

Measures to combat pension scams

➤ **Matthew Swynnerton (who is a member of the Pension Scams Industry Group) looks at some of the steps that are being taken to address the issue of pension scams**

An August update from The Pensions Regulator about pension scams included that, since April 2017, pension scam losses totalling £30,857,329 have been reported to Action Fraud, with reported losses ranging from under £1,000 to as much as £500,000. It was also noted that the true number of victims is likely to be higher because scams often go unreported and those affected may not realise that they have been scammed for several years. These figures demonstrate the importance of action being taken to combat pension scams. This article looks at a new campaign from The Pensions Regulator and a significant statutory development that is on the horizon.

Pledge to combat pension scams

On 10 November, the “pledge to combat pension scams” campaign was launched by The Pensions Regulator, supported by the Pension Scams Industry Group (PSIG).

Trustees, advisers and providers can sign up to the pledge through The Pensions Regulator’s website. To make the pledge, they should commit to: (1) regularly warn members about pension scams; (2) encourage members requesting cash drawdown to get impartial guidance from The Pensions Advisory Service; (3) get to know the warning signs of a scam and best practice for transfers by completing the new scams module in the Trustee Toolkit, studying and using the resources on the FCA ScamSmart website, The Pensions

Regulator’s website and the PSIG code on combating pension scams, and considering becoming a member of the Pension Scams Industry Forum; (4) take appropriate due diligence measures and document pension transfer procedures; (5) clearly warn members if they insist on high risk transfers being paid; and (6) report concerns about a scam to the authorities and communicate this to the member. The Pensions Regulator’s website provides further information in relation to the pledge steps.

When the six steps are met, pledgers can self-certify to demonstrate to their members and the pensions industry that they are following the pledge principles.

Statutory right to transfer

As can be seen from the pledge steps, one of the actions that trustees can take to help combat pension scams is to complete due diligence in relation to transfer requests. However, even if that due diligence identifies a risk that the member may be the victim of a pension scam, this does not currently override the member’s statutory right to transfer.

However, this is set to change, with the Pension Schemes Bill including a provision that will enable regulations to prescribe additional conditions that must be met in order for the statutory right to transfer to apply. Correspondence between the Minister for Pensions and Financial Inclusion and the Chair of the Work and Pensions Committee has confirmed that this power can be used to provide that the statutory right to



transfer does not apply if specified ‘red flags’ in relation to pension scams are

present. The correspondence mentions the following red flags: the receiving scheme or parties in the transfer do not have the required permissions from the FCA; the member was contacted via social media, email or cold call or was offered “free pension reviews” or “early access” to cash; and the member was pressured to transfer quickly.

The correspondence also states that the DWP intends to introduce a requirement that, in the case of certain flags, the member will have to obtain information and guidance before the statutory right to transfer will apply.

However, final details and draft regulations have not yet been published. The DWP intends to consult on all regulations covering the red flags after the bill receives Royal Assent.

Conclusions

Trustees should consider signing up to The Pensions Regulator’s pledge campaign and assessing what action they will need to take in order to be able to self-certify. The provision in the Pension Schemes Bill that will enable regulations to limit the statutory right to transfer is a welcome development to address the difficult situation that trustees currently face. The detail of the regulations identifying the relevant red flags will therefore be of much interest to trustees and, once the regulations have been finalised, transfer processes will need to be reviewed and updated.



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