PENSIONS AND
LIFETIME SAVINGS
ASSOCIATION

CALL FOR EVIDENCE:

PROTECTING PENSION SAVERS - FIVE YEARS ON FROM THE PENSION FREEDOMS: PENSION SCAMS

09 SEPTEMBER 2020

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EXECUTIVE SUMMARY

- The PLSA welcomes and shares the desire of the Work and Pensions Select Committee to stamp out pension scams. They ruin people's lives and by getting rid of them we will be able to help improve retirement outcomes for everyone.

- The nature of pension scams is ever evolving and PLSA research shows that a third of people wouldn't be able to spot whether an investment is genuine or not. This figure rises in lower income brackets, with 47% of respondents earning up to £14,000 p.a. not being able to spot a scam.

- The Pension Schemes Bill, the Cold Calling Ban on pensions and the QROPS tax charge are helping, or will help, in the fight against pension scams. However, the legislation does still leave room for pension scammers to operate in.

- The Pension Regulator's Project Bloom, the Financial Conduct Authority's scams smart tool, and their joint work with the Money and Pensions Service is helping many savers to avoid pension scams.

- The Pensions Industry is actively trying to make it difficult for pension scammers. The Pension Scam Industry Group (PSIG), which the PLSA is a member of, has set up a code to help schemes with their due diligence and helps in the sharing of intelligence about possible scams. 23% of PLSA members have changed processes during the pandemic to combat any possible uptick in pension scam activity.

- We have defined six broad types of pension scams and pension mis-selling; pension liberation, SSAS pension scam, investment scam, claims management companies, pension mis-selling/DB pension transfers and online fraud. This analysis helps identify solutions.

- The PLSA supports and recommends the following PSIG proposals:
  - The re-introduction of a pensioneer trustee/professional for all SSASs
  - The wider promotion of PSIG's code for combatting pension scams
  - No HMRC tax charges for genuine pension scam victims
  - Improved reporting of pension scams to make sure cases are aggregated together.

- The PLSA also recommends:
  - That the Red Flags system being developed by DWP is applied to all non-Master Trust Transfers
  - FCA carries out a thematic review of claims management companies and their practices
  - FCA tightens rules for SIPPs on allowable investments and stops them charging scam victims administration charges

    - Search Engines are required to do more due diligence on paid for search terms for pensions and financial services.
    - Powers for regulators to name and shame pension scammers/scams as they are happening without fear of litigation.

- For the protection of savers we also would like to see the feasibility investigated of a carve out in law/protection from litigation for regulators in naming pension scams as they are happening.
- These measures will serve to protect savers and make it harder for pension scammers, but agencies must continue to monitor and co-ordinate to stay on top of the problem.

ABOUT THE PLSA

Our mission is to help everyone achieve a better income in retirement. We work to get more people and money into retirement savings, to get more value out of those savings and to build the confidence and understanding of savers.

We represent the defined benefit, defined contribution, master trust and local authority pension schemes that together provide a retirement income to 20 million savers in the UK and invest £1 trillion in the UK and abroad. Our members also include asset managers, consultants, law firms, fintechs and others who play an influential role in the governance, investment, administration and management of people's financial futures.

INTRODUCTION

1. The PLSA welcomes this call for evidence on pension scams. We understand the Work and Pensions Select Committee's desire to stamp out the fraud that exists and in the interests of pension savers, and the industry we represent, we share that ambition.
2. The body of this paper sets out the background to the problem as we see it and the broad definitions of pension scams and pension mis-selling.
3. The paper then looks at measures taken by regulators, industry and government to tackle pension scams, including three case studies from our pension scheme members.
4. The PLSA next provides our assessment of the situation generally, the measures taken and their effect on each type of scam, and looks at the tax treatment of victims.
5. We then set out our set of recommendations for both combatting pension scams and protecting savers, before concluding our response with a note on remaining agile as no measures will be totally future proof.

BACKGROUND

6. The nature of pension scams keeps evolving. In 2017, according to the Pensions Regulator (TPR), the average pension pot lost to a scam was worth £91k, with some savers losing up to £1 million. The victims had been typically cold called, given a free pension review and promised a high rate of return on their investments.

7. Despite cold calling on pension matters being banned in the UK, Canada Life Research in August 2019 has shown that the approaches out of the blue by phone, text or email offering a free pension review (a common method for pension scammers) has gone up from 12% to 17% of non-retirees.

8. Recent PLSA research shows that 64% of savers over 55 are worried about the possibility of being scammed. 33% of people would not know how to check if an investment was genuine or a pension scam, and this figure increases to 47% for those on lower income levels (up to £14k p.a.)

9. We have defined six broad types of pension scams/pension mis-selling as tabulated below:

TYPE OF SCAM AND DESCRIPTOR
Pension Liberation: Prior to pension freedoms, scammers devised vehicles for people to access their pensions early by promising them access to some of their money if they were to transfer. With pension freedoms there has been some of this operating for those under 55 but not on the same scale.
Small Self-administered scheme (SSAS) pension scam: A company is set up in the saver's name and is used as the employer/SSAS sponsor. The SSAS offers loans back to the saver prior to age 55. The SSAS includes pension scammers as trustees, the money is often not even invested just channelled straight to the pension scammers in a classic Ponzi scheme.
Investment scam in SIPP/QROPS: There are two versions of this. A) Sometimes the SIPP and QROPS are run by the scammers. B) Other times the vehicle is legitimate and it is only the investment that is the scam. The investment is illiquid as far as the legitimate vehicle is concerned but again it is a Ponzi scheme and the saver is left paying for administration charges of the vehicle even after it is clear they have been scammed with the original investment going insolvent. (As there are cases of legitimate high-risk investments being invested in by savers, it may be hard for the pension provider to differentiate.)
Claims management companies: Following on from an investment scam, the scammers re-appear claiming that the investment legitimately went insolvent but the saver is due compensation and that they can claim it for the saver. This often involves phoenixing of firms or at least advisers.
Mis-selling/DB Pension Transfer: This is within the regulatory ecosphere of pension advice. Half of pension transfer advice was considered unsuitable by the FCA and a ban on contingent charging in October will help to stop some of the perverse incentives that exist. There will however continue to be unscrupulous individuals who will advise unsuitable pension transfers or their own profit. The free chicken in a basket/ free pension review for British Steel Pension Scheme members is evidence of this.
Online fraud: Pension and investment scammers are increasingly using the internet to offer free pension transfer advice. They buy commonly used search terms to do so. Unfortunately, some regulated firms also do this, buying search terms of MaPS, Citizens Advice, big pension schemes, and advice directories.

MEASURES TAKEN TO COMBAT PENSION SCAMS

Regulators

10. The Pension Regulator's (TPR) Project Bloom has improved co-ordination between regulators, the police, government bodies and departments in respect of pension scams. It has also helped increase the awareness of pension scams amongst members of the public, with an advertising campaign and flyers with scam warnings that go out with pension comms.

11. The Financial Conduct Authority (FCA) have produced their scams smart tool, hosted on their website, that helps savers spot potential pension scams.

12. In the wake of the British Steel Pension Scheme mis-selling scandal, both the FCA and TPR are working with the Money and Pensions Service (MAPS) to identify schemes that might have members targeted by pension scams/mis-selling and making sure warning letters are sent out.

Industry

13. Although, there has been little evidence of scams increasing since the arrival of Covid 19, 23% of PLSA members have changed processes during the pandemic to counter the possibility of increased scamming and 21% have increased staffing. According to a recent PLSA survey, only one scheme has noticed an increase in scamming activity during this period however, and this was in phishing emails. Some examples of ways that schemes have changed processes are set out below:

    a. **CASE STUDY 1:** One of our scheme members has seen transfer requests slowly increasing since pension freedoms. They introduced a new process to protect members from the risk of scams which involves sending out a questionnaire to those that request a transfer out. The questionnaire is based on information on scams from TPR and asks the member about their financial adviser, whether they are independent or restricted in the advice they give and how much they are charging. The answers are then assessed for any possible red flags. They find it difficult to always assess whether the destination scheme is a scam or not and would appreciate an independent risk assessment from government.

    b. **CASE STUDY 2:** The DHL Group Retirement Plan Trustee Directors have introduced a robust due diligence process to protect against possible scams. They don't accept letters of authority from third parties when approached directly, instead they send out their GDPR compliant letter of authority form to the member to fill in. Quotes are only sent to FCA authorised 3rd party firms and the member is signposted to TPR website and sent the FCA scams smart leaflet. DHL operate an "approved" list to whom transfers may be paid immediately, which include authorised Master Trusts, public sector schemes and schemes where they have made five previous transfers with no concerns. Where the scheme is not on the approved list or is overseas, extra due diligence occurs, including using a third-party company calling members to try and establish whether there is any scam activity. Questionnaires are also sent to the member and the receiving scheme where concerns are found and ultimately a red flag letter is sent to the member explaining concerns about the possible transfer out.

14. The PLSA is on the board of the Pension Scams Industry Group (PSIG). PSIG has created a code for pension administrators to help them carry out due diligence on pension transfers. The PLSA supports this code and host it on our website. The code helps administrators identify possible scams, lays out the due diligence process step by step, from initial transfer packs to discharge letters. The code recommends scheme use their own internal "white list" of safe destination schemes which typically allow 80% of transfers to go ahead without extra due diligence and for the administrators to spend more time doing due diligence on the 20% "grey list" transfer requests. PSIG also has an Industry Forum which shares intelligence on possible scams with each other as a teleconference involving hundreds of pension schemes and has called for the development of a database of pension scams.

Government

15. After the Hughes v Royal London decision in the High Court, the Pension Schemes Bill has sought to re-establish the employment link as part of the statutory right to transfer. The statutory right to transfer was being exploited by scammers who were setting up companies and related SSASs for the scam victims and claiming that the destination scheme was occupational. The newly defined right to transfer will allow transfers to Master Trusts, FCA regulated pension schemes and other pension schemes where an employment link can be proven. There is also now a clause that will enable schemes to pass savers on to MaPS where a pension scam is suspected.

16. Transfers to overseas pensions, Qualifying Recognised Overseas Pension Schemes (QROPS), only will be allowed where an employment and residential link is proven. In respect of QROPS in the European Economic Area, how the rules are applied will depend on the post-Brexit trade deal with the EU. Transfers to QROPS are subject to a transfer tax charge of 25% if the individual saver doesn't live/work in the same country as the destination scheme. This charge is not currently applied in the EEA, but again could change depending on the state of the trade deal.

17. The UK has introduced a cold calling ban in respect of pensions advice. This is welcome and has allowed guidance to state that if you are being cold called about your pension then it is not from a legitimate UK firm. Anecdotal evidence suggests, however, that this has only driven the call centres abroad with people still receiving cold calls, sms messages and emails out of the blue.

OUR ASSESSMENT ON HOW TO TACKLE PENSION SCAMS

18. Scams are a substantial problem and it is right that Government, industry and consumer groups take action to combat them. Scams come in many different forms as outlined in our submission.

19. There have been many initiatives to try to address scams but, as is the nature of such criminal activity, they constantly evolve, so it is essential that all parties monitor the situation closely and adopt new solutions as needed. In this regard, we welcome the operation of Project Bloom by the regulators in this area. In addition, due to their ever-changing nature, it is important that government, regulators and industry utilise flexible solutions that enable agile responses.

20. The Government's Pension Schemes Bill will introduce a number of helpful measures, in particular narrowing the cases when a statutory transfer is mandatory to a smaller number of low risk schemes, and measures to ensure savers are encouraged to seek support from the Money and Pensions Service. The government is also working on a system of Red Flags which will enable schemes and providers to help spot scams before they take place. We welcome and support this work.

21. The industry is also taking steps to deal with this issue: schemes are upgrading their scrutiny of scam activity, membership bodies such as PLSA and ABI highlight the issue with schemes and providers and promote best practice, and the voluntary industry group, PSIG, shares intelligence and best practice.

TYPE OF SCAM	AFFECT OF CURRENT MEASURES	POSSIBLE FURTHER MEASURES/ACTION
Pension Liberation	Pension Freedoms have reduced demand from savers to access pensions before fixed retirement ages. The Pension Schemes Bill will help to stop transfers out to illegitimate SSASs which may be used to access money prior to age 55.	Tighten rules on Small Self Administered Schemes (SASS) even further to include a "pensioneer trustee", who would be a professional and responsible for making sure everything is legitimate.
SSAS pension scam	As above the Pension Schemes Bill will help to stop transfers out to illegitimate schemes, without an employment link	As above, tightening rules and adding the requirement for a pensioner trustee.
Investment scam	Where the scheme is a legitimate SIPP with an investment scam wrapped inside, the Pension Scheme Bill may not be enough. QROPS transfers should become much harder with the Pension Scheme Bill and the QROPS transfer charge in operation. Investment scams, whereby the money is withdrawn and invested may be identified by the red flag system envisaged by DWP.	The FCA could tighten up rules for who are retail clients and who are sophisticated investors, and therefore the investments that are allowable for SIPPs. SIPPs should also not be allowed to charge when a scam is being investigated or found to be a scam, and is the only asset in the pension. The red flags system should apply to all non-Master Trusts.

Claims management scam	The FCA are now regulating claims management companies, and so this may become harder in the future but there is no evidence to suggest that this is the case as things stand.	There needs to be a thematic review of claims management companies and their practices by the FCA, to understand the extent of the problem and to come up with regulatory solutions.
Mis-selling/DB Pension Transfer	The decision by the FCA to ban contingent charging, the change in emphasis on advice, the transfer valuation policy and the introduction of triaging should help to clean up those who wish to be legitimate.	Moving to a ban on transacting business on an insistent client basis would ensure that clients are not being publicly advised one thing whilst privately encouraged to transfer out.
Online Fraud	Pension Wise and other government bodies have a protected status online.	More action needs to be taken in respect of search engines and paid for search terms to ensure that fraudsters cannot take advantage of people online. We also need to future proof Pension Dashboard/s against future possible risk of cloning.

22. In addition, we have concerns about the tax treatment of some of those who are victims of pension scams. In some cases, HMRC charges an unauthorised tax charge of at least 55% of the pot lost by the individual. If an individual has knowingly acted in a way to defraud HMRC then this charge is only fair, but in most cases the scam victim has been completely duped and not understood that any tax rules were being broken.

RECOMMENDATIONS

27. We support and recommend the Pensions Scam Industry Group following proposals:

- "Pensioner Trustee" (Solicitor/Accountant/Actuary/Lawyer/Other professional) as a trustee of any Small Self-administered Scheme (SSAS)
- Promotion of the PSIG code for combatting pensions scams, to improve due diligence amongst all pension schemes
- HMRC dis-applying tax charges for victims of pension scams; therefore not charging whilst under investigation by regulators or the police and not charging at all if the victim is found not to have profited in anyway
- Improving the reporting of pension scams so that cases are aggregated when they are by the same firm.

28. In addition the PLSA recommends the following actions to combat pension scams:

- That the Red Flags system being developed by DWP as part of the Pension Schemes Bill covers all non-Master Trust transfers
- That the FCA carries out a thematic review of claims management companies and their practices
- That the FCA tightens the rules on allowable investments within SIPPs for retail clients and who can be defined as a sophisticated investor
- That SIPPs are banned from charging for administration charges when the only asset is an investment being investigated/found to be a scam
- That search engines are required to do more due diligence on paid for pension and financial search terms.

29. For the protection of savers we also would like to see the feasibility investigated of a carve out in law/protection from litigation for regulators in naming pension scams as they are happening.

CONCLUSIONS

30. Pension scams will continue to evolve. Many of the measures that have been put in place or are being considered involve a backwards look. In the PLSA's response we have tried to future proof as much as possible against the risk of scams, but there will be a need to remain vigilant and for policy makers to remain agile.

31. We need to constantly monitor pension scam activity and continue to co-ordinate between government, regulators, agencies, and industry, to get on top and remain on top of the problem.

32. It is important that we do all that we can to combat pension scams and ensure everyone has a better retirement outcome.

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