

Ombudsman's Determination

Applicant	Mr N
Scheme	Chevron UK Pension Plan (the Plan)
Respondent	Chevron UK Pension Trustee Ltd (the Trustee)

Outcome

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

Complaint summary

2. Mr N has complained that the Trustee should not have transferred his pension benefits out of the Plan to the STM G.I.B. Pension Transfer Plan (**STM**). He has said that a number of the individuals involved with the transfer were not regulated and that a Qualifying Recognised Overseas Pension Scheme (**QROPS**) was not suitable for him.

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. At the time of Mr N's transfer request and any related correspondence, the Plan was administered by Aon Hewitt Limited (**Aon**). Equitable Life also administered a transferred in section of the Plan. While Aon and Equitable Life are referred to below, they are not respondents to the complaint and the Trustee is responsible for Mr N's transfer.
5. On 5 August 2013, Wefindanypension.com wrote to Equitable Life requesting a discharge pack and an up-to-date transfer value in respect of Mr N's benefits. It enclosed a Letter of Authority (**LOA**) dated 30 June 2013, which had been signed by Mr N. The LOA included a Financial Conduct Authority (**FCA**) registration number for a company called Archers Wealth Management Ltd.
6. On 13 August 2013, Equitable Life forwarded on the information it had received to Aon, stating that it had recently received a request from Wefindanypension.com for information relating to Mr N's pension benefits. However, it was unable to release the requested information as it did not hold suitable authority to disclose it.

7. On 16 August 2013, Aon issued a response directly to Mr N, providing him with the requested details. It stated that it had enclosed a letter, statement and discharge forms for Mr N to show to his new scheme's administrator and/or financial advisor. The letter also provided the following:-
 - A recommendation that Mr N take financial advice before deciding to transfer his benefits.
 - Details of The Pensions Regulator (**TPR**), TPAS and the Financial Conduct Authority and two websites relating to pension transfers, that it said Mr N may find helpful when making his decision.
8. Aon has said that TPR's Scorpion Leaflet would have been included in this transfer pack.
9. On 20 August 2013, Aon responded to Wefindanypension.com, enclosing a cash equivalent transfer value (**CETV**) and the required discharge forms. The letter stated that the CETV was guaranteed until 16 November 2013 and that a copy of the Scorpion Leaflet was included.
10. In late 2013, Mr N requested details of his benefits if he retired in November 2019. Aon provided these details on 2 December 2013. It said that as he had transferred in service with a GMP liability, the value of his fund was insufficient to allow him to draw his benefits early. Mr N made no further enquiries after receiving this response.
11. On 16 April 2014, STM wrote to Aon, enclosing the transfer paperwork that had been issued in August 2013, signed and dated by Mr N on 27 February 2014, and a HM Revenue & Customs (**HMRC**) recognition letter confirming the Receiving Scheme's QROPS reference number. It stated that Mr N wished to transfer out to an overseas pension scheme, and that the Receiving Scheme met HMRC's revised QROPS conditions following 6 April 2012. It confirmed that it was prepared to accept the transfer.
12. On 23 April 2014, Global Partners Limited (**GPL**) wrote to Aon, enclosing a Letter of Authority (**LOA**) signed by Mr N, dated 21 October 2013. It asked to receive regular updates on Mr N's pension transfer as it was working as his Independent Financial Adviser (**IFA**). At the bottom of this letter, it stated that GPL was authorised and regulated by the Financial Services Commission (Gibraltar). The enclosed LOA asked for a CETV, a deferred benefit statement to Normal Retirement Date and transfer discharge forms.
13. On 2 May 2014, Aon emailed STM stating that there had been an amendment to its processes since it first issued the illustration of a CETV. So, it asked STM to arrange for the completion and return of the 'member's application to the Trustee' form it had attached. This was returned, signed and dated on 7 May 2014. Included was a declaration to the Trustee signed by Mr N that he agreed:

“I have read the enclosed leaflet “Predators stalk your pension” and understand that there could be serious tax consequences for my pension benefits if I transfer to a scheme or arrangement that it later deemed to have committed Pension Liberation Fraud.”

14. On 15 May 2014, STM wrote to Aon enclosing the following:-
 - Overseas Transfer Forms
 - The Receiving Scheme’s HMRC recognition letter
 - Two forms that had been sent on 16 April 2014
 - The Receiving Scheme’s bank details
15. In June 2014, a new CETV was calculated.
16. On 12 June 2014, Aon emailed STM asking for the additional forms it had attached to be completed and returned. Mr N emailed these completed forms to Aon later that day. Included in the information provided to Aon was the same declaration set out in paragraph 16 above, signed by Mr N on 12 June 2014.
17. On 13 June 2014, the transfer completed and £78,649.05 was paid to STM. On the same day, Aon wrote to both Mr N and STM to confirm this.
18. On 14 August 2019, Mr N complained to the Trustee under the Plan’s Internal Dispute Resolution Procedure (**IDRP**). He said, in summary:
 - He thought that he should have been advised by Aon against transferring his pension because the financial adviser was not on the FCA register as a regulated pension adviser.
 - He also did not think the QROPS was suitable for him.
19. On 10 September 2019, the Trustee responded under the Scheme’s one-stage IDRP. It said, in summary:-
 - At the time of the transfer, there was no requirement for a member to take financial advice before making a transfer.
 - The Trustee had fulfilled its duty by providing Mr N with the Scorpion leaflet. Further, Mr N had appointed GPL as his IFA in relation to this matter, which was a body with appropriate authorisation from the Financial Services Commission in Gibraltar.
 - In addition, Aon had received confirmation from HMRC that STM was a recognised overseas pension scheme and had been recognised as such since 2011.
 - Neither Aon nor the Trustee could provide members with advice as to the appropriateness of the transfer they intend to make. It was for the member to

consider whether they wished to transfer and, subject to ensuring the receiving arrangement was registered and there were no barriers to transfer, the Trustee and the Plan's administrator would take steps to give effect to the member's decision.

- It, and Aon, had acted appropriately at all times, so there were no grounds to uphold Mr N's complaint.

Mr N's position

20. He had been cold called by a firm, which then sent a representative to his house, asking him to sign relevant paperwork. It was this firm that had suggested a transfer to STM.
21. He did not recall receiving or seeing the Scorpion Leaflet.
22. At some point after the transfer, he received a warning that STM was struggling. However, when he contacted a representative, they could not provide him with any further details. They could not tell him where the money had gone or why STM was struggling.
23. He believed that Mr James Hadley had been involved, who had recently been found guilty for his role in the Trafalgar Multi Asset Fund and Trafalgar Multi Asset Trading Company Limited.
24. He had been doing part-time work at the time of the transfer, and he was struggling with money.

Adjudicator's Opinion

25. Mr N'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:-
 - 25.1. The Adjudicator sympathised with the position Mr N found himself in, but could only base his opinion on the information available to the Trustee at the time of the transfer.
 - 25.2. There was a dispute over whether Mr N had received the Scorpion Leaflet. The evidence suggested that a copy of it was sent to Wefindanypension.com, as it was mentioned on the cover letter, but it was not mentioned on the letter to Mr N. The Adjudicator considered it was reasonable to have expected Wefindanypension.com, as an apparently FCA regulated business, to share this with Mr N. However, where important information such as this was being shared, particularly where it was intended to warn of unscrupulous business practices, it ought to have been sent to Mr N directly.
 - 25.3. Although Mr N disputes receiving the Scorpion Leaflet, he twice signed a declaration confirming that he had read it. It was reasonable to have expected

him to query the declaration if he had not seen a copy of it. On balance, the Adjudicator considered that a copy was provided to Mr N, and if not, he could have requested a copy of it if he was unsure.

- 25.4. There were a number of risk factors set out in the Scorpion Leaflet for the transferring scheme to consider when reviewing a proposed transfer:

“Receiving scheme not registered, or only recently registered, with HM Revenue & Customs

Member is attempting to access their pension before age 55

Member has pressured trustees/administrators to carry out transfer quickly

Member was approached unsolicited

Member informed that there is a legal loophole

Receiving scheme was previously unknown to you, but now involved in more than one transfer request.”

- 25.5. In the Adjudicator’s view, none of these warning signs would have been apparent to the Trustee and there is no evidence that Mr N made the Trustee aware of any wider risk factors about the transfer.

- 25.6. The Adjudicator considered the other companies involved in the transfer, Wefindanypension.com and GPL. He noted that Wefindanypension.com had a notice issued about it on the FCA register, stating:

“an unauthorised firm that may be providing financial services or products in the UK without our permission. **If you deal with unauthorised firms you will have less protection if things go wrong.**” [original emphasis]

- 25.7. There was also an inconsistency in its letter, referring to a regulated company called “Archers Wealth Management Ltd” (Ref: 525896). There were no identifiable links between the two companies and the Adjudicator noted that the correct name of the regulated company was Archer, not Archers, as it was written on Wefindanypension.com’s letter. In the Adjudicator’s view, Wefindanypension.com was using the FCA registration number to clone the authorisation.

- 25.8. Had this been identified by the Trustee, it would be expected for it to raise serious concerns about the legitimacy of the transfer. However, at the time, it was not a requirement for the member to seek financial advice or for the transferring scheme to undertake due diligence on a supposedly regulated company. It was noted that the Scorpion Leaflet made no suggestion of reviewing a company’s regulated status.

- 25.9. At the time of the transfer going through, Wefindanypension.com was no longer involved and GPL had taken responsibility for it.
- 25.10. GPL's documentation carried a Financial Services Commission (Gibraltar) licence number, FSC11168. Having searched the registry, GPL was not apparent, but it may have been registered at the time. The Adjudicator identified that it was Tom Biggar (Mr Thomas William Gordon Biggar) who signed the GPL documentation and now appears to be implicated in the Trafalgar Multi Asset Fund fraud¹. The Adjudicator thought it possible that GPL, like Wefindanypension.com, may not have been regulated and was using an inaccurate licence number. However, as with Wefindanypension.com, there was no expectation on the Trustee to undertake due diligence on GPL.
- 25.11. Mr N's transfer was to a QROPS, which the Adjudicator described as unusual and occasionally used to facilitate scams, but which was ordinarily a legitimate pension arrangement. At the time, and it is still the case, STM was on HMRC's list of qualifying registered overseas pension schemes. This was checked, along with seeking confirmation that STM was authorised in its own jurisdiction and that Mr N had completed the necessary HMRC Form CA1890. This was sufficient due diligence in the Adjudicator's opinion, and even now, a transfer to the receiving scheme without wider concerns would not be deemed problematic.
- 25.12. The Adjudicator considered whether this was a statutory transfer. As the transfer was to a QROPS, there was no requirement for Mr N to be an earner and the CETV was recalculated in advance of the transfer, with the transfer happening within a further three months. In the Adjudicator's opinion this was a statutory transfer, and the Trustee could not have unilaterally blocked it.
- 25.13. The Trustee was not aware of the eventual intended investment, the Trafalgar Multi Asset Fund, and at the time of the transfer, and there was no requirement that it investigate the intended investment. In the Adjudicator's opinion, the Trustee could not have anticipated the subsequent fraud that Mr N appears to be a victim of.
- 25.14. Overall, the Trustee undertook sufficient due diligence and was under a reasonable understanding that Mr N had reviewed the Scorpion Leaflet.
26. Mr N did not accept the Adjudicator's Opinion, and the complaint was passed to me to consider. Mr N provided further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mr N.

¹ https://www.offshorealert.com/trafalgar-multi-asset-trading-company-ltd-v-james-hadley-et-al-complaint-18-6m-investment-fraud/?srslid=AfmBOoqh5lJulCjxqzRzGOcaFFmIP08v5UgNHD_Olsfr_IDgaMaXG6ao

Ombudsman's decision

27. Mr N is dissatisfied with the Adjudicator's opinion because he is concerned that there are no further routes of action for him despite the individuals behind the fraud being found guilty of offences. I understand Mr N's frustration. He has undoubtedly been victim to a sophisticated fraud with a wide number of individuals involved. I have considerable sympathy for the circumstances Mr N finds himself in.
28. However, this complaint is against the Trustees of the Plan, and I can only consider it from the perspective of its duties in relation to the transfer. While there were possible issues that the Trustee might have identified in Wefindanypension.com and GPL, these checks were not part of the standard of due diligence that was required at the time. Additionally, the Trustee acted on a reasonable understanding that Mr N had received and reviewed the Scorpion Leaflet, Mr N having signed a declaration that he had read that document, with the warnings and questions it contained. I find that the Trustee was not required to do anything more according to the standard of the day.
29. Therefore, I do not uphold Mr N's complaint.

Dominic Harris

Pensions Ombudsman
31 December 2024