



## Case study: Pension

### **PENSION PROVIDER'S REFUSAL TO TRANSFER PENSION WITHOUT INDEMNITY**

Themes: Qualifying recognised overseas pension plan (QROPS); self-invested personal pension (SIPP); pension transfer; indemnity; role of ombudsman where commercial dispute between FSPs affecting customer; complaint rejected using ombudsman discretion under the law

A pension plan beneficiary complained when his pension plan provider failed to action his request to transfer his personal pension plan. His pension plan provider required an indemnity from the receiving plan trustee before completing the requested transfer.

Mr N held a membership in a qualifying recognised overseas pension scheme (QROPS) and wanted to transfer this personal pension to a UK based self-invested personal pension (SIPP) provider. Mr N discussed the transfer with his financial adviser and found a suitable pension scheme to transfer into. In order for the requested transfer to take place, Mr N's existing pension provider requested the new pension provider to first complete a letter of understanding and an indemnity.

Unfortunately, both pension providers were unable to agree upon the wording of the indemnity and the pension plan transfer was not actioned. Mr N complained to his existing pension provider as he believed their requirement for the indemnity was unreasonable and unfairly restricted Mr N's ability to transfer his private pension plan to whichever provider he wanted. Mr N's pension provider rejected his complaint and referred him to CIFO.

CIFO investigated and concluded that it was inappropriate for CIFO to impose a commercial agreement on the two pension providers, each understandably seeking to contractually limit their potential liabilities arising from Mr N's requested pension plan transfer. Mr N's financial adviser requested assistance from CIFO to convene a meeting between the two pension providers to assist with mediating a solution. CIFO saw such a requested mediation between commercial parties as inconsistent with its statutory role as ombudsman. CIFO suggested that there were other organisations that could provide a mediation or arbitration service to assist the trustees to find a solution to their impasse.

CIFO concluded that Mr N's complaint was out of mandate on the basis that the complaint was about the exercise of the respondent pension provider's commercial judgement to manage risk and that the issue to be resolved was between the two pension plan providers. CIFO explained to Mr N that CIFO's law sets out that a complaint can be rejected if the subject matter of the complaint is inappropriate, such as where the complaint is about "the legitimate exercise of the respondent's commercial judgement". On that basis, the ombudsman exercised his discretion under the law to reject the complaint.