

Ombudsman's Determination

Applicant	Mr I
Scheme	Friends Life Stakeholder Group Personal Pension Plan (the Plan)
Respondent	Friends Life

Outcome

1. I do not uphold Mr I's complaint and no further action is required by Friends Life.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr I's complaint is that he cannot transfer his pension benefits from the Plan, to a scheme in Italy. He also does not accept that his contributions cannot be refunded.

Background information, including submissions from the parties

4. Mr I started working in the United Kingdom in March 2017. He joined the Plan and was sent confirmation of this on 8 May 2017. Due to unforeseen circumstances, Mr I had to return to Italy and so left his employment in the United Kingdom in August 2017. As he had no intention of returning, he asked Friends Life whether he could transfer the pension benefits he had accrued.
5. Friends Life advised that it would not be able to transfer his pension. As a result, Mr I asked about voiding his plan and receiving a refund of his contributions. However, Friends Life informed him that this was also not possible.
6. Mr I sought advice as he believed that a refund was a sensible solution. After doing so, Mr I complained to Friends Life.
7. On 28 September 2017, Friends Life responded to Mr I's complaint. It did not uphold the complaint. In summary, it said: -
 - It cannot transfer Mr I's pension to an Italian pension scheme. It has followed United Kingdom Government legislation, which states that pension savings can only be transferred to an overseas pension scheme that

HM Revenue & Customs (**HMRC**) has designated a qualifying recognised overseas pension scheme (**QROPS**). In December 2016, HMRC removed all Italian schemes from this list.

- Members are only entitled to a refund of contributions within 30 days of their Plan commencing. Therefore, Friends Life cannot refund Mr I's pension contributions.
8. Mr I did not accept Friends Life's response and he has referred his complaint to this Office for an independent review.

Adjudicator's Opinion

9. Mr I's complaint was considered by one of our Adjudicators who concluded that no further action was required by Friends Life. The Adjudicator's findings are summarised briefly below: -
- Friends Life is correct in saying that it is not able to transfer Mr I's pension benefits to an Italian pension scheme. This is because, as outlined by HMRC, it must transfer to a QROPS, and there are none in Italy.
 - A refund of Mr I's contributions is also not possible. Friends Life has applied the terms and conditions of the Plan, which explain that a refund is only possible within the first thirty days of joining the Plan. As such, there has been no administrative error.
10. Mr I did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr I provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr I for completeness.

Ombudsman's decision

11. The Plan administrators are legally required to apply scheme rules and follow relevant legislation. Whilst I appreciate that this must be a frustrating situation for Mr I, Friends Life has acted correctly.
12. There is legislation applicable preventing both of Mr I's preferred options, which Friends Life must take into consideration. It is only possible for Friends Life to transfer Mr I's benefits from the Plan to an overseas scheme which is a QROPS. To do otherwise would result in a substantial, punitive tax charge being applied to the value of Mr I's benefits. As there are no QROPS established in Italy, I find that Friends Life has acted appropriately by declining Mr I's transfer instruction.
13. In addition to this, the Pensions Act 2014, introduced a requirement where if the pension benefits are in a scheme such as the Plan, a preserved pension must be provided after 30 days' qualifying service. Therefore, as Mr I had more than 30 days'

PO-20584

qualifying service, he cannot have a refund of this contributions. In any case, I cannot see that Mr I has suffered any financial loss, as he is able to claim these benefits once he is eligible.

14. Therefore, I do not uphold Mr I's complaint.

Anthony Arter

Pensions Ombudsman
5 June 2018