



Military mis-selling

✔ **Jack Gray speaks to Keller Lenkner investment and fraud mis-selling group technical director, Ben Rees, about the law firm's work with ex-military personnel who fell victim to a pension mis-selling scheme**

✔ **Can you give some background on the case?**

In a three- to four-year window thousands of military veterans were transferred away from the Armed Forces Pension Scheme to several unsuitable vehicles, which meant the victims lost their benefits and the security that comes with the scheme. They were persuaded to move their pensions from this secure environment to, in most cases, overseas pension schemes, which exposed their entire pensions to a series of unregulated investments. Many of them have lost not only the benefits and protection of the scheme but also vast amounts of money due to being invested in effectively failed or failing investments.

When they left the military, they had this guaranteed income for life that would have been there every month, and they have suddenly ended up with investments that are very expensive, unsuitable and with no guarantees. In some cases, they've lost all of it. There are thousands of these victims and it's another example of a pension scandal where a certain demographic has been targeted by unscrupulous people. In this case, it was British advisers who were based overseas, mainly in Chile, and they targeted the victims en masse with the view to transfer their pensions out into these unsuitable schemes.

✔ **Why did Keller Lenkner get involved?**

It was a targeted approach on ex-military people who have valuable pensions they don't really understand. The advisers targeted them to transfer hundreds of millions of pounds away from the safety net of the scheme to risky investments overseas that yield very substantial commissions and fees. That's why Keller Lenkner are interested in this case and why we are involved in it – the numbers involved, the 3,000-5,000 people who have suffered in this case. We represent large groups of consumers who have been targeted by a common entity, which in this case is a collective of companies that collaborated to shift the money from the military pensions. This became apparent a few years ago and we've been involved for around nine months.

✔ **What is Keller Lenkner's aim?**

Our goal is to achieve redress, but it is complicated. We are looking at the avenues open to them, whether that's taking action against the perpetrators or taking action against the scheme. What makes it particularly difficult is that the perpetrators were broadly based overseas, which means that the normal regulatory frameworks and protections aren't there. It makes it difficult for these people to pursue any complaints or redress and for us to assist them in a cost-effective way. It may be the case that

some people who were advised in the UK will be able to try and recover some money, and there may be a group we cannot recover money for.

It looks like the majority were advised in the UK by unregulated advisers and the money was then transferred overseas. The difficulty there is the unregulated advisers escape the scrutiny of the UK regulators because they are unregulated, and the receiving schemes are based overseas as well.

The blame lies with the people that perpetrate these kinds of things. Most of them were UK citizens who trained in the UK and decided to move abroad, so you would expect that they would know that by doing that, they were operating outside of the regulatory framework. At the time, the type of pension these people had also fell outside the redress schemes. The FCA tightened up the rules around final salary pension transfers in 2015 so it just killed this kind of problem.

✔ **Is the FCA aware of the case and is it within its remit?**

It's a scandal that is on the radar of the regulator. The regulator moves after the event but by then it is too late. Particularly with pensions, once the money is transferred away from the scheme it is very difficult to reverse that position once the money has been transferred abroad. There hasn't been any real regulatory action on it as most

of the perpetrators were based overseas in Ireland, Malta and Chile, which fall outside of the FCA's regulatory remit. We don't know how many instances there were of people notifying the regulator, but usually with these types of things the problems only become apparent years later. Most of these military veterans would have moved their pensions and only found out three to six years later that they have a problem. It is difficult for the regulator to get ahead of these scandals because they tend to happen quickly. Rules and regulations that have come in since this happened means it is more likely for these types of things to be flagged up earlier, but this was nearly 10 years ago.

➤ How were the victims targeted?

The victims themselves were broadly unsophisticated financially. They spent most of their working life in the military. They were targeting in a very pernicious

way in that the unregulated introducers effectively targeted senior people from the military and they used them to recruit their previous teams. They used the hierarchy of the military and the close connection between ex-military personnel, and they were then able to hit lots of people very quickly by targeting someone influential.

The world has changed since those types of schemes were allowing transfers out. It's a difficult situation because, with hindsight, the scheme allowed money to exit to overseas schemes that, with the rules as they are now, they wouldn't do; there would have been more questions asked. We are aware of a couple of military veterans who took the scheme to The Pensions Ombudsman and the outcomes were broadly the same, in that the ombudsman was sympathetic but said that the scheme was under a duty to transfer the pension.

We are seeing more of these

collective redress schemes – the FCA is talking about putting funds together to compensate victims of these mass mis-selling scandals – but it's something that I don't think they want to set a precedent for.

When a lot of this happened, it was at a point when there was overlap between the Scorpion guidance and the guidance was being sent out by The Pensions Regulator. The timings for this all overlapped to a point where, towards the end of the scandal in 2014/15 when the new guidance came out to pension trustees about fraud, lots of the pensions appeared to go out right up to the deadline in 2015 and there was a rush to get them out before the rules changed. We know the victims were sold this was in a high-pressure environment where they were signing bits of paper that they didn't read or didn't understand. But, from the scheme's perspective, they are looking at waiver forms and various other things where the client is saying that they are giving up their rights and benefits. We haven't got a sense from interviewing the victims that they knew what they were doing. The perpetrators of this kind of fraud are sophisticated in their methods of getting people distracted and signing things, particularly people who are financially unsophisticated.

➤ What are your next steps?

Our next steps are to move as quickly as we can for the clients we think we can achieve redress for. The group we represent are starting to split into different groups; there are about three or four different ways in which the victims were targeted. So, our next step is to move to seek for redress for those that we can, and for the others continuing to look at whether there are options or opportunities for group action where the statutory redress schemes are not available.

➤ Written by Jack Gray

