

Ombudsman's Determination

Applicant	Mr R
Scheme	ReAssure Number Three Personal Pension Scheme (the Scheme)
Respondent	ReAssure Limited (ReAssure)

Outcome

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

Complaint summary

2. Mr R has complained that ReAssure did not carry out sufficient due diligence checks when transferring his three policies from the Scheme to the Optimum Retirement Benefits Plan (**the Optimum Plan**) in July 2016.
3. Mr R says that he cannot trace his assets and is concerned that they may be lost. He would like to be put back in the position he would have been had the transfers not taken place.

Background information, including submissions from the parties and timeline of events

4. 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.
5. Mr R was initially represented by the Financial Repayment Service Limited which was later incorporated into PMR Solicitors. PMR Solicitors is also known by the name of Owl & Fox Law. For simplicity I shall refer to the representative as Owl & Fox throughout this document.
6. Mr R had three policies (**the Policies**) in the Scheme with reference numbers P108640386, P108640610 and P113844431. He was considering the possibility of transferring the Policies to the Optimum Plan. The transfers were being handled by Optimum Financial Solutions Ltd (**OFS**). OFS was a firm regulated by the Financial Conduct Authority (**FCA**).

7. On 2 June 2016, OFS wrote to ReAssure providing Mr R's consent for ReAssure to send it information on the Policies.
8. On 10 June 2016, ReAssure sent OFS the information it had requested including transfer value illustrations for each of the Policies. The transfer values quoted were £219.96 (P108640386), £12,229.46 (P108640610) and £4,159.89 (P113844431).
9. For each of the Policies, a copy of a "Scamproof your Savings" document was enclosed. This provided some tips on how to spot the warning signs of possible scams and what to do if a scam was identified. It also provided the web address for The Pensions Regulator's (**TPR**) advice on avoiding pension scams. In a list of the most common tactics used by scammers, it included:

"A cold call, text message, website pop-up or someone coming to your door offering you a 'free pension review', 'one-off investment opportunity' or 'legal loophole'."
10. Within the information that ReAssure provided, it stated that: "ReAssure does not give investment advice and therefore cannot take responsibility for decisions that are made based on information we provide." It also said that:

"Please note that ReAssure Ltd is unable to give you any financial advice. If you require advice we suggest you contact an Independent Financial Adviser to discuss your personal circumstances."
11. On 28 June 2016, OFS returned the completed transfer forms to ReAssure. On the forms it confirmed that the Optimum Plan was a registered pension scheme. It also provided a printout from HM Revenue & Customs' (**HMRC**) website. This confirmed the Optimum Plan's registration date as being 30 June 2015 and its pension scheme tax reference as being 00824272RF.
12. On 5 July 2016, ReAssure received the completed transfer forms from OFS.
13. ReAssure had access to a database listing acceptable arrangements that it was willing to make transfer payments to (**the Database**). The Optimum Plan was not listed in the Database. For it to be added, the following criteria had to be considered:
 - whether it held the HMRC registration certificate, which it did;
 - whether the receiving arrangement had been registered for a year or more, which it had been; and
 - whether the receiving arrangement appeared on the "no pay" list that ReAssure used, which it did not.
14. On 12 July 2016, the Optimum Plan was added to the Database, thus allowing the transfer of the Policies to proceed.
15. On 13 July 2016, ReAssure wrote to Mr R to confirm that a total transfer value of £17,279.74 had been paid to the Optimum Plan. It confirmed that the transfer value

was made up of £229.53 (P108640386), £12,731.62 (P108640610) and £4,318.59 (P113844431).

16. On 10 February 2017, the Optimum Plan was added to the “no pay” list used by ReAssure following intelligence that it and Phoenix Life had gathered.
17. In June 2018, an article on TPR’s website reported that the trustee of the Optimum Plan had been suspended due to fraud. It said that Dalriada had been appointed as independent trustee. In addition, it reported that OFS had been wound up by the High Court.
18. On 13 December 2018, Owl & Fox raised a formal complaint with ReAssure. It said:-
 - ReAssure was responsible for conducting the necessary due diligence checks to protect Mr R’s interests.
 - In failing to endorse the recommendations of its regulator, ReAssure had exposed Mr R to significant risks.
 - It was highly unlikely that the transfers would have proceeded had ReAssure undertaken the appropriate due diligence and engaged verbally with Mr R, warning him of the risks.
 - In 2013, TPR issued the Scorpion Guide to all schemes. The warning signs should have been easily seen by ReAssure.
 - Mr R should be put back in the position he would have been in if the transfers had not taken place.
19. On 24 January 2019, ReAssure provided Owl & Fox with its response to the complaint. It said:-
 - It had completed its checks and found that the Optimum Plan had been registered with HMRC on 30 June 2015. Furthermore, at the time, OFS was authorised with the FCA.
 - The transfer forms signed by Mr R highlighted the risks involved in spotting a pensions scam and also provided details of a website where further information could be found.
 - There were no factors at the time of the transfers to indicate that they were possible scams.

Adjudicator’s Opinion

20. Mr R’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:-

- This complaint concerns the level of due diligence that ReAssure was required to carry out at the time that a request was made to transfer Mr R's benefits to the Optimum Plan. The Adjudicator noted that it was similar in context to another complaint that I determined in PO-16475 and it is worth repeating here paragraph 41 of that determination:

“Essentially, Prudential had a statutory and contractual duty to transfer Mr T'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, such as those concerning pension liberation fraud. The page preceding the Checklist in the Scorpion Guide provided an outline of potential warning signs which could suggest pension liberation fraud activity was taking place. However, there is no indication that Prudential had any reason for concern and accordingly, it did not make any of the further enquiries suggested in the Checklist.”

- The Adjudicator reviewed my decision in PO-16475 and also the Pensions Scams Industry Group's 2015 publication “Combating Pensions Scams - a Code of Good Practice” (**2015 Practice Guide**). This would have been in force at the time of the transfers in July 2016.
- On reviewing the 2015 Practice Guide the Adjudicator noted that the guidance set out a two-stage due diligence process. The first stage was to check whether there were any factors that would indicate a pension liberation or scam risk. ReAssure said that its initial checks did not provide any indication that the Optimum Plan was a high-risk transfer - it did not appear on the “no pay” list of high-risk schemes, it was registered with HMRC and the registration had been in place for a year before it had received the transfer paperwork from OFS.
- It was only if the initial analysis threw up some concerns that the 2015 Practice Guide recommended that further checks were undertaken, otherwise the transferor could consider proceeding to payment.
- Having taken all of the above into account, the Adjudicator was of the view that the due diligence checks carried out by ReAssure were reasonable. Also, that there were no indicators, at the time of the transfers, that the Optimum Plan was high risk. Furthermore, in view of the checks that were carried out, it was reasonable for ReAssure to make transfer payments to the Optimum Plan.
- On 10 June 2016, ReAssure sent OFS illustrations of the transfer values for each of the Policies together with copies of the “Scamproof your Savings” document. While the Adjudicator noted that this information was not sent direct to Mr R, OFS was FCA registered.
- So, in the Adjudicator's opinion, it was reasonable for ReAssure to expect that the Optimum Plan was being run in a manner consistent with the FCA's standards. In

particular, that OFS would have shared the information provided by ReAssure with Mr R.

- Furthermore, Mr R signed the transfer forms that were included with the information that ReAssure provided. So, in the Adjudicator's view, it was not unreasonable to assume that he had seen all of the information provided, including the "Scamproof your Savings" document.
- The Adjudicator sympathised with the position that Mr R now found himself in. However, it was only some months after ReAssure carried out its initial analysis and the transfers were made that it was recognised that the Optimum Plan was a suspected pension liberation scheme. So, the Adjudicator did not take the view that ReAssure failed to carry out sufficient due diligence checks when transferring Mr R's benefits to the Optimum Plan.

21. Mr R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.

22. Owl & Fox provided its further comments on behalf of Mr R. In summary it said:-

- While OFS was FCA registered, its registration did not cover the provision of advice in relation to pension transfers. Nor did it cover the arrangement of such transfers.
- A review of the FCA register would have alerted ReAssure to this fact, and it should have made Mr R aware.

23. I note the additional points raised by Owl & Fox, but I agree with the Adjudicator's Opinion.

Ombudsman's decision

24. I have considerable sympathy for Mr R, who appears to have been a victim of pension liberation fraud and is not able to access his funds.

25. 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.

26. Essentially, ReAssure had a statutory and contractual duty to transfer Mr R's funds. It was required to act upon this duty when it received his transfer paperwork, unless there were any indications of why the transfer should not go ahead, such as those concerning pension liberation fraud.

27. The 2015 Practice Guide provided an outline of potential warning signs which could suggest pension liberation fraud activity was taking place. However, there is no indication that ReAssure had any reason for concern and accordingly, it did not make any of the further enquiries suggested in the Checklist.

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28. Owl & Fox said that OFS' registration with the FCA did not cover the provision of advice in relation to pension transfers. Nor did it cover the arrangement of such transfers.
29. While this is the case, OFS was registered with the FCA and this would have given ReAssure some comfort that OFS would behave in a professional manner. In particular, that OFS would share the "Scamproof your Savings" document provided by ReAssure with Mr R.
30. I do not agree that ReAssure had any reason to look more closely at the FCA register over and above a basic check to make sure that OFS was present.
31. It is regrettable that ReAssure's decision to proceed with the transfers has not transpired to be in Mr R's best financial interests. However, it fulfilled its due diligence obligations with the information it held at the time.
32. In conclusion, I do not find that ReAssure failed in its due diligence obligations at the time of the transfers.
33. I do not uphold Mr R's complaint.

Anthony Arter

Pensions Ombudsman
9 June 2022