet**), which contained a number of warnings directed at potential members who were thinking of transferring; and
 - a "fraud action pack" for pension professionals.

6. Page 8 of the fraud action pack provided a number of warning signs/red flags that pension providers should be on the lookout for:-
 - the receiving scheme was not registered, or was only newly registered, with HM Revenue and Customs (**HMRC**);
 - the member was attempting to access their pension before age 55;
 - the member was pressuring the Trustee or administrator to carry out the transfer quickly;
 - the member was approached unsolicited;
 - the member being informed that there was a legal loophole; and
 - the receiving scheme was previously unknown but was now involved in more than one transfer request.
7. If any of these red flags were present, then it was recommended that direct contact should be made with the member to query the receiving scheme and how they came to know of it.
8. The Scorpion Leaflet included examples of real-life pension scams and explained that the warning signs of a potential scam could be:-
 - receiving an unsolicited call about a free pension review;
 - the promise of accessing a pension before age 55, through the provision of an advance loan payment, or cash bonus, upon the completion of the transfer;
 - the promise of a unique investment opportunity in overseas property, which would make it harder to trace the transfer; and
 - the use of a courier service to pressure members into signing transfer documents quickly.
9. On 30 September 2013, the Scheme, a defined contribution personal pension plan, received a request from Wefindanypension.com purporting to work on behalf of Archer Wealth Management, as Mr N's regulated Independent Financial Adviser (**IFA**). It requested transfer forms and a discharge pack. A letter of authority (**LOA**) signed by Mr N was enclosed with the request.
10. The Company registration listed on correspondence was 08222954 pertaining to Wefindanypension.com, whilst the Financial Conduct Authority (**FCA**) registration number listed was 525896 pertaining to Archer Wealth Management.
11. On 8 October 2013, the Scheme Administrator sent Mr N a letter informing him that it had received a request for policy details from the IFA which it would action unless instructed not to do so within seven working days.

12. On 10 October 2013, the IFA sent another request to the Scheme requesting the transfer forms and discharge pack, another LOA was attached.
13. On 16 October 2013, the Scheme Administrator sent the policy details and forms to the IFA.
14. On 8 April 2014, after seeking financial advice, Mr N received a recommendation letter from Global Partners Limited who appear to be a Gibraltar based regulated financial advice provider. The recommendation letter stated the following:-

“Given your desire to pass funds onto your beneficiaries and the greater investment choice, I believe the transfer to a QROPS is right for you.”

...

“... a QROPS allows you to ensure benefits are passed onto your beneficiaries (at a low tax cost), allows you to potentially increase the tax-free lump sum you could receive, allows you to retire earlier than normal retirement date of your existing scheme, allows you control over the investment strategy (rather than trustee control), alleviates any concerns you may have over the insolvency of the existing scheme and affords you additional flexibility should you consider moving abroad.”

...

“By transferring your pension benefits to a QROPS you can provide greater flexibility and reduce any potential tax liability. On death, the fund can be taken as a lump sum which is not liable to UK tax... you can also reduce your liability to income tax.”

...

“Gibraltar is one of the world’s leading jurisdictions for QROPS business and the jurisdiction, its policy markers and industry, are determined to maintain that position by offering well regulated, compliant and prudent QROPS products.”

...

“Other jurisdictions and providers were considered... however due to the competitive charging structure offered by the provider and favourable jurisdiction, Gibraltar and STM were preferred.”

...

“STM Group are a listed company who are one of the first multi-jurisdictional QROPS providers. They have worked closely with HMRC, Gibraltar FSC and the Malta FSA to produce QROPS products that will stand the test of time and meet regulatory changes. They are at the forefront of developing best practices in the administration and service delivery of QROPS.”

15. On 19 June 2014, the Receiving Scheme sent the Scheme a letter enclosing the required forms, the member declaration, the HMRC recognition letter confirming the Qualifying Recognised Overseas Pension Scheme (**QROPS**) reference number and receiving scheme bank details.
16. On 24 June 2014, Mr N sent the Scheme a request to transfer his benefits to the Receiving Scheme.
17. On 1 September 2014, the Receiving Scheme resent the Scheme its email of 19 June 2014 with the attached required documentation for transfer.
18. On 2 September 2014, Mr N sent the Scheme his signed discharge form.
19. On 5 September 2014, the Scheme Administrator received a declaration from the Receiving Scheme which confirmed the schemes identification number issued by HMRC which was supported by its original registration letter previously provided.
20. On 29 September 2014, the Scheme Administrator requested proof of identification from Mr N.
21. On 3 October 2014, the Receiving Scheme sent the Scheme a letter with Mr N's proof of identification and proof of address. It stated that it met the QROPS conditions and was prepared to accept the transfer.
22. On 9 October 2014, the transfer was processed and the following day the Scheme Administrator sent confirmation to the Receiving Scheme for the transfer amount of £39,294.31.
23. On 15 August 2019, the Financial Repayment Service (**FRS**), acting as Mr N's representatives, sent the Scheme a Data Subject Access Request (**DSAR**).
24. On 25 September 2019, the FRS sent the Scheme a chaser regarding its DSAR.
25. On 3 October 2019, the FRS sent the Scheme a letter requesting the following specific information:-
 - Confirmation of the type of pension held along with the date and amount of the transfer value paid.
 - Whether any in-house Additional Voluntary Contributions (**AVC**) or other pension benefits from transferred-in schemes were included in the transfer amount paid.
 - Confirmation of any penalties or charges applied on the transfer.
 - Confirmation of the notional current transfer value of the plan, assuming it had remained in place and no further contributions were paid in and.
 - Details of any Guaranteed Annuity Rates or other guaranteed benefits applicable to the pension policy.

26. On 10 October 2019, the Scheme Administrator provided its response to the FRS. It stated the following:-
- The total transfer value was £39,294.31 which completed on 9 October 2014.
 - It confirmed there were no in-house AVCs or any other guarantees.
 - It stated that the notional transfer value calculation requested could not be completed on its systems, it would require manual calculation which would take around 2 to 3 months to complete.
27. On 16 October 2019, the Scheme Administrator sent a letter to the FRS with the notional transfer value calculation from its actuarial team. Two approximate values were provided as follows:
- Policy ending 165 as £38,377.79
 - Policy ending 167 as £15,419.37
28. On 17 October 2019, the FRS sent the Scheme a formal complaint on behalf of Mr N. It stated that Mr N was approached unsolicited by an unregulated advisor. It requested a copy of the review that was carried out when the Scheme assessed the transfer criteria, the statutory requirements of the Receiving Scheme and Mr N's employment status. It requested that any additional relevant correspondence also be provided.
29. On 22 October 2019, the Scheme Administrator sent the FRS a letter in acknowledgement of the complaint and stated that it would be investigated.
30. On 31 October 2019, the Scheme Administrator provided its complaint response to the FRS. It stated the following:-
- It disagreed that it was responsible for Mr N's losses.
 - It received the necessary registration details on 5 September 2014, it checked that the receiving scheme was on the HMRC website and obtained proof of identity from Mr N before processing the transfer. It carried out the necessary due diligence checks.
 - Mr N had a statutory right to transfer, and the receiving scheme confirmed that it was willing and able to accept the proposed transfer amount.
 - Mr N signed a discharge form on 2 September 2014 which stated that the Scheme was discharged from any and all liability under the arrangements in consideration of the value of the policies being transferred to the new provider.
31. On 20 August 2020, a transfer took place under a High Court Part VII agreement in which a portion of the Scheme's pension book was transferred to ReAssure, this included historic plans and Mr N's was one of the plans included in the transfer.

32. On 2 September 2021, after receiving the complaint from Mr N, The Pensions Ombudsman (**TPO**) requested a Formal Response from the Scheme.
33. On 12 October 2021, ReAssure informed TPO of the transfer and provided the Formal Response on behalf of the Scheme. The Formal Response referenced the Scheme's final response of 31 October 2019 as the statement of case. ReAssure have since confirmed that it holds responsibility for any potential liabilities that may arise in relation to Mr N's complaint. TPO queried whether the Scorpion leaflet had been issued to Mr N and ReAssure stated that it could not confirm whether it had been sent as it did not hold information of this type on its system.

Adjudicator's Opinion

34. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by ReAssure. The Adjudicator's findings are summarised below:-
 - The Scheme Administrator should have implemented the TPR guidance implemented into its processes during the time Mr N's transfer application was in progress so this was the level of due diligence it would be measured against.
 - The Scheme Administrator carried out the necessary due diligence according to the guidance in place at the time of Mr N's transfer. The Receiving Scheme was registered with HMRC on 14 April 2011 and the registration had been in place for over three years before the transfer application was received by the Scheme on 19 June 2014.
 - Mr N did not appear to be attempting to access his pension before age 55, he had not applied pressure to have the transfer completed early and he had not indicated to the Scheme that he had been approached unsolicited. No red flags were present at the time so it would not be reasonable to have expected the Scheme Administrator to make direct contact with Mr N or to make any further enquiries.
 - Although Mr N was in fact contacted via an unsolicited cold call and that was receiving unregulated advice, there is no evidence to suggest that the Scheme Administrator was made aware of this at the time in which it was processing the transfer request. The Scheme Administrator cannot be expected to act on warning signs that it was not made aware of.
 - The Adjudicator noted that Mr N transferred into a QROPS. She stated that at the time, and it remains the case, the Receiving Scheme was on the HMRC list of QROPS. The Scheme undertook the due diligence that it would have been expected to by checking that the Receiving Scheme was registered with HMRC, that it was authorised in its own jurisdiction and that Mr N had completed the relevant forms. In the Adjudicator's opinion, this was sufficient due diligence given the information that was available to the Scheme and even now, a transfer

proposed to the Receiving Scheme without any wider concerns would not be deemed problematic.

- The Adjudicator noted that, in her opinion, it seemed likely that Wefindanypension.com was using the FCA number of “Archer Weather Management Limited” without authorisation and with the intention of cloning the authorisation. She stated that, had the Scheme been aware of this fact at the time she could have expected it to give serious consideration to the legitimacy of the transfer. However, at the time, it was not a requirement for the member to seek financial advice or for the administrator of a scheme to undertake due diligence on a supposedly regulated company.
 - It was unclear whether or not the Scorpion Leaflet had been issued to Mr N, but in the absence of evidence that it was, the Adjudicator considered what Mr N would have done if it had been provided.
 - In the Adjudicator’s opinion, even if Mr N had received the Scorpion Leaflet the transfer would have gone ahead as it did. Mr N had already transferred his funds from a separate pension arrangement to the Receiving Scheme in August 2014 and was therefore in the process of consolidating his funds into one scheme.
 - On 8 April 2014, Mr N had also received a recommendation letter from what seems to be a genuine regulated financial advisor. In review of the recommendation letter and its compelling nature towards QROPS’ and the Receiving Scheme specifically, in the Adjudicator’s opinion, Mr N’s receipt of said recommendation letter would likely have offset any worries he had in relation to the possible risks.
 - The recommendation letter, which he would have held in high regard, portrayed that the transfer to the Receiving Scheme was not only safe but also the most beneficial financial choice for Mr N. In the Adjudicator’s opinion and on the balance of probabilities, being sent the Scorpion Leaflet would not have altered Mr N’s decision to transfer.
 - Mr N had a statutory right to transfer, the level of due diligence carried out by the Scheme was adequate, and in consideration of the information it was given by relevant parties at the time, it was in line with the guidance. It cannot be said that the Scheme was negligent when agreeing to transfer Mr N’s benefits in the Scheme to the Receiving Scheme and so caused Mr N’s loss.
 - The Adjudicator sympathised with the circumstances Mr N found himself in however, the complaint was not upheld.
35. Mr N did not accept the Adjudicator’s Opinion, and the complaint was passed to me to consider. Mr N provided his further comments which do not change the outcome. I agree with the Adjudicator’s Opinion and note the additional points raised by Mr N.

Mr N's additional comments

- The Scorpion Leaflet was not made available to him and there was no attempt by the Scheme to contact him directly or to raise any concerns regarding the proposed transfer. If he had been sent the Scorpion Leaflet he would have cancelled the transfer.
- Both of his transfers to the Receiving Scheme were transferred at around the same time.
- The Scheme should have made sure that all information regarding QROPS and pension scams was available to him.
- Adequate due diligence was not carried out.

Ombudsman's decision

36. Mr N has complained that the Scheme was negligent when agreeing to transfer his benefits to the Receiving Scheme.
37. I have considerable sympathy for Mr N, who appears to have been the victim of pension liberation fraud. However, this matter cannot be viewed with the benefit of hindsight, and it is the circumstances and specific facts at play at the time of the transfer which must be considered.
38. I should also clarify that, unlike the Financial Services Ombudsman who may determine complaints according to what is "fair and reasonable" and having regard to the Financial Conduct Authority's Principles, it is well settled that I must decide disputes in accordance with established legal principles rather than by reference to what I may consider to be fair and reasonable (*Henderson v Stephenson Harwood* [2005] Pens LR 209), save in relation to awards for distress and inconvenience.
39. As the Adjudicator explained, Mr N had a statutory right to transfer which he exercised by completing the transfer forms. So, the extent to which the Scheme could delay/stop the transfer was limited. The Scheme Administrator had a statutory obligation under section 95 of the Pension Schemes Act 1993 (the "**1993 Act**") to pay the transfer in accordance with the transfer forms. It did not have an option to agree or not agree to make the transfer. It carried out the necessary due diligence according to the guidance in place at the time of Mr N's transfer. The Scheme Administrator checked that the Receiving Scheme was on the HMRC list of QROPS, that it was authorised in its own jurisdiction and that Mr N had completed the relevant forms and provided the relevant identification proof.
40. The Scheme Administrator was not made aware of any red flags present at the time so it would not be reasonable to have expected the Scheme to make direct contact with Mr N or to make any further enquiries.

41. ReAssure cannot confirm whether or not Mr N was issued the Scorpion Leaflet. I understand Mr N's claim is that he was not. I will not repeat the Adjudicators findings on this, which I agree with. I am of the view that if the Scorpion Leaflet was not issued this did not result in Mr N making a transfer that he otherwise would not have done. On the balance of probabilities, the transfer would have gone ahead as it did. I would also add that there was no legal duty on ReAssure to issue the Scorpion Leaflet.
42. It is not the responsibility of the Scheme Administrator to advise a member on their transfer or any other financial decisions. The obligation of the Scheme Administrator is to comply with its statutory obligations in giving effect to any exercise by a member of their statutory transfer right under sections 94 and 95 of the 1993 Act. The member is responsible for their own personal financial decisions. In the absence of any legal requirement to do so, it is also not the Scheme Administrator's responsibility to ensure that financial advice is received from a regulated advisor.
43. Therefore, I do not uphold Mr N's complaint.

Camilla Barry

Deputy Pensions Ombudsman

26 March 2025