DRN-4409039

The complaint

Mr S has complained that PSG SIPP Limited (PSG) declined his request to transfer his Self-Invested Personal Pension (SIPP) funds to a Small Self Administered Scheme (SSAS) pension run by his own company.

What happened

Mr S held a SIPP with PSG and in January 2022 he requested to transfer his pension to the SSAS of his own company.

Mr S is the owning trustee of the scheme and it is administered by a firm that I shall call Firm X.

Upon receipt of the transfer request PSG sent Mr S the appropriate forms to enable the transfer. This included the transfer due diligence member questionnaire which asked for details about the receiving scheme and also how Mr S had become aware of it.
PSG also provided Mr S with an explanation of pension scams techniques and signs of what to look out for.

Mr S duly completed all the forms and returned them to PSG as well as providing the further information PSG required as part of the due diligence process.

PSG confirmed that in reviewing the transfer it applied the guidance included in the Combating Pension Scams: A Code of Good Practice (CPS Guide), along with applying The Pension Schemes Act 2021 pertaining to transfers." And specifically, in line with Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 PSG decided in April 2022 that it was rejecting Mr S' request to transfer due to its concerns about Firm X.

Mr S was unhappy with this decision and so started the complaints procedure.
In response to this PSG provided full details of why it rejected the transfer. It said that the address used by Firm X was a rented co-working space and not a permanent office. Also 272 businesses used the same address. And PSG was aware the address was being used by a number of phantom firms to commit fraud.

Its due diligence also revealed that Firm X had been operating at a loss for some years and that it had been subject to compulsory strike off notices on two occasions. So PSG explained it was concerned Firm X could go into administration putting Mr S' pension fund at risk. It also explained that Firm X was not regulated by the FCA and so Mr S would unlikely be covered by the Financial Services Compensation Scheme (FSCS) or the ombudsman service.

Mr S was unhappy with this decision and so provided information about Firm X's account showing that the strike off notices had been reversed.

PSG reconsidered its decision in light of this new information but eventually remained of the view that it would not proceed with the transfer.

Mr S didn't accept PSG's decision and so referred the complaint to this Service. He stated that PSG hadn't followed due process in accordance with the regulatory guidance and didn't believe there were any red flags present that should cause the transfer to be blocked. Mr S stated it was his statutory right to transfer and the reasons PSG had given for declining the transfer were not valid of sufficient to remove this right.

The complaint was assessed by one of our investigators who felt it couldn't be upheld and was satisfied with the actions PSG had taken and its reasons for rejecting the transfer.
Mr S remained unhappy and so as no agreement could be reached the complaint has been passed to me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so I agree with the investigator that the complaint should not be upheld.

PSG is correct in saying that for transfer requests made from 30 November 2021 it must follow the legislation and guidance issued as noted above.

But it is important to make clear initially that it isn't for me to decide whether Mr S' transfer should proceed or to judge whether PSG made the wrong decision in rejecting the request. Rather, the focus of this decision is to ascertain whether PSG followed the guidance and legislation correctly and interpreted it correctly in making its decision to reject Mr S' transfer request.

This guidance and legislation essentially sets out the checks any business would have to complete before authorising a transfer, all with an aim to ensuring, as far as a business can, that the transferring member is not being scammed or defrauded.

From the evidence I have seen I am satisfied that PSG followed the guidance correctly and conducted a thorough due diligence process in line with its requirements.

The SSAS Mr S had chosen had to be examined because it was not already an authorised master trust/collective defined contribution scheme or a public service scheme. Nor was it on a clean list therefore further checks on the SSAS had to be carried out so PSG could assure itself that the transfer was not involved in any type of pension scam.

PSG was satisfied there was an employment links between Mr S and the SSAS but in following the guidance it had concerns about the SSAS' administrator. The extent of this concern caused PSG to reject the transfer because it felt the administrator was posing a red flag.

This specific concern is not overtly stated in the guidance as a specific red flag but the guidance does say that the red flag list detailed is "not exhaustive but shows some of things a ceding scheme must consider when assessing the presence of flags". The guidance also states that the industry good practice guidance set out in the Pension Scams Industry Group (PSIG) Code of Good Practice (endorsed by The Pension Regulator (TPR) and the Financial Conduct Authority (FCA)) must be referred to and used alongside the guidance.

S .131 of PSIG relates to concerns a ceding scheme may have about the administrator of a receiving scheme. If a ceding scheme is able to determine there is no risk of a pension scam activity or is satisfied the administrators is not suspicious, then the ceding scheme can

continue with the transfer. However, if the ceding scheme has concerns PSIG says the ceding scheme must consider whether the transfer should in fact proceed.
In this case it appears PSG's concerns were enough to reject the transfer.

As I have already said, whilst it isn't for me to determine whether there was in fact any suspicious activity involved, I am satisfied that PSG conducted a full and proper due diligence process and followed the guidance and legislation it should have and its reasons for rejecting the transfer are in line with the provisions of the guidance.
PSG doesn't have to be certain, nor does it have to prove that the intended transfer would definitely be a pension scam but if it has identified any red flags or has information that gives it reasonable concerns it would reasonably need to take action.

And I am satisfied this is what PSG had done in this complaint.

It seems to me PSG acted in line with the guidance and also obligations under PRIN and COBS to act in the best interest of its client and conduct its business with due skill, care and diligence.

My final decision

My final decision is that I don't uphold this complaint and I make award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 1 March 2024.

Ayshea Khan
Ombudsman