

## Ombudsman's Determination

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| Applicant  | Mr Z  |
| Scheme     | Standard Life Personal Pension Plan ( <b>the Scheme</b> ) |
| Respondent | Standard Life Assurance Limited ( <b>Standard Life</b> )  |

## Outcome

1. I do not uphold Mr Z's complaint and no further action is required by Standard Life.

## Complaint summary

2. Mr Z has complained that Standard Life did little due diligence when he was approached by an unregulated adviser in 2013 and advised to transfer his pension fund from the Scheme. Mr Z is concerned that his pension fund has now been lost or misappropriated. Mr Z would like to be put back into the position he would have been in had the transfer not taken place.

## Background information, including submissions from the parties

3. Mr Z says in 2013 he was approached via an unsolicited call from an adviser offering to carry out a 'free pension review'. Unknown to Mr Z, the adviser was unregulated.
4. Mr Z was advised to set up a limited company, which he did on 25 February 2013, and to transfer his pension fund into a Small Self-Administered Scheme (**the SSAS**). The adviser persuaded Mr Z to transfer a total of £3,197.19 from the Scheme into the SSAS. The transfer took place on 1 March 2013.
5. Mr Z considers that Standard Life had a duty of care to protect the interests of its members. He says it was incumbent on Standard Life to conduct the necessary due diligence before agreeing to transfer his pension fund.
6. He points out that two of his four pension providers refused to transfer funds as they had concerns about the SSAS.
7. Further, he refers to previous Ombudsman determinations in PO-12763 and PO-3809 in support of his claim.

8. Standard Life's file shows that:-

- On 25 January 2013, in response to his request Standard Life issued a transfer pack to Mr Z.
- The completed forms requesting the transfer were received on 28 February 2013. These included a letter from Greenchurch Capital, the administrators of the SSAS and a copy of the HMRC notice confirming the SSAS was a registered scheme.
- The forms provided details of the SSAS and confirmed it was able to accept the transfer value.

9. Standard Life says the due diligence it carried out was reflective of industry practice at the time. On receipt of the completed transfer forms it confirmed the SSAS was registered with HMRC, this meeting its regulatory requirement at the time.

10. It also says the request to transfer appeared to comply with the requirement for a statutory right to transfer. It therefore acted in good faith to comply with Mr Z's instructions having received the transfer request, a letter of authority and having ensured the SSAS was properly registered with HMRC.

### **Adjudicator's Opinion**

11. Mr Z's complaint was considered by one of our Adjudicators who concluded that no further action was required by Standard Life. The Adjudicator's findings are summarised below:-

- The Pensions Regulator had issued guidance in February 2013 which included a checklist for trustees and administrators to help identify pension liberation fraud. The action pack also set out that trustees and administrators had a duty to carry out a member's transfer request where the legislative requirements are met.
- This transfer took place over the period from 25 January 2013 to 1 March 2013 which spans the time when the Pensions Regulator issued its guidance in February 2013. As Mr Z found, different providers implemented the new procedures at varying times, but that is not to say those which took a little longer should necessarily be criticised. The Ombudsman has said in previous Determinations that it was reasonable to allow a period of time for providers to consider and implement the guidance and introduce appropriate procedures.
- The High Court judgment in Hughes v Royal London also indicated that there is very little providers can do to stop a transfer, where a statutory (or other) right exists, even if they have serious concerns about the destination of the money or the nature of the receiving scheme.
- Mr Z had referred to the Ombudsman's determinations in PO-12763 and PO-3809. However, each of these cases involved specific issues which did not apply to Mr Z's case.

- At the time of Mr Z's transfer request, the checks undertaken by Standard Life were reasonable. The transfer paperwork was in order, the receiving scheme was registered with HMRC and had confirmed that it was willing to accept the transfer and provide benefits to Mr Z.
  - Mr Z's complaint was that Standard Life should have done more to prevent him transferring, but by the standards of the day, it did nothing wrong in complying with his instructions. It was not on notice of a problem with the receiving scheme and reasonably believed it was required to comply with his instructions.
  - In hindsight, it was not a suitable decision for Mr Z to transfer his pension, but it was his choice to do so. There was no maladministration on Standard Life's part in allowing the transfer to proceed, in accordance with Mr Z's statutory rights and his clear instruction.
12. Although Standard Life accepted the Adjudicator's Opinion Mr Z did not and he made the following comments:-
- He had requested the funds from four different pension providers be transferred. Two other providers did not approve the transfers due to concerns about where the funds were to be invested.
  - Based on this inconsistency, Mr Z does not believe Standard Life followed strict enough due diligence processes.
13. The complaint has now been passed to me to consider. I agree with the Adjudicator's Opinion and I will therefore only respond to the points made by Mr Z for completeness.

### **Ombudsman's decision**

14. I have considerable sympathy for Mr Z, who appears to have fallen victim to a scam as a result of which he may have lost his funds
15. The specific circumstances surrounding his complaint are understandably particularly frustrating for Mr Z, in that at the same time, two very different decisions were made on the transfer of his funds.
16. On 14 February 2013, The Pensions Regulator (**the Regulator**) had published guidance on pensions liberation fraud directed at pension professionals. This set out the details of an increased level of due diligence required of trustees and administrators when processing a transfer request.
17. In his complaint, Mr Z says that Standard Life should have done more in the way of due diligence before transferring his funds. His argument is that it should have applied the Regulator's guidance. However, this matter cannot be viewed with the benefit of hindsight and it is the circumstances at the time of transfer which are of importance.

18. Standard Life says the due diligence it carried out was reflective of industry practice at the time. It confirmed that the receiving scheme was registered with HMRC and that there was no other apparent reason the transfer should not take place.
19. I have considered whether Standard Life ought to have done more to alert Mr Z to the risks of the transfer. Although, the transfer took place after the Regulator's guidance was issued, I deem it reasonable to allow Standard Life, as a provider, the necessary time to implement any changes arising from this. In line with previous Determinations, I consider a three-month period, from 14 February 2013, a reasonable timeframe to do so. Accordingly, I do not consider that Standard Life made an administrative error in not making further enquiries about Mr Z's reasons for requesting the transfer.
20. Standard Life had a statutory and contractual duty to transfer Mr Z's funds which it was required to act upon when it received his transfer paperwork, unless there were any indications of why the transfer should not go ahead. As there was no indication that Standard Life had any reason for concern, it did not need to make any further enquiries.
21. Although it is regrettable that Standard Life's decision has not transpired to be in Mr Z's best interests, it fulfilled its due diligence obligations with the information it held at the time.
22. Further, although two other providers had established reason for concern regarding the proposed transfer, this is not in itself an administrative error here, as each provider holds its own data depending on internal processes and the transfer requests received, amongst other things.
23. In conclusion, I do not find that Standard Life failed in its due diligence obligations at the time of the transfer.
24. I do not uphold Mr Z's complaint.

**Anthony Arter**

Pensions Ombudsman  
26 June 2020