

# COMBATING PENSION SCAMS

A Practitioner Guide (Interim)

Version 3.0 (Effective From  
20th March 2023)



# CONTENTS

<b>01</b>	Introduction	4
<b>PART A</b>		
<b>02</b>	The Regulations – Statutory Transfers	7
2.1	Overview	
2.2	Due diligence requirements	
2.3	What is a clean list?	
2.4	The overseas investment issue	
2.5	The incentives issue	
<b>03</b>	What Are The Risks Of Using A Clean List For Statutory Transfers?	12
3.1	Pension scam risk	
3.2	Two-stage scam risk	
3.3	Speculative complaints	
<b>04</b>	What Are The Risks Of Not Using A Clean List?	14
<b>05</b>	Risk Mitigation Options	15
5.1	Use of discretionary powers under the scheme rules	
5.2	Discharge wording	
<b>06</b>	Due Diligence Process	17
6.1	Information required for all transfer requests	
6.2	Is the First Condition met?	
6.3	Second Condition: Transfer to Occupational Pension Schemes; is the employment condition met?	
6.4	Second Condition: Transfer to QROPS; is the residency link demonstrated where applicable)?	
6.5	Second Condition: Is a clean list being used?	
6.6	Are there any red flags?	
6.7	Are there any amber flags?	
<b>07</b>	Communication Requirements	34
7.1	Early member notification of the requirements of the Regulations	
7.2	Additional member information requests	
7.3	MoneyHelper referrals & timeframes	
7.4	Confirmation of transfer made	
7.5	Confirmation of refusal to make the transfer	

**PART B**

<b>08</b>	Use Of Discretionary Powers Under The Scheme Rules	37
<b>8.1</b>	General principles	
<b>8.2</b>	Clean lists for discretionary transfers	
<b>8.3</b>	Additional due diligence in relation to the particular transfer	
<b>8.4</b>	Assess statutory right	

**PART C**

<b>09</b>	Trustees And Administrators	41
<b>10</b>	Additional Good Practice	42
<b>10.1</b>	Communicating the risks of scams to members	
<b>10.2</b>	Potential Additional Checks	
<b>10.3</b>	PASA Good Practice Guidance for Transfers	
<b>11</b>	Additional Considerations	46
<b>11.1</b>	Extensions	
<b>11.2</b>	Withdrawal of transfer application	
<b>11.3</b>	Transfer requests from a Defined Benefit (DB) Scheme to a Defined Contribution (DC) Scheme – Advice Requirements	
<b>11.4</b>	Governance	
<b>11.5</b>	Data Protection	
<b>11.6</b>	Management Information	
<b>11.7</b>	Member appeals	
<b>11.8</b>	Direct Pension Scams	
<b>12</b>	Reporting	50
	Contributors	51

**Disclaimer:**

The Interim Practitioner Guide forms part of the Pension Scams Industry Group (PSIG) Code of Good Practice. The Code and its other related documents have not been updated and caution should be exercised in referring to them.

A further version of the Practitioner Guide will be issued once the key regulatory issues are resolved, together with the remaining documents which form the Code. This Interim Guide does not contain references to the other Code documents which should now be read within the context of this interim version of the Practitioner Guide.

The Guide is for guidance only and does not purport to constitute legal advice. It is not exhaustive and nothing in the Guide can be relied upon as evidence of compliance with any other legal or regulatory requirement. The Guide relates to circumstances prevailing at the date of its publication and may not have been updated to reflect subsequent developments.

Following the Guide does not relieve a party of its legal or regulatory obligations and following the Guide might not prevent a claim being brought against a party.

# 01

## INTRODUCTION

The Pension Scams Industry Group (PSIG) Code of Good Practice, written by a group of key stakeholders, including trustees, administrators, legal advisers and insurers, is a set of documents that sets out suggested steps to help practitioners understand and undertake due diligence on requested transfers<sup>1</sup>, in order to protect against pension scams. The PSIG Advisory Board and Technical Group members are listed in the Appendix.

The Code is not a statutory code, nor does it override legislation or guidance issued by Regulatory bodies. The Code is voluntary and seeks to set a good practice industry standard to help identify transfer requests that may be fraudulent or a scam. The Code is intended to complement the Pensions Regulator's strategy<sup>2</sup> to combat pension scams and help those involved in the administration of registered pension schemes to assess members' transfer requests. The Pensions Regulator, and members, expect trustees and providers to carry out a reasonable level of due diligence. This voluntary Code represents good industry practice on due diligence.

The Code is based on three guiding principles:

1. Trustees, providers and administrators should raise awareness of pension scams for members and beneficiaries of their scheme.
2. Schemes should have robust, proportionate and compliant processes for assessing whether a receiving scheme may be operating as part of, or being used for the purposes of, a pension scam, and for responding to that risk.
3. Schemes should generally be aware of the known current strategies of the perpetrators of pension scams in order to inform the due diligence they need to undertake and should, where appropriate, adhere to the red and amber flag regime outlined in the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 ("Regulations")<sup>3</sup> and pay particular attention to the Pensions Regulator's Guidance, FCA alerts and communications by Action Fraud.

PSIG has long called for legislation to help protect pension scheme members from the devastating losses caused by scams, and indeed, our original Code, published in 2015, was written to help fill the void in the regulatory space. Seven years later, we, along with others, helped DWP to draft Regulations to allow trustees to refuse to make a transfer that shows signs of a scam. The Regulations do this, but a few clauses in their current form could have unintended consequences.

Our original intention had been to update the PSIG Code and related documents to coincide with the anticipated Regulations, but the mismatch between the DWP stated policy intent and certain clause wording has made it impossible for us to issue definitive good practice at this time. PSIG is a multi-disciplinary industry group, so there are several different views on how to implement the Regulations and little consistency in practice for us to incorporate in our guidance. After months of debate and observation, we decided to publish an interim Practitioner Guide and amend the Code itself only when the Regulations are clarified or amended.

<sup>1</sup>FCA requirements differentiate between a pension transfer which involves transferring safeguarded benefits (pension transfer) and a transfer which doesn't involve transferring safeguarded benefits (pension switch). For the purpose of this guide, the term 'pension transfer' covers both but please refer to Section 10.7.3 which relates to FCA permissions as there are different requirements for pension transfers and pension switches.

<sup>2</sup>[thepensionsregulator.gov.uk/en/document-library/strategy-and-policy/our-strategy-to-combat-pension-scams](https://www.thepensionsregulator.gov.uk/en/document-library/strategy-and-policy/our-strategy-to-combat-pension-scams)

<sup>3</sup><https://www.legislation.gov.uk/uksi/2021/1237/contents/made>

The points of greatest concern to us are the inclusion of widely defined “overseas” investments in a receiving scheme as an amber flag and the broad definition of an offer of an “incentive” as a red flag. We will work with the industry and DWP to clarify these, and other inconsistencies, as soon as practicable.

In the meantime, this Guide will summarise the regulations and how to comply with them as well as practical steps for ceding schemes to take (where they have the power to do so). Where the risk of a scam is low, the preference is to reduce friction and comply with a member’s request to transfer to a safe destination.

This is therefore an interim Practitioner Guide which, on a standalone basis, details the key Due Diligence steps that a Pension Practitioner should undertake when assessing a pension transfer and reflects the position following the new Regulations. In this interim guide, we focus mainly on the statutory right to transfer which provides a discharge to trustees and is directly impacted by the new Regulations. We do not view the use of discretionary powers, where rules permit, to be a way to avoid the strong due diligence expected to help prevent scams, and in fact, we consider that the due diligence requirements for both routes should be similar. The Pensions Regulator has stressed this point in its guidance.

The Regulations improve the protection for members afforded by a statutory transfer, but they do not weaken that of a discretionary transfer. Arguably, the Regulations appear to have been designed for a scheme that can rely on the statutory route and also have the power to apply discretion under the scheme rules, where strictly following the Regulations could deliver an unsatisfactory outcome in some situations. It should be noted that some transfer rights may not be discretionary. Scheme rules need to be carefully checked.

This update has been drafted for schemes which were already following the PSIG code. It does not, and cannot, address any implementation issues for any who weren’t previously undertaking recommended due diligence. Where there appears to be conflict between current regulatory guidance and the legislation, we have stated this. Ultimately, it is the interaction of the legislation and your scheme rules which determine both your legal obligations and where discretion and judgement could be used. If you are unsure you should take the legal advice you deem appropriate.

A further version of the Practitioner Guide will be issued once the key regulatory issues are resolved, together with the remaining documents which form the Pensions Scams Industry Group (PSIG) Code of Good Practice. This interim version does not contain any references to the other Code documents.

The guide also includes some information on scams which are not pension transfers or switches but rather where the member is persuaded to access some or all of their tax-free lump sum or pension savings to purchase some form of inappropriate investment.

**Note:** It is important to be aware that although the Regulations have been in place since November 2021, the timescales involved in transfer processes and complaints means there is limited precedent set by interpretations by the Ombudsman or the Courts. Some of the Regulations are open to different interpretations. The interpretations adopted in this Guide are the views of PSIG, but different interpretations may be preferred by the Ombudsman or the Courts. If you are uncertain, you should seek advice from your legal advisers.

# PART A



# 02

## THE REGULATIONS – STATUTORY TRANSFERS

### 2.1 Overview

All statutory transfer requests must now meet one of two new conditions (in addition to the requirements of existing legislation), which include the need for the transfer to be a full, rather than a partial, transfer of all the benefits in one category of benefits as well as the stipulation that the member must have ceased accruing benefits in that category and that, broadly speaking, no crystallisation events have occurred in respect of the member's benefits in that category.

1. **First Condition:** Transfers to specified destinations. If the transfer is to:
  - an authorised master trust
  - a public service pension scheme or
  - an authorised collective defined contribution scheme (CDC)<sup>4</sup>

the transfer can proceed subject to the necessary checks that were required prior to the 2021 Regulations. For clarity, even First Condition schemes should be checked to ensure that the scheme isn't a clone.

You<sup>5</sup> must be satisfied “beyond reasonable doubt” that the scheme is established, or listed as authorised, as a First Condition scheme.

Further detail about how to check if a receiving scheme meets the First Condition is set out in Section 6.2.

2. **Second Condition:** Requirement to check for an employment link, overseas residency and red and amber flags.

Where the receiving scheme is not one of those described in the First Condition, you must consider whether the Second Condition is met. If the transfer is to an occupational pension scheme, you must request the specified evidence from the member to demonstrate that there is an employment link.

The Regulations state that if a member is transferring to an occupational scheme and does not have earnings from the sponsoring employer, then it will be an amber flag. It should be noted that the *Hughes v Royal London* High Court judgment<sup>6</sup> (which made it clear that while the member must be an earner, those earnings do not have to relate to the sponsoring employer) relates to the pre-existing statutory right condition in relation to earnings. Where the specified evidence does not demonstrate that earnings relate to the sponsoring employer (even if there are unrelated earnings) this would be an amber flag.

If the transfer is to a qualifying recognised overseas pension scheme (QROPS), you must request evidence from the member to establish residency in the country or territory<sup>7</sup> where the QROPS is based or, where the QROPS is an occupational pension scheme, to demonstrate an employment link.

<sup>4</sup>Defined as Collective Money Purchase in legislation.

<sup>5</sup>Please note that we refer to “you” in this document as the reader of the Practitioner Guide and as someone who has responsibility in your firm for undertaking due diligence on pension transfers.

<sup>6</sup><https://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Ch/2016/319.html&query=pension+scheme&method=all>

<sup>7</sup>For this purpose, the EEA is not considered a single territory

You also need to check for evidence of red or amber flags (whatever type of scheme the transfer is being made to under the Second Condition) (see Sections 6.6 and 6.7). If there are red flags (key warning signs of a scam), the condition will not be met and there is no statutory transfer right. If

there are amber flags (still warning signs but less definitive), the conditions for a statutory right to a transfer will not be met unless the member takes specified guidance from MoneyHelper (the Money and Pensions Service (MaPS)<sup>8</sup>).

## 2.2 Due diligence requirements

The DWP's policy intent behind the Regulations, as echoed in the Pensions Regulator's Guidance referred to above, is to enable trustees, administrators and providers to operate processes involving different levels of due diligence depending on the nature of the receiving scheme.

For example, First Condition transfers to an authorised master trust, public service pension scheme or authorised CDC arrangement can proceed with very limited due diligence (i.e. checking their status – see above). For transfers to other types of pension arrangements, the Second Condition under the Regulations must be met for a statutory transfer. The starting point under the Second Condition is that due diligence must be carried out for:

- a. Red flags, which are serious warning signs of a pension scam. If a red flag is present, the member does not have a statutory right to a transfer.

- b. Amber flags, which are less serious warning signs of a pension scam. If an amber flag is present, the member must take guidance on pension scams from MoneyHelper, through a pensions safeguarding appointment, before a statutory right to transfer can be established.

As part of this proportionate approach to due diligence, the policy intent behind the Regulations is clear that you should be able to use clean lists as part of your due diligence processes. However, the use of a clean list is voluntary and, to be helpful, any clean list should be reviewed regularly. Part of the review of a clean list could include referral to the scheme or provider's indemnity insurer to ascertain that cover remains valid. It should be noted that presence on a clean list indicates that provider-level due diligence has been carried out and that absence from a list does not imply that a provider is "unclean" but merely not reviewed in detail.

<sup>8</sup><https://moneyandpensionsservice.org.uk/>



## 2.3 What is a clean list?

A clean list is a list of pension arrangements that you have, through ongoing due diligence processes, established are not pension scam arrangements and accordingly a transfer can be made to them without having to seek evidence of the absence of the flags for statutory transfers. Further details in relation to the compilation of clean lists are set out in Section 6.5. Please see Section 8.4 for comments regarding the use of clean lists in the context of discretionary transfers and Section 8.5 for comments in relation to the interaction between trustees and administrators on clean lists. The use of a clean list is voluntary and is typically deployed where administrators process a large number of transfers. There may be a significant cost to compiling and maintaining a robust clean list.

The regulations do not preclude the use of clean lists (although not explicitly referred to as such). You can include personal pension arrangements on your clean list if you have decided that it is more likely than not (expressed in the legislation as 'on the balance of probabilities') that the receiving pension arrangement will not trigger any red or amber flags, including that the receiving pension arrangement will not include any overseas investments and that the member has not been offered an incentive to make the transfer.

As noted above, the DWP has made it clear that the policy intent is for trustees, administrators and providers to be able to operate clean lists and the Regulations include provisions intended to allow the use of a clean list under the Second Condition (other than in respect of a transfer to an occupational pension scheme or a qualifying recognised overseas pension scheme ("QROPS")).

The Pensions Regulator is also supportive of the use of clean lists and has made the following statement in its current Guidance about the use of a clean list: "You may wish to keep records of low-risk personal pension schemes, often referred to as a 'clean list'. These records may allow you to maintain a smooth transfer process where due diligence analysis shows no risk. You should review this list regularly to make sure that schemes continue to present low risk. You may determine that the transfer can proceed without the need for additional checks, where the receiving scheme is on your clean list."<sup>9</sup>

Given that almost all pension arrangements are likely to include some overseas investments (as defined under the Regulations), it could be argued that this is a difficult assumption to make based on the strict interpretation of the Regulations.

<sup>9</sup>The Pension Regulator's Guidance can be found on its website at: <https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/administration-detailed-guidance/dealing-with-transfer-requests> (as at 12 January 2023)

## 2.4 The overseas investment issue

Under the Regulations, one of the amber flags is that "there are any overseas investments included in the receiving scheme". The Regulations define "overseas" as meaning "wholly or partly outside of the United Kingdom". "Included in" is defined as meaning "in relation to the investments of the receiving scheme or structure of those investments ... investments that the receiving scheme will make with the member's pension savings immediately after the transfer is made, or is already making with the pension savings of other members of the receiving scheme".

This definition means that there is an amber flag if any overseas investments are present in the receiving pension arrangement – which is likely to be the case for almost all pension arrangements, given the need for proper diversification, even if only in the form of mainstream global equities in pooled fund portfolios.

As a result, even where the transfer is to a group personal pension scheme provided by a household name insurer on the administrator's clean list, it appears that it would be unlikely that you will be able to conclude on the balance of probabilities that there are no overseas investments included in the receiving scheme, and a referral to MoneyHelper may be required for a member to establish a right to a statutory transfer.

In its Twenty-Second Report of 2021-22, the Joint Committee on Statutory Instruments has drawn the Regulations to the attention of the House of Lords and the House of Commons as requiring elucidation, noting that "[g]iven that most schemes include overseas investments, it appeared to the Committee that this may result in a very large number of pension savers being required to take scams specific guidance from the Money and Pensions Service before the transfer proceeds".

The DWP's consultation response and subsequent views from DWP confirmed that the intention was that the use of clean/clean lists is compatible with the statutory transfer process under the Regulations. However, in its response to the Joint Committee on Statutory Instruments, the DWP has acknowledged that it has been made aware of the issues in relation to the overseas investments amber flag and that it will consider amending the Regulations to give effect to the policy intent if it concludes that there is an issue.

The Pensions Regulator states in its current guidance<sup>10</sup>: "The specific concern here is not whether the investment is in, for example, a global equity fund but whether the investment is in assets or funds where there is a lax, or non-existent, regulatory environment or in jurisdictions which allow opaque corporate structures."<sup>11</sup>

Whilst this makes logical sense (First Condition schemes will also almost certainly contain some form of overseas investment), this restriction of the trigger for an amber flag to particular overseas investments rather than any overseas investments unfortunately does not appear to be supported by the wording of the Regulations.

As a result, despite the comments made by the Pensions Regulator, the use of a clean list for statutory transfers carries risk.

Trustees, providers and administrators should therefore understand and consider these risks when adapting their transfer processes to reflect the requirements of the Regulations.

<sup>10</sup><https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/administration-detailed-guidance/dealing-with-transfer-requests#b332e009bd8544c599667e3e1e1ad033> (extracted on 27th December 2022)

<sup>11</sup>The Pensions Regulator's current guidance goes on to state: "After carrying out due diligence you may consider the transfer is at (sic) a low risk of a scam and, where your scheme rules allow, you may consider granting a discretionary transfer." Issues in connection with discretionary transfers are considered further at section 5.1.

## 2.5 The incentives issue

There is currently some debate about the nature of an incentive and whether any cash, voucher or gift offered as part of a transfer is a red flag. The Regulations describe the red flag as “the member has been offered an incentive to make the transfer”, which is quite clear and that the mere offer of an incentive is enough to remove a statutory right – the incentive doesn’t need to be received or shown to have necessarily influenced the member’s decision to be a red flag. Please see Section 6.6.5.

The issue is that there are some fairly well-established practices whereby small cash payments are made by reputable firms to members who transfer to a contract-based arrangement. The Regulations as set out treat these as red flags and we have no DWP stated policy intent or Pensions Regulator guidance to rely on to mitigate the risk of ignoring such incentives. Any payment made to a member from the proceeds of the transfer could be considered an advance or cashback, which are specifically mentioned in the Regulations and therefore

would raise a red flag. An incentive to encourage others to transfer could be (and has been) used by unscrupulous actors as a way to get around the cold calling ban.

If a provider offers small rewards, you should be mindful of the risk of future complaints, as an “incentive” is set out in the Regulations as a red flag. As a red flag, referral to MoneyHelper for impartial guidance would not resolve the issue and would not confer a statutory right to transfer.

Based on the Regulations, it could be argued that you cannot add a pension arrangement to a clean list for the purposes of statutory transfers if you cannot decide on the balance of probabilities that there are no red flags. However, as the Regulations stand currently, looking at the scope for discretionary transfers might be appropriate.

In the meantime, if you are concerned that a feature of the transfer could constitute an incentive under the Regulations, you should speak to your legal adviser.

# 03

## WHAT ARE THE RISKS OF USING A CLEAN LIST FOR STATUTORY TRANSFERS?

A transfer to an authorised master trust or a public service pension scheme with only very limited due diligence (under the First Condition under the Regulations) is not controversial and such pension arrangements can be included on a clean list.

For transfers to other pension arrangements, the Second Condition must be met for the member to establish a statutory right to make the transfer.

The Pensions Regulator's statements in support of the use of clean lists, mean the chances of the Regulator taking issue with you for using a diligently compiled and maintained clean list appears very low (notwithstanding the risks mentioned above in section 2.4 and described in more detail below).

### 3.1 Pension scam risk

A key risk is that a member (perhaps supported by a claims management company) who was transferred out under the Second Condition using a clean list, and who is the victim of a pension scam, could argue that the Regulations did not support the use of a clean list. It could be argued that, if you had followed the wording of the Regulations, an amber flag would have been identified (for example because the receiving scheme included overseas investments) and the member would then have received guidance from MoneyHelper and changed their course of action, avoiding being the victim of a pension scam. If your scheme only permits statutory transfers and the transfer (by being a scam) is not a statutory transfer, then you may have made a transfer which is not permitted.

Such a claim would be likely to be brought before the Pensions Ombudsman (with a right of appeal to a court) and the Pensions Ombudsman

(and the court) should follow the Regulations (rather than the Pensions Regulator's guidance). The court has previously taken a very literal interpretation of the wording of the legislation in the context of transfers and pension scams, and the Pensions Ombudsman may follow suit. The risk of such a claim is significantly mitigated if the trustees are confident that the receiving pension arrangements on the clean list are not pension scam arrangements.

Where a clean list is to be used, it is therefore vital that administrators take care in relation to the compilation and maintenance of their clean lists and that trustees engage with their administrators in relation to how their clean lists are compiled and maintained (see Section 8.2). Please also see the additional guidance for trustees and administrators in Section 9.

## 3.2 Two-stage scam risk

Even if the receiving arrangement is not a pension scam arrangement (which trustees may well be comfortable about in light of the reassurance provided to them in respect of the clean list), there is a residual risk that a two-stage scam could be in play whereby a member who has reached normal minimum pension age is encouraged to transfer their benefits from the scheme to a legitimate clean-listed DC pension arrangement, immediately access their benefits from the DC arrangement and then pass the proceeds to the scammers. Please also see Section 11.8 Direct Pension Scams.

If this were to happen, and the member complains that the transfer should not have been permitted, you would have a strong argument that your responsibilities related to the transfer to the DC pension arrangement only and not to any further steps, and that the chain of causation has been broken between your actions and the loss. You should, however, note that (in common with many of the risks in this area) this argument has not been tested before the Pensions Ombudsman or a court.

## 3.3 Speculative complaints

Even where the transfer involves no pension scam, there is a risk of future claims from members that the Regulations were not followed and the transfer should not have been permitted. Where the Regulations have been followed, there should be no risk of a claim. We believe that there may be good arguments to successfully defend any speculative complaint although costs would be incurred in doing so.

A complaint could be brought if, for example, investments in the receiving scheme have not performed as well as hoped, and the member realises that they would have been better off remaining in the transferring scheme. They may complain that had they been referred to MoneyHelper, they would not have transferred.

In this scenario, whilst you may be able to point to the Pensions Regulator's Guidance, the complaint would be determined by the Pensions Ombudsman or the Financial Ombudsman, rather than the Regulator.

The Hughes case has shown that courts will apply a strict interpretation of the law (rather than approaches based on regulatory guidance or "common sense" but which are inconsistent with the law) and the Pensions Ombudsman, following his experience in Hughes, may adopt the same approach.

In the context of an alleged amber flag, the Pensions Ombudsman may well conclude that, on the balance of probabilities, given the nature of the receiving scheme the member would have decided to proceed with the transfer even if they had been referred to MoneyHelper (given that the purpose of the guidance session is to help identify whether there is a risk of a scam, rather than whether the transfer is a sensible financial decision). The position is more difficult in the context of an alleged red flag.

The Pensions Ombudsman may not be able to reach this same conclusion where a transfer was processed and found to include a red flag, for example, the presence of an incentive to transfer, because this would mean that there was no statutory right to transfer and the trustees would have potentially breached the Regulations or acted outside their powers.

Because the Regulations are new, the risks in this area are as yet untested before the Pensions Ombudsman or a court and so trustees concerned about this risk should take advice from their legal advisers and consider mitigation steps (see Section 5).

## 04

## WHAT ARE THE RISKS OF NOT USING A CLEAN LIST?

Use of a clean list is voluntary but it does allow bulk vetting of regular transfer destinations and swifter processing of transfers of no concern. If a clean list is not used, there is a significant risk that a large number of transfers to pension arrangements which are obviously not pension scam arrangements may be slowed down significantly by referrals to MoneyHelper for arguably unnecessary guidance on pension scams. The policy intent was to allow clean lists to be used for this reason.

Delay could cause a member distress and inconvenience and could result in actual financial loss, for example if the delay causes the member to miss out on investment returns in the receiving pension arrangement. Although you could argue that you are simply following the strict letter of the Regulations and that the delay was caused by MoneyHelper rather than you, the member may challenge the decision to refer to MoneyHelper in the context of a receiving pension arrangement which is obviously not a pension scam arrangement and in light of the Pensions Regulator's statements supporting the use of clean lists. There could also be a challenge that any discretionary power under the scheme rules could potentially have been used to avoid this delay – see below.

This risk could potentially lead to a significant number of member complaints (with the associated time and monetary costs of dealing with those complaints).

There is also potentially a risk of breaching, or having to apply to the Pensions Regulator to extend, statutory time limits for transfers.

There have been successful cases brought before the Pensions Ombudsman<sup>12</sup> by members against transferring trustees for distress and inconvenience and for investment loss as a result of undue delays in relation to transfers out, even where the transfer was made within the statutory time limit.

Where administrators' standard processes are already built around the use of clean lists and costs based on that, if trustees instruct them to change processes to refer most transfer cases to MoneyHelper, this may have cost implications which the administrators pass on to the transferring scheme. Trustees should discuss this with their scheme administrator.

Trustees will need to balance the risks of using and not using clean lists, taking advice where necessary, and devise an appropriate procedure that reflects your appetite for risk (which may in turn be influenced by the volume of transfer requests you receive). When undertaking this risk assessment, there are some risk mitigating actions you could take, and these are considered in Section 5.

Many trustees, providers and administrators will be keen to use a clean list in order to avoid the risks outlined above and such lists are supported in transfer guidance from the Pensions Administration Standards Association (PASA). Unless and until the Regulations are modified so as to remove the disconnect between the policy intent and the actual language in the Regulations, there are some possible ways to mitigate the risks described above. Serious consideration should be given to taking legal advice in relation to these risk mitigants.

<sup>12</sup><https://www.pensions-ombudsman.org.uk/sites/default/files/decisions/po-19383.pdf>

# 05

## RISK MITIGATION OPTIONS

### 5.1 Use of discretionary powers under the scheme rules

Transfers out of occupational pension schemes are typically made as a result of a member exercising their statutory right to transfer, however non-statutory (discretionary) powers to transfer are sometimes used to allow transfers out when the statutory right does not apply, for example if a defined benefit scheme member is in their final year before their normal pension age.

The Regulations do not apply to transfers made under discretionary transfer powers in the scheme rules. One way of preventing the issues and delays to transfers which are otherwise believed to be legitimate; for example, the presence of overseas investments which do not raise pension scam concerns, or where a referral to MoneyHelper is considered disproportionate by the trustee, is by using discretionary transfer powers supported by appropriate due diligence, including the optional use of a clean list. In its guidance, the Pensions Regulator is supportive of the use of clean lists and discretionary transfers in circumstances where the level of risk of a scam is deemed acceptable to the trustees.

It should be noted that a non-statutory transfer route is not available under all schemes and some that do permit non-statutory transfers, may only do so in limited circumstances.

Whether this option is available, or even optimal, will depend on the rules of the transferring scheme and the operational arrangements of the scheme. You should therefore review your scheme's governing documentation to check whether a discretionary transfer power exists, and the relevant terms that apply. It may be that even though a trustee's discretionary transfer out power is used, the terms of the discretionary transfer power cross-refer to the statutory transfer regime and so may involve consideration of elements of the statutory regime when the discretionary power is exercised.

Any use of a discretionary transfer power would need to be a proper exercise of that power after appropriate consideration by trustees, which would include being satisfied with the levels of due diligence involved considering and how any clean list used is compiled and maintained.

The Pensions Regulator's Guidance states that discretionary transfer powers should not be used to avoid carrying out due diligence. However, the Regulator has more recently commented in support of discretionary transfers and on the use of clean lists in its stated 'common sense' approach in relation to the Regulations.

It should, however, be noted that the use of discretionary powers also carries some risk:

1. it will involve trustees being responsible for the decision to allow or refuse the transfer. Some trustees may be uncomfortable about the risk of being challenged for using a discretionary power (a counter to this would be that this approach follows the intention of the Regulations);
2. there would remain a risk of some of the types of complaints outlined in Section 4 above being received, except the member could also claim that their transfer should have been processed on a statutory basis and as a result been referred to MoneyHelper. However, the risk could be mitigated by explaining the situation to the member, obtaining their consent to the discretionary transfer and a suitable discharge for the trustees. The administrator should keep a very clear written audit trail, particularly as some complaints may not arise until a few years after the transfer;
3. there may be cost implications arising from deviating from the administrators' standard processes (for example member transfer communications – which will normally reference either discretionary or statutory processes – may need to be updated); and
4. there will be no statutory discharge for the trustees under the Regulations (although trustees may benefit from a discharge through the transfer forms and the transferring scheme's governing documentation). There may therefore be a risk that the member could potentially try to claim that they are still entitled to benefits under the scheme. If you are in doubt about the protection afforded by scheme rules or a transfer form (including any transfer requests received via the Origo platform), you should seek legal advice.

## 5.2 Discharge wording

A further option for mitigation of the risk of a member complaint being successful, would be to incorporate some additional wording into any discharge forms signed by the member. Different wording could be used depending on the approach taken:

1. If the transfer meets the requirements for a statutory transfer, a statutory discharge applies.
2. Where a statutory right is removed because of the likely presence of overseas investments in the receiving scheme, members could be asked to (a) confirm that they understand the risk of a pension scam, (b) acknowledge

the fact that proceeding on a statutory basis would involve a referral to MoneyHelper, and they are comfortable proceeding with the transfer on a discretionary basis and do not wish to receive pension scams guidance from MoneyHelper. Potentially they could also be given the option to ask to proceed with the transfer on a statutory basis with a referral to MoneyHelper.



# 06

## DUE DILIGENCE PROCESS

Please refer to the flowchart in the Pensions Regulator guidance for a transfer request process flowchart which may be of help.

### 6.1 Information required for all transfer requests

As outlined in the Pensions Regulator guidance, as a minimum, schemes should collect the following information (ideally in one request) prior to initial analysis:

- name and address of the member requesting a transfer
- information about the receiving scheme including:
  - name
  - address
  - HM Revenue and Customs Pension Schemes Tax Reference (PSTR) number
  - payment details
  - type of scheme
  - identity of the scheme administrator
- information about any financial adviser and other individuals involved in the transfer including:
  - the firm's name and address
  - Financial Conduct Authority (FCA) registration number
  - FCA permissions
  - role in relation to the transfer
- HMRC QROPS reference number for an overseas scheme as well as local country Tax Office approval.

In addition, the following must also be obtained for statutory transfers

- The specified evidence of employment for an occupational pension scheme.

- The specified evidence of residency for a QROPS which is not an occupational pension scheme.
- The specified evidence of either employment or residency for a QROPS that is an occupational pension scheme.

A QROPS is the only overseas pension scheme to which a UK registered pension scheme can pay a “recognised transfer”. If an overseas pension scheme is not a QROPS, a transfer to that scheme will not be a recognised transfer and will therefore be an unauthorised payment. A QROPS is a Recognised Overseas Pension Scheme (ROPS) which has notified HMRC that it meets ROPS conditions, in return for which HMRC has given the ROPS a reference number (commonly described as a 'QROPS number') which is used for administrative purposes only. HMRC maintain a list<sup>13</sup> of schemes which have told HMRC that they meet the conditions to be ROPS. Please note that the HMRC list only contains schemes that have agreed to be on the list. A scheme may be a ROPS but not on the list. The inclusion of a scheme on the ROPS list does not, however, guarantee that the scheme is a ROPS, merely that they have told HMRC that they are. The status of the receiving scheme should be checked on the date of the proposed transfer payment, and the outcome of that check recorded and evidenced. This may be done by a screenshot which should include the website address and a date stamp. It is essential to verify that the transfer is being paid to the scheme included on the list, and not to another scheme using a virtually identical name (e.g. a clone scheme).

<sup>13</sup><https://www.gov.uk/guidance/check-the-recognised-overseas-pension-schemes-notification-list>

## 6.2 Is the First Condition met?

You must check if the receiving scheme is one of the following:

- a public service pension scheme (schemes established by a public authority for civil servants, armed forces, health service workers, teachers, judiciary, police, firefighters and local government workers)
- an authorised master trust on the Pensions Regulator's published list
- a collective defined contribution (CDC) scheme that has obtained authorisation and is included on the Pensions Regulator's published list.

If you are satisfied beyond reasonable doubt that the receiving scheme is one of those listed above, the transfer can proceed without any further checks. A check against the contact details provided for the scheme should be carried out to ensure that a clone scheme has not been set up. This check can usually be carried out by an internet search or by a telephone call to the administrator if required.

The administrator must satisfy themselves that the receiving arrangement is a public service pension scheme, as defined in section 1(1) of the Pension Schemes Act 1993. They could do this by referring to documentation including, but not limited to, printouts from HMRC's Managing Pension Schemes or Pension Schemes online services pages, showing the receiving scheme is a Public Sector Scheme.

For Authorised Master Trusts, the First Condition is satisfied where the receiving arrangement can be found on The Pensions Regulator's 'List of authorised master trusts'<sup>14</sup>.

For Collective Money Purchase schemes, the First Condition will be satisfied where the proposed receiving arrangement appears on the Pensions Regulator's 'List of Authorised Collective Money Purchase schemes' when that becomes available.

<sup>14</sup><https://www.thepensionsregulator.gov.uk/en/master-trust-pension-schemes/list-of-authorised-master-trusts>



## 6.3 Second Condition: Transfer to Occupational Pension Schemes; is the employment condition met?

If the transfer is to an occupational pension scheme that is not a QROPS you must request specified evidence from the member to demonstrate that there is an employment link.

If the transfer is to an occupational pension scheme that is a QROPS you must request specified evidence to demonstrate either the employment link or the residency link (described in section 6.4).

There is an employment link if you decide all the following apply:

- The employer is using the pension scheme to provide pension benefits to their employees,
- The member has been continuously employed by that employer for at least three months before the transfer request,
- During the three months before the transfer was requested the member has been paid an average gross salary of at least the Lower Earnings Limit (£123 per week for 2022/23),
- This is calculated by aggregating all earnings from that employment in the three months, multiplying by four, dividing by 365 and multiplying by seven, and
- Employer pension contributions have been paid to the receiving pension scheme during those three months.

The specified evidence which you must request to make your decision is:

- A letter from the member's employer confirming;
  - The employer is using the pension scheme to provide pension benefits to their employees
  - The employer employs the member
  - The date from which the employer has continuously employed the member

- That the pension contributions have been paid in accordance with the payment schedule or if not, the actual amounts and dates on which they were paid
- A pension contribution schedule showing separate entries for employer and any employee contributions and including contribution due dates.
- Payslips or other written evidence showing earnings paid in the three months before the transfer request.
- Copies of bank or building society statements or a building society passbook showing the earnings being deposited. The copies must be certified copies if you request that (Note that certified copy here means a copy certified as a true copy by the bank or building society.)

Because the evidence is specified, it is that precise evidence which you must request. If the evidence provided does not show that all of points above apply, you will be unable to decide that the employment link is demonstrated.

If you cannot decide the employment link is demonstrated, this will be an amber flag (see section 6.7); according to the DWP's consultation response<sup>15</sup> and the explanatory memorandum<sup>16</sup> for the Regulations, an amber flag is the intended outcome, resulting in a referral to MoneyHelper.

There may be legitimate reasons why a member does not work for the employer (for example, they might be a former employee who is able to use the pension scheme to consolidate their pension savings) but this would still be an amber flag. If you come across a specific situation where you are uncertain about the application of an amber flag, you may wish to seek legal advice.

<sup>15</sup><https://www.gov.uk/government/consultations/pension-scams-empowering-trustees-and-protecting-members/outcome/government-response-the-occupational-and-personal-pension-schemes-conditions-for-transfers-regulations-2021> para 121

<sup>16</sup>[https://www.legislation.gov.uk/uksi/2021/1237/pdfs/uksiem\\_20211237\\_en.pdf](https://www.legislation.gov.uk/uksi/2021/1237/pdfs/uksiem_20211237_en.pdf) para 7.26

## 6.4 Second Condition: Transfer to QROPS; is the residency link demonstrated (where applicable)?

If the transfer is to a QROPS that is not an occupational pension scheme you must request specified evidence from the member to demonstrate the residency link.

If the transfer is to a QROPS that is an occupational pension scheme you must request specified evidence to demonstrate either the employment link (see section 6.3) or the residency link; you do not need to request evidence to demonstrate both links. This means some transfers to QROPS which are occupational pension schemes will involve you deciding if there is an employment link, while others will involve you deciding if there is a residency link.

There is a residency link if you decide the member is resident in the same country or territory as that in which the QROPS was established.

For this purpose, the EEA is not considered to be a single territory, e.g. Spain and France would not be considered to be a single territory despite both being in the EEA; if the QROPS is established in an EEA state, the residency link can only be demonstrated where the member is resident in that EEA state.

The specified evidence which you must request to make this decision is:

1. a copy of the member's formal residency documentation (which you can insist is a certified copy<sup>17</sup>); and
2. at least east two other items of written evidence confirming that the member is resident in the same country or territory as that in which the QROPS was established (which if not in English you can insist that it is accompanied by a certified translation<sup>18</sup>).

Because the evidence is specified, it is that precise evidence which you must request.

If the evidence provided does not show that the member is resident in the country or territory in which the QROPS is established, you will be unable to decide that the residency link is demonstrated.

If you cannot decide the residency link is demonstrated, you will probably go on to decide there is an amber flag present (see section 6.7); according to the DWP's consultation response<sup>19</sup> and the explanatory memorandum<sup>20</sup> for the Regulations, an amber flag is the intended outcome. There is no red flag directly related to a failure to demonstrate the residency link.

There may be legitimate reasons why a member is not resident in the country or territory in which their QROPS is established (for example, there might be no QROPS established in their country/territory of residence). This is still an amber flag.

<sup>17</sup>Certified copy here means certified as a true copy of the original by a solicitor, notary, or equivalent office holder

<sup>18</sup>Certified translation means certified as a translation of the original by a professional translator

<sup>19</sup><https://www.gov.uk/government/consultations/pension-scams-empowering-trustees-and-protecting-members/outcome/government-response-the-occupational-and-personal-pension-schemes-conditions-for-transfers-regulations-2021> para 121

<sup>20</sup>[https://www.legislation.gov.uk/uksi/2021/1237/pdfs/uksiem\\_20211237\\_en.pdf](https://www.legislation.gov.uk/uksi/2021/1237/pdfs/uksiem_20211237_en.pdf) para 7.26

## 6.5 Second Condition: Is a clean list being used?

Many administrators will operate a “clean list” of schemes to which they are comfortable in transferring. You should regularly review and maintain such lists and include the rationale for the inclusion of any scheme on it. You should also consider whether you are comfortable with processing all transfers to the scheme or whether the involvement of any advisers or introducers of concern would require further due diligence checks. Administrators may maintain a “warning list” of any intermediaries and schemes of concern, but as a minimum, the FCA warning list<sup>21</sup> should be checked before transferring to an unknown scheme.

You should undertake your own due diligence on transfers which are transacted using automated systems, such as Origo, until such time as the administrator/scheme has been identified as not presenting a risk. Origo, or another automated system provider, will carry out their checks on the administrator/scheme but this should complement and not replace your own due diligence, unless the automated system provider can provide suitable assurance on the destination. You should consider carefully whether to rely on such third-party assurances.

### 6.5.1 Automated Transfers (e.g. Origo Transfers)

A large proportion of transfers are now facilitated via electronic transfer (such as via the Origo Transfer Service). The purpose of electronic transfers is to speed up the transfer process and allow real time messaging/updates between scheme providers on the progress of the transfer. All parties are subject to a common transfer declaration where participating providers agree to place certain discharge wording in the declaration of their transfer in paperwork. This has negated the need for additional paperwork to be signed by the member for the ceding provider.

Electronic transfers are initiated by the receiving scheme provider after they receive their completed transfer paperwork from a member. The ceding scheme provider then acts upon the transfer request either by completing the transfer or by placing the transfer on hold if they believe additional checks are needed

Whilst electronic transfer platforms such as Origo carry out checks on participating providers this does not replace the need for a ceding provider to carry out their own due diligence. If a ceding provider has decided a receiving scheme/provider is on their clean list (as mentioned in Section 6.5), transfers may proceed without further checks for red or amber flags. Additional steps could be reserved for providers not yet on a clean list or for products that present higher risks (for example a SSAS or an International SIPP).

<sup>21</sup><https://www.fca.org.uk/scamsmart/warning-list>

## 6.6 Are there any red flags?

You should decide how to collect this information based on your understanding of your members and how it fits with your current processes. You should check that they have completed the forms themselves (but see Section 6.7.9). Please also take appropriate account of any member vulnerability. This may have been identified during a call with the member or you may have a record of such vulnerability on your existing member records.

If a red flag is identified, the transfer should be refused. Please see Section 7.4 for further guidance.

### 6.6.1 Red flag 1: The member has failed to make substantive response to your request for information

You can only decide that this flag is present if you have requested the evidence and information from the member for the purposes of the Second Condition, chased at least a month after the initial request, and a further month has passed with no response.

A substantive response is one which provides at least part of the items you requested, to the extent that you could at that point decide that either:

1. Part of the employment link/residency link (as the case may be) is demonstrated; or
2. The red flags referenced in Sections 6.6.3 to 6.6.6 are not present.

In other words, if the member's response provides enough of the requested items to enable you to make either of decisions 1 or 2 above, it is a substantive response.

If the member's substantive response does not provide all of the items requested, then it is incomplete and you may decide amber flag 1 is present.

### 6.6.2 Red flag 2: The member has not provided evidence of receiving MoneyHelper guidance

This red flag is present where the member has been required to seek pension transfer scams guidance from MoneyHelper and fails to provide the evidence of having received the guidance. The red flag is present where you decide that after having required the member to attend the appointment and provide the evidence of attendance, the member has not provided the evidence. The timing of this decision is in Regulation 6(c):

... no earlier than the soonest of—

- i. the date on which they have received all of the evidence or information requested;
- ii. the date on which they have received sufficient evidence or information in response to their request to decide that the Second Condition is satisfied in accordance with paragraph (3); or

- iii. the date on which they may apply the amber flag in regulation 9(2) [substantive but incomplete response] in accordance with sub-paragraph (b) [meaning no sooner than one month after a further request for the missing evidence has been made].

The evidence will be a six-digit number followed by the numerical date of when the MoneyHelper guidance took place, e.g. (999999DDMMYY). From this you can identify the date the guidance session took place. The guidance must have taken place after the date you requested that the client took guidance.

When notifying the member of the requirement to get the guidance, the administrator should inform the member of the amber flag(s) creating the need for impartial guidance. This will help the member understand why they are being referred. If you are referring because a combination of your scheme rules and the regulations means that you are unable to transfer without the member receiving this guidance, then you should explain this in an understandable way. It may also be beneficial to provide a date by which they will need to provide evidence of having done so. Where practical, the date given will be around two weeks prior to the expiration of the statutory period in which the member's cash equivalent would usually need to be paid. This is to allow sufficient time for the administrator to process the member's request to transfer prior to the statutory payment deadline. If the member does not provide the evidence so that the trustees can comply within the statutory time limit then the right to transfer falls away.

The member may book their appointment online, or by calling MoneyHelper, using the details at **[www.moneyhelper.org.uk/pension-safeguarding](https://www.moneyhelper.org.uk/pension-safeguarding)**. It is important that the member gets an appointment with MoneyHelper

in relation to scams guidance and not to PensionWise. The appointment gives the member the chance to speak to a specialist about their situation. The member will be given the following, which they can consider in relation to their own situation before they decide whether to continue with the transfer:

- guidance to help the member identify if they are at risk of being scammed;
- information on additional checks the member can make to help them feel confident in their decisions; and
- a summary of the dangers of pension scams.

MoneyHelper will ask the member for high-level information during the appointment to help tailor it to the member's circumstances and needs.

Information about the MoneyHelper appointment is available at **<https://www.moneyhelper.org.uk/en/pensions-and-retirement/taking-your-pension/pension-safeguarding-how-pension-transfers-are-kept-safe-from-scams>**<sup>22</sup>. The Pensions Regulator's guidance 'Dealing With Transfer Requests' contains a section regarding directing the member to MoneyHelper guidance:

#### **Dealing with transfer requests | The Pensions Regulator**

The Pensions Regulator's guidance calls out matters to consider such as:

- the importance of effective communication with the member so that they understand why they have to obtain guidance and to manage their expectations;
- the good practice of asking the member to confirm once the appointment is booked so the trustees/managers can determine if the member will be able to supply the proof of attendance before the statutory transfer deadline.

<sup>22</sup>And also in slides published after the Money & Pension Service Virtual Event: Pensions Safeguarding on 19 November 2021 (see slides 19-22 of 'Key Messaging' at <https://moneyandpensionsservice.org.uk/2021/11/30/pension-safeguarding-19-november-2021/>) which gives further info about the form of the unique reference number and how it is given to member.

### 6.6.3 Red flag 3: Someone carried out a regulated activity without the right regulatory status

In relation to the transfer, a person without the appropriate FCA authorisation has carried on the regulated activity in the UK of:

- Arranging deals in investments
- Advising on investments
- Advising on the transfer of safeguarded benefits (e.g. on transfer from a defined benefit pension), or
- Agreeing to carry on the above activities.

There are two parts to this flag. The first part is whether the member has received advice in relation to this transfer or on how the transfer should be invested. If the member has received advice then the second part is to check and decide whether the person who has given that advice is FCA authorised and has the relevant permissions to do so. An exemption applies to Appointed Representatives of a UK FCA authorised firm which takes full responsibility for that Appointed Representative's advice.

To check FCA authorisation, go to **<https://register.fca.org.uk/s/>** and search on either the name of the individual or firm or search using the FRN. Then check 'What can this firm do in the UK?' As well as Activities and Services, you should also check Restrictions and Waivers, Discretions and Exclusions.

If you do not have enough information to decide, e.g. the details of the person who may have given the given advice has not been provided, then it likely that you have been provided with a substantive, but incomplete response.

It should be noted that a red flag is only triggered where the activity takes place in the UK. This is because the Regulations specify that the red flag is present when the activity is in breach of sections 19 or 20 of the Financial Services and Markets Act 2000 (FSMA 2000) which only apply to a regulated activity carried out in the UK. If the advice to transfer to a UK scheme was provided by an overseas adviser to a member resident overseas and this occurred outside of the UK, it

is not a breach of FSMA 2000 and therefore is not a red flag. This is simply when this red flag is triggered – it is not to suggest that an overseas adviser advising a member about transferring a UK pension is no longer considered a possible sign of pension scam activity. We are aware that some scams have involved overseas advice activity and the member will not be eligible for the Financial Services Compensation Scheme should the transfer subsequently prove to be a scam. It would be good practice to alert a member to this fact. Alternatively, where the receiving scheme contains overseas investments, you may have reason to believe that an amber flag exists and refer the member to MoneyHelper.

The Pensions Regulator guidance also highlights that:

"If the member lives abroad and wants to transfer their benefits overseas, a regulated adviser in the UK who is advising on a pension transfer may work with an overseas adviser who is advising on investing the transferred benefits in overseas investments. Depending on the particular circumstances, this may not in itself be a cause for concern." and that:

"If there is not a regulated adviser in the UK giving advice to a UK based member about leaving the UK scheme, and an overseas adviser has advised on overseas investments that would only be possible for the member to buy if they transfer out of the UK scheme, there may be cause for concern. In such circumstances there may be scope for you to have reason to believe that the overseas advisor has implicitly advised on the transfer without the appropriate regulatory permissions."

The flag is present if you have a reasonable foundation to believe that the flag is present. You do not need to be certain.



### 6.6.3.1 Pension Switches

In the case of DC benefits, the pension transfer advice permission is NOT required (as for FCA purposes it is a switch<sup>23</sup> and not technically a pension transfer). The investment permissions (defined in the Regulations as either advising on investments or arranging deals in investments) are required.

Overseas advisers are not exempt and cannot give advice to UK residents on pension switches. They could give advice to ex-pats and overseas residents; this would either be covered by their permissions in their home state (if the activity was regulated there) or as an unregulated activity and with no permission needed.

For such switches facilitated by UK advisers, where it is not a legal requirement that advice is given, you may wish to consider whether this will affect whether the receiving scheme can accept the switch and to contact the trustees of the receiving scheme for clarification. They may well then refuse to accept the transfer owing to the nature of the advice which has been provided. You may wish to seek independent legal advice before refusing to transfer.

### 6.6.3.2 Switches To Personal Pensions (Including Self Invested Personal Pensions)

If the receiving pension is a contract based scheme, including a SIPP, you should check if the provider or operator is FCA registered<sup>24</sup>. A contract based scheme provider must be both FCA authorised and hold the relevant regulatory permission, e.g. “establishing, operating or winding up a personal pension scheme”.

Overseas firms passporting (now only possible for a Gibraltar firm) into the UK cannot provide a SIPP. They must be directly authorised with this permission as it is not passportable. Some purported SIPP overseas providers claim that they are passporting into the UK and are covered by the EEA passport on the Financial Services Register. This is not correct.

### 6.6.3.3 Suitability Reports

For transfers of safeguarded benefits (for example a transfer from a DB scheme), a suitability report will have been provided and although it is not a matter for the transferring scheme to request a copy or to assess the quality of the advice given, if the transfer documentation provided includes a suitability report, you may wish to review it as the FCA has identified that template reports with typos and obvious errors have been used and such a report would indicate a concern.

It is quite rare for a full suitability report to be provided to the transferring scheme, with most advisers simply providing a Section 48<sup>25</sup> statement.

You may also consider cases where the member insists on transferring against the advice provided to be of concern, particularly if the adviser who has given the advice not to transfer then continues to assist the member to make the transfer.

<sup>23</sup>A pension switch is where a transaction is not within the definition of pension transfer, but involves moving pension benefits from one scheme to another scheme of the same type. For example where a member is transferring benefits from a personal pension or stakeholder pension scheme (where there has been no previous transfer from a defined benefits scheme) to another personal pension/stakeholder pension scheme.

<sup>24</sup><https://register.fca.org.uk/>

<sup>25</sup>Section 48 of the Pension Schemes Act 2015 requires that trustees or scheme managers check that advice has been taken before allowing a transfer to proceed, where the proposed transfer involves a DB pension or other safeguarded benefits worth more than £30,000. The advice must be provided by a firm with the FCA permission to advise on pension transfers. FCA rules apply to advice provided by FCA authorised firms and, in particular, the FCA expect the firm to consider the assets in which their client's funds will be invested as well as the specific receiving scheme.

## 6.6.3.4 Overseas Residents & Advice

For members of UK pension schemes resident overseas, the expectation from FCA is that the dual adviser model where the UK FCA regulated IFA provided the DB transfer advice entirely in isolation from the overseas firm which provided the investment advice is no longer considered acceptable. The FCA's expectations are outlined in Sections 5.61 – 5.64 of their finalised guidance<sup>26</sup> and are as follows:

**5.61** If you are advising a client who lives overseas and wants to transfer their DB benefits overseas, your Appropriate Pension Transfer Analysis (APTA)<sup>27</sup> needs to consider the issues that make it different to a UK pension transfer. This includes:

- the levels of returns and local inflation rates, relative to fluctuations in exchange rates
- the level of charges on overseas arrangements
- different tax considerations
- different legislative frameworks and local levels of protection, for example, the equivalents to the Financial Services Compensation Scheme<sup>28</sup>

**5.62** You must consider the proposed receiving scheme in APTA. This may be a recognised overseas scheme or a UK personal pension marketed as an international SIPP which accepts

overseas investments within it. If you provide a Key Features Illustration for a UK based international SIPP, you should make sure it includes all the charges information both for the SIPP itself and the investments which will be placed within it.

**5.63** Whether you are engaging with an adviser in the overseas territory or dealing solely with your client, you will still be responsible for the DB transfer advice. This means you need to be confident you have a sufficient understanding of the relevant local market, including any applicable legislation and protection before you give advice. If you do not understand the relevant local market well enough, then you should improve your knowledge so that you can give advice, use a third party who has the relevant knowledge or decline to advise at all.

**5.64** Where an overseas adviser is advising on the proposed destination, you should be alert to additional risks, including the influence the adviser may exert on your client to act against your advice. When you advise against a transfer but the client chooses to proceed, you can be held liable for the actions of the client if you did not set out the risks of proceeding against advice in a way that was fair, clear and not misleading."

## 6.6.4 Red flag 4: The member requested a transfer after unsolicited contact

Unsolicited contact is defined as being "contact in person, or by telephone call, text message, letter, electronic mail, or direct message via social media, either from a party with whom the member had no existing client relationship or to whom the member states they had not previously notified consent to such contact".

Please note that the Regulations apply to the transferring scheme (the UK pension scheme) and apply regardless of the country in which the

member is resident. Although the cold calling ban only applies within the UK and ICO sanctions could not therefore be applied to an overseas firm engaging in such activity, it is now possible to stop the transfer.

The flag is present if you have a reasonable foundation to believe that the flag is present. You do not need to be certain.

<sup>26</sup><https://www.fca.org.uk/publication/finalised-guidance/fg21-3.pdf>

<sup>27</sup>Appropriate Pension Transfer Analysis

<sup>28</sup>There may be an absence of regulations and no Ombudsman or equivalent in some jurisdictions.

## 6.6.5 Red flag 5: The member has been offered an incentive to make the transfer

The Regulations list the following as incentives:

“an offer of one or more free pension reviews, access to some or all of the member’s pension savings before they attain normal minimum pension age, a savings advance or cashback from their pension savings”.

Please note the list in the Regulations is non-exhaustive.

The Regulations specifically exclude:

“an incentive to make the transfer offered by the trustees or managers of the transferring scheme, or by the member’s employer where that employer is a sponsoring employer of the transferring scheme, whether that incentive is provided directly by the trustees, managers or sponsoring employer, or by a person they have authorised to provide it”.

The Pensions Regulator’s guidance on employer-sponsored transfer incentive exercises<sup>29</sup> provides more detail.

Where a particular incentive is not listed in the Regulations, the Pensions Regulator expects trustees to decide whether the type of incentive offered indicates a heightened risk that the transfer might lead to a member being scammed. Some incentives offered could be considered normal industry practices. If you consider the transfer represents a low risk of a scam and your scheme rules allow, you may consider granting a discretionary transfer.

If you are uncertain whether a feature of the transfer could constitute an incentive, you should speak to your legal adviser.

Please see Section 2.5 for further comment.

## 6.6.6 Red flag 6: The member has been, or has felt, pressured to make the transfer

The member has been pressured to make this transfer or the member considers that they have felt pressured to transfer. It is possible that the member is not aware that they are being pressured and so you should also consider the behaviour of others involved in the transfer, such as an adviser or the receiving scheme.

Examples of the member being pressured could include direct coercion and putting the member under time pressure to make a decision through ‘time limited offers’. Passive actions such as having a courier wait for forms to be completed, without

allowing members sufficient time to review documents before signing them would also be an example of the member being pressured.

The flag is present if you have a reasonable foundation to believe that the flag is present. You do not need to be certain.

<sup>29</sup><https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/administration-detailed-guidance/incentive-exercises>

## 6.7 Are there any amber flags?

Please also refer to the Pensions Regulator Member Questions in their guidance<sup>30</sup>. You should also check for any member vulnerability. This may have been established during a call with the member or you may have a record of such vulnerability on your existing member records.

If an Amber flag is identified, the member only has a statutory transfer right once the member has provided confirmation that they have completed their MoneyHelper appointment. It is best practice to make sure you have assessed for the presence of all amber flags before requiring the member to attend the appointment.

### 6.7.1 Amber flag 1: The member's response to your request for evidence/information is substantive, but incomplete

If you have requested items of evidence or information from the member for the purposes of any of 1 to 3 below, the member's response will provide none, part, or all of the items requested:

1. The specified evidence to demonstrate the employment link;
2. The specified evidence to demonstrate if there is a residency link;
3. The evidence/information you consider necessary to decide if there are any red or amber flags present.

A substantive response is one which provides at least part of the items you requested, to the extent that you can decide that either:

1. part of the employment link/residency link (as the case may be) is demonstrated; or
2. red flags 3 to 6 (see sections 6.6.3 to 6.6.6) are not present.

In other words, if the member's response provides enough of the requested items to enable you to make either of decisions 1 or 2 above, it is a substantive response.

If the member's substantive response does not provide all of the items requested, then it is incomplete and you will decide amber flag 1 is present.

You cannot decide that amber flag 1 is present before you have sent a further request for the missing evidence/information, and at least one month has passed since you sent that further request.

If the member's response provides none of the items requested, it will not be a substantive response and this will likely mean you go on to decide Red Flag 1 is present (see section 6.6.1). It is of note that the explanatory memorandum<sup>31</sup> for the Regulations explains that an amber flag is the intended outcome where a member's response to a request for evidence or information made to demonstrate employment/residency link, or for the purposes of deciding if there are red/amber flags, is incomplete.

<sup>30</sup><https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/administration-detailed-guidance/dealing-with-transfer-requests>

<sup>31</sup>[https://www.legislation.gov.uk/uksi/2021/1237/pdfs/uksiem\\_20211237\\_en.pdf](https://www.legislation.gov.uk/uksi/2021/1237/pdfs/uksiem_20211237_en.pdf) para 7.16

## 6.7.2 Amber flag 2: Information may not be genuine or may not have been directly provided by the member

If the information or evidence requested may not have been provided directly by the member, even if there is an advisor with authority to act on behalf of the member, then it is an amber flag. The exception is where there is a Power of Attorney or other specified legal authority, when it can be submitted by:

- A Court of Protection Deputy
- A receiver who is treated as a deputy with the power to make a transfer on the member's behalf

- An attorney with the power to make the transfer request on behalf of the member, or
- A Scottish Judicial Factor or Guardian who has the power to make the transfer request on the member's behalf

There is also an amber flag if the information provided may not be genuine.

The flag is present if you have a reasonable foundation to believe that the flag is present. You do not need to be certain.

## 6.7.3 Amber flag 3: The member's response to your request for evidence to demonstrate the employment/residency link supplies all items requested, but the link is not demonstrated

To decide this amber flag is present, you must have reason to believe it is present.

This means:

- if the link to be demonstrated is the residency link, you must have reason to believe that the items of evidence provided do not demonstrate the residency link; or
- if the link to be demonstrated is the employment link, you must have reason to believe that the items of evidence provided do not demonstrate the employment link.

The flag is present if you have a reasonable foundation to believe that the flag is present. You do not need to be certain.

For example, it should be noted that this amber flag is not going to capture cases where the member does not work for the sponsoring employer and/or does not reside in the country/territory in which the QROPS is established; such cases are likely to be captured under amber flag 1 (see Section 6.7.1) or red flag 1 (see Section 6.6.1).

It is also of note that there is a separate amber flag in the event you have reason to believe that any evidence or information you have requested is not genuine or has not been provided by the member – see Section 6.7.8.

## 6.7.4 Amber flag 4: High-risk or unregulated investments are included in the scheme

The Regulations define an "unregulated investment" as an investment:

"(a)that is not a specified investment for the purposes of Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (specified investments);

(b)in respect of which the issuer, operator or provider is not subject to regulatory oversight in the United Kingdom in relation respectively to that issuance, operation or provision; or

(c)where activities carried on for the member in relation to the investment are not subject to regulatory oversight in the United Kingdom."

The Pensions Regulator guidance describes this as investments with a risk profile higher than an average member portfolio and investments in jurisdictions with low regulation.

Unregulated investments are typically offered as a single, one-off investment opportunity and are often correlated with unsolicited contact by telephone, email or via social media advertisements. They do not provide the level of investor protection available under a regulated arrangement. You may wish to reference the FCA Fund Register<sup>32</sup> to check the status and nature of the investments in the receiving scheme.

### Examples of unregulated investments:

- Hotels or hotel rooms, especially overseas
- Parking spaces
- Storage units
- Student accommodation
- International or UK forestry
- Land banking
- Overseas agriculture
- Overseas land
- Sustainable energy
- Commodities (e.g. gold, bamboo, diamonds, graphene, wine)
- Unregulated Collective Investment Schemes (UCIS)

The Regulations define "high risk" investments as "investments at the high end of the normal range of risk in the current financial market, and where the proportion of those investments is greater than that of a normally balanced portfolio in the current financial market".

Some investments can theoretically provide lucrative returns, but they tend to be come with high levels of risk of financial loss. While risk may be relative, high risk investments require a combination of experience, risk management, and financial education not normally seen in an ordinary pension scheme member. Such investments would generally be considered to be speculative. Receiving schemes may include some higher risk investments, but they would typically represent a relatively small proportion of the overall fund and be professionally managed.

### Examples of high-risk investments:

- Collective investment schemes (CIS) where the pooled monies are invested in illiquid or difficult to value assets, e.g. property, wine or art
- Contracts for difference – essentially speculating on a change in the value of an asset over time
- Land banking – where undeveloped land is bought up and held for potential future sale for development. Likely to be unregulated
- Crypto-assets (e.g. Bitcoin)
- Foreign exchange/currency trading
- Binary trades/options. Essentially speculating on the likelihood of one outcome rather than another. These have been banned by FCA for retail consumers due to their high risk of loss
- Peer-to-peer lending – while it looks like bank saving but offering higher rates of interest, the risk of default is high
- Equity crowdfunding – often investing in start-up companies or property
- High return bonds or mini-bonds
- Structured products
- Professional investor funds

<sup>32</sup><https://register.fca.org.uk/s/fund-search>

The Regulations define "included in" the receiving scheme as "investments that the receiving scheme will make with the member's pension savings immediately after the transfer is made, or is already making with the pension savings of other members of the receiving scheme".

The flag is present if you have a reasonable foundation to believe that the flag is present. You do not need to be certain.

## 6.7.5 Amber flag 5: The scheme charges fees which are unclear or high

The Regulations define "fees" as "all charges related to the transfer, or to the ongoing investment of the member's pension savings, or to early access to those savings, or to administration of, or exit from, the receiving scheme, including any charges to be levied by third parties in connection with any of these matters".

The Regulations define "high fees" as "fees that do not bear a reasonable relationship to the proposed benefits of the receiving scheme, or that are at the high end of, or beyond, the normal range of fees in the current financial market".

The FCA have also issued a specific warning<sup>33</sup> in respect of offshore investment bonds within international SIPPs and the high fees which may be incurred. The warning outlines that "Overseas advisory firms often invest consumers' pension funds through an offshore investment bond within an international SIPP. We are concerned that consumers who invest in this way may be exposed to high and/or unnecessary charges. We are also concerned that the tax benefits of investing through an offshore investment bond are largely redundant to someone investing in a UK personal pension scheme."

There may be instances where the member is unaware of the fees that they are being charged. If a member does not have an understanding of the level and type of fees that they are being charged, this could be interpreted as the fees being unclear.

Fees and charges for transfers and ongoing investments or administration are not always obvious or itemised. Ceding scheme trustees and administrators are not expected to be experts in different fund or product costs and advisory fees. Ceding scheme trustees and administrators are expected to look out for fees and charges that appear to be unreasonable or excessive in their ordinary experience of transfers. The amber flag is present if you have a reasonable foundation to believe that the flag is present. You do not need to be certain.

<sup>33</sup><https://www.fca.org.uk/news/news-stories/transferring-switching-uk-pensions-international-sipps>

## 6.7.6 Amber flag 6: The structure of investments included in the scheme is unclear, complex or unorthodox

An unorthodox investment structure is something which isn't common in the current financial market or where it may not be legal. Signs could include:

- No clear regulatory body regulating the investments
- Investments appear to be designed to avoid regulation or exploit loopholes
- Structure allows early access to funds or offers loans, unusually high guaranteed returns

The member may be asked to provide literature from the receiving arrangement showing details of the investments they intend to invest in, along with those that will be available to them.

Where the evidence provided clearly sets out the structure of investments in the receiving arrangement and does not give the trustees reason to believe these are complex, unclear or unorthodox, the transfer can proceed on the basis that this amber flag is not present.

The Regulations define "included in" the receiving scheme as "investments that the receiving scheme will make with the member's pension savings immediately after the transfer is made, or is already making with the pension savings of other members of the receiving scheme".

The flag is present if you have a reasonable foundation to believe that the flag is present. You do not need to be certain.

## 6.7.7 Amber flag 6: Overseas investments are included in the scheme

Please see Section 2.4 for more comment on this flag.

The Regulations define "overseas" as "wholly or partly outside of the United Kingdom". The Regulations define "included in" the receiving scheme as "investments that the receiving scheme will make with the member's pension savings immediately after the transfer is made, or is already making with the pension savings of other members of the receiving scheme".

Please note the specific guidance from the Pensions Regulator which outlines that "standard" overseas investments such as a global equity fund are not the concern here, however they appear to be an amber flag under the Regulations.

The flag is present if you have a reasonable foundation to believe that the flag is present. You do not need to be certain. If the transfer is an overseas transfer or a transfer to an International SIPP, it is reasonable to believe that overseas investments will be included.



## 6.7.8 Amber flag 8: A sharp or unusual rise in transfers involving the same scheme or adviser

Compared to the rate of transfers over a similar period, there has been a sharp or unusual rise in the volume of requests to make a transfer from the transferring scheme, either to the same receiving scheme as that to which the current request to make a transfer is made, or involving the same adviser or firm of advisers (or both).

A sharp or unusual rise in the volume of transfers is as compared to the volume of transfers over a similar period. These periods could be weekly, monthly quarterly or annually and it is likely to depend on how you were previously monitoring transfer activity for due diligence purposes. For example, if you were measuring transfer activity on a monthly basis then you could have identified an unusual rise in transfer volume as a potential pension scam warning sign, even if you weren't able to delay or block the transfer. This is now an amber flag enabling you to refer the member to MoneyHelper guidance.

Please note the specific reporting requirement where you identify a sharp or unusual rise in transfer requests involving the same adviser which is a cause for concern, that you should report this to the FCA via email to either:

- [DBTransferSchemeInformation@fca.org.uk](mailto:DBTransferSchemeInformation@fca.org.uk).
- [DCTransferSchemeInformation@fca.org.uk](mailto:DCTransferSchemeInformation@fca.org.uk).

Administrators should monitor the number of transfer requests being made from one month to the next on a scheme by scheme basis and any noticeable changes in patterns and volumes, both in terms of adviser involvement and receiving arrangements should be investigated. If access is available to wider information (for example across all schemes administered by an administrator) this should also be assessed.



# 07

## COMMUNICATION REQUIREMENTS

There are a number of communication requirements under the Regulations at different stages of the transfer process.

### 7.1 Early member notification of the requirements of the Regulations

The Regulations require that a member is notified of the requirements of the Regulations when a statutory transfer or Defined Benefit transfer quotation is requested.

For a statutory transfer, the member must be notified of the conditions to be met within one month of requesting a transfer (Money Purchase Benefits) or of requesting a Cash Equivalent Transfer Value (Benefits other than Money Purchase). This notification is not required if the transfer is made within one month of the request.

### 7.2 Additional member information requests

As outlined in Section 6.6.1, if you believe that the member has failed to provide a substantive response (as defined in the Regulations) to a request for evidence, you should send a reminder at least one month after the initial request. If there is still insufficient evidence after one month from the reminder being sent, this is a red flag.

If you decide that the member has provided a substantive response to a request for evidence or

information, but the response is still incomplete because not all of the evidence or information requested has been provided, you should issue a further request to the member to provide the evidence or information missing from the member's response. If the member has not provided the missing evidence or information one month since the further request was sent, this is an amber flag (as outlined in Section 6.7.1).

## 7.3 MoneyHelper referrals & timeframes

If a transfer request requires referral to MoneyHelper, you should:

- explain in simple terms that a safeguarding appointment is necessary before the transfer may be made;
- explain that the appointment will take around 45 minutes and gives the member the chance to speak to a specialist about their situation and that MoneyHelper will ask the member for high-level information during the appointment to help tailor it to the member's circumstances and needs;
- inform the member of the amber flag(s) creating the need for MoneyHelper guidance. This will help the member understand why they are being referred and help to ensure that the appointment is better focused on the relevant concern. There is, of course, a risk that the member could be coached by a scammer on what to say in their guidance session, but the risk may be outweighed by the improved experience;
- inform the member of how to book their appointment, either online (<https://www.moneyhelper.org.uk/pension-safeguarding>) or by calling MoneyHelper;
- stress that the member should make an appointment with MoneyHelper in relation to scams guidance and not to PensionWise;
- set expectations of timescales for the appointment with the member as best you can;
- provide a date by which the member will need to provide evidence of having completed the appointment. Where practical, the date given will be around two weeks prior to the expiration of the statutory period in which the member's cash equivalent would usually need to be paid. This is to allow sufficient time for the administrator to process the member's request to transfer prior to the statutory payment deadline;
- Where you know that the member has more than one transfer in progress, for example through consolidating multiple pensions, they should be advised make one appointment to include all referrals required by each scheme. This may mean waiting until they have responses from all the schemes and could delay the transfer process.

## 7.4 Confirmation of transfer made

When you make any statutory transfer, you must ensure that confirmation of the basis on which the transfer has been made is sent to the member no later than the date on which the member is sent confirmation that the transfer to the receiving scheme has been made. This means that you

must ensure that they are told whether it is a First Condition or a Second Condition transfer. The confirmation may be provided by the receiving scheme.

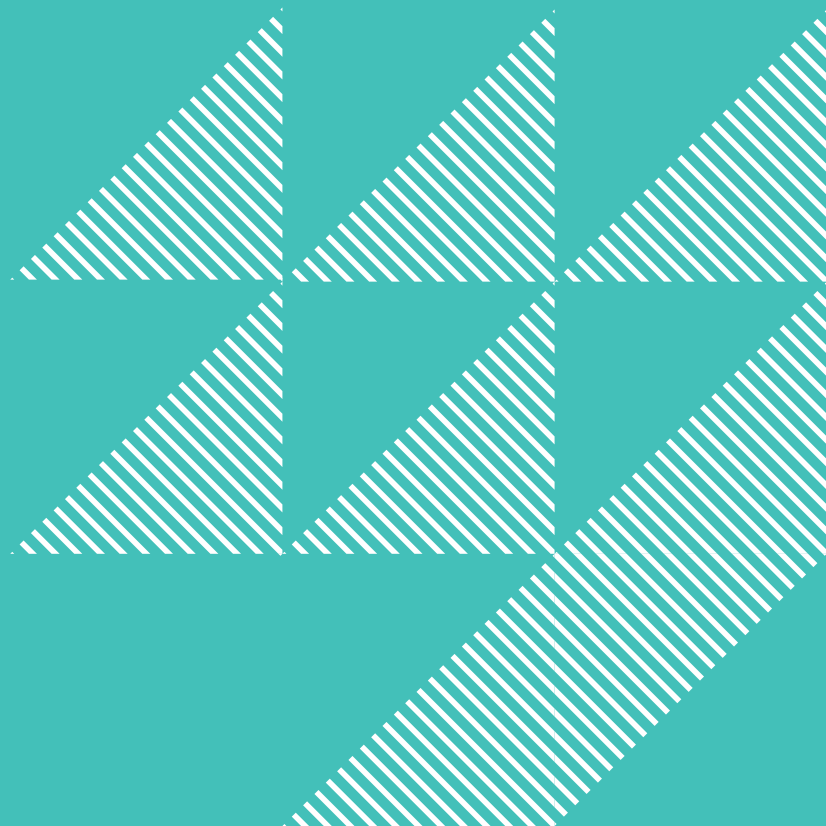
## 7.5 Confirmation of refusal to make the transfer

If you decide that neither the First nor the Second Condition is met, you must confirm to the member that:

- neither of the two conditions has been met;
- they have lost the statutory right to make the requested transfer and;
- under which legislation it has been lost.

within 7 working days of the date of your decision.

# PART B



# 08

## USE OF DISCRETIONARY POWERS UNDER THE SCHEME RULES

### 8.1 General principles

The Regulations<sup>34</sup> are designed to empower pension schemes to protect members from the risk of pension scams. They do not restrict pension schemes from making discretionary transfers. This section assumes your scheme rules permit discretionary transfers. You should therefore review your scheme's governing documentation to check whether you have the power to make a discretionary transfer and the applicable terms. For example, a pension scheme might allow a discretionary transfer if the only reason the statutory right does not exist is that it is a partial transfer. You should check the terms of the power and ensure that its use is a proper use of that power, taking account of relevant factors. You may wish to take legal advice on this if you are unsure.

Although discretionary transfers are not restricted by the Regulations, discretionary transfers should not be used to avoid your duty to carry out appropriate due diligence. Due diligence under a discretionary transfer process should be robust. Schemes may wish to use a discretionary transfer power where the member does not have a statutory transfer right (for example the member does not meet all the criteria under the Transfer Value Regulations). As noted above, you may

also wish to use a discretionary transfer power to mitigate the risks of using a clean list where a flag is present which raises no pension scam concerns, for example, the overseas investment issue.

If a discretionary transfer is being made in these circumstances, you may wish to follow a similar due diligence process as you would for a statutory transfer (see Section 6 above).

Trustees should put in place a policy concerning the exercise of discretionary transfer powers. Trustees who already have the discretionary transfer power policy in place should review it in light of the Regulations.

If your scheme permits discretionary transfers, but you have identified pension scam concerns, then you may decide to establish whether a statutory right exists and so consider it appropriate to refer the member to MoneyHelper guidance or decide to refuse the transfer.

It should be noted that some schemes will not have a discretionary transfer power and therefore can only make statutory transfers.

<sup>34</sup>The Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 (2021/1237) <https://www.legislation.gov.uk/uksi/2021/1237/contents/made>

## 8.2 Use Of Discretionary Powers Under The Scheme Rules

### 8.2.1 Compilation

A clean list for non-statutory transfers is simply a list of pension schemes or providers to which you're happy to transfer without undertaking transfer specific due diligence. This mitigates the risk of you unnecessarily delaying a transfer by undertaking unnecessary due diligence where you know there are no pension scam concerns.

As any destination scheme included on your clean list may be transferred to without additional due diligence, it is essential you only include a destination scheme where there is no material risk of a pension scam. However, not including a transfer destination scheme on your clean list does not mean there is necessarily a material risk of that destination scheme being connected to a pension scam.

It is likely that your clean list will include all transfer destination schemes which meet the First Condition under the Regulations, i.e.

- A public service pension scheme,
- An authorised Master Trust, or
- An authorised Collective Money Purchase scheme.

Other destination schemes should be assessed against clear risk-based criteria, considering factors which mitigate or increase the risk of the destination scheme being connected to a pension scam. **You should decide which factors are relevant and how they should be weighted.** These factors could include:

- Whether the pension scheme provider or administrator is FCA authorised and regulated
- Available investments, e.g. funds, shares, non-FCA regulated or non-standard investments
- Adverse media coverage
- Due diligence undertaken by destination pension scheme on permitted investments available to members of the destination scheme
- Membership of relevant industry bodies
- Member of electronic transfer service such as Altus or Origo

- Presence on the FCA Watchlist

For some of these factors a desktop review may be sufficient. For others, such as due diligence on permitted investments, you may need to contact the receiving scheme or provider.

Your clean list should be subject to documented governance and regularly reviewed.

A destination scheme may not be on your clean list for the following reasons. The first reason is that you have undertaken due diligence on the destination scheme and you are **not** satisfied that there is no real risk of the destination scheme being connected to a pension scam. If this applies, then you should undertake additional due diligence for each transfer to that destination scheme.

Alternatively, you may have not yet undertaken due diligence on the destination scheme to determine whether the destination scheme should be clean listed. If this applies you may wish to undertake due diligence on the destination scheme before proceeding and/or additional due diligence in relation to the particular transfer. Your approach may depend on your assessment of how many more transfer requests you're likely to receive for that destination scheme.

If the destination pension scheme is on your clean list, then you can continue with the transfer. If the destination scheme is not on your clean list, then you should undertake additional due diligence in relation to the particular transfer.

While a clean list relates to receiving arrangements, some administrators may in addition, maintain a watchlist of schemes or actors where concerns have been noted and where extra care should be taken with transfer requests involving such schemes or actors. The FCA watchlist should also be consulted.

## 8.2.2 Maintenance

The contents of the clean list should be reviewed regularly. You will need to decide how regularly to review each scheme or provider on the clean list. This will depend on your processes (or those of your administrator) to identify any changes which may indicate the presence of flags. This maintenance may include adding new arrangements, amending information held, or removing any arrangement where it is believed they should no longer be included.

Any unusual rise in transfer activity to a particular arrangement and/or involving the same adviser, as well as information learned through other sources should also be considered. Periodically the type of information being held should be re-assessed to ensure this remains appropriate.

Administrators should maintain full version control of updates to the clean list and retain archived versions so that it retains a 'time-travel' facility should the position at a date in the past ever need to be checked.

## 8.3 Additional due diligence in relation to the particular transfer

Your due diligence should be designed to establish whether you have a reasonable basis to make a discretionary transfer. There is likely to be significant overlap between the due diligence for a discretionary transfer and the due diligence required for a statutory transfer. This due diligence may include a conversation with the transferring member if that is appropriate.

If you are not happy to make a discretionary transfer, then you should assess whether the member has a statutory transfer right. The information required to assess a statutory transfer right should be obtained as part of your due diligence process for assessing a discretionary transfer.

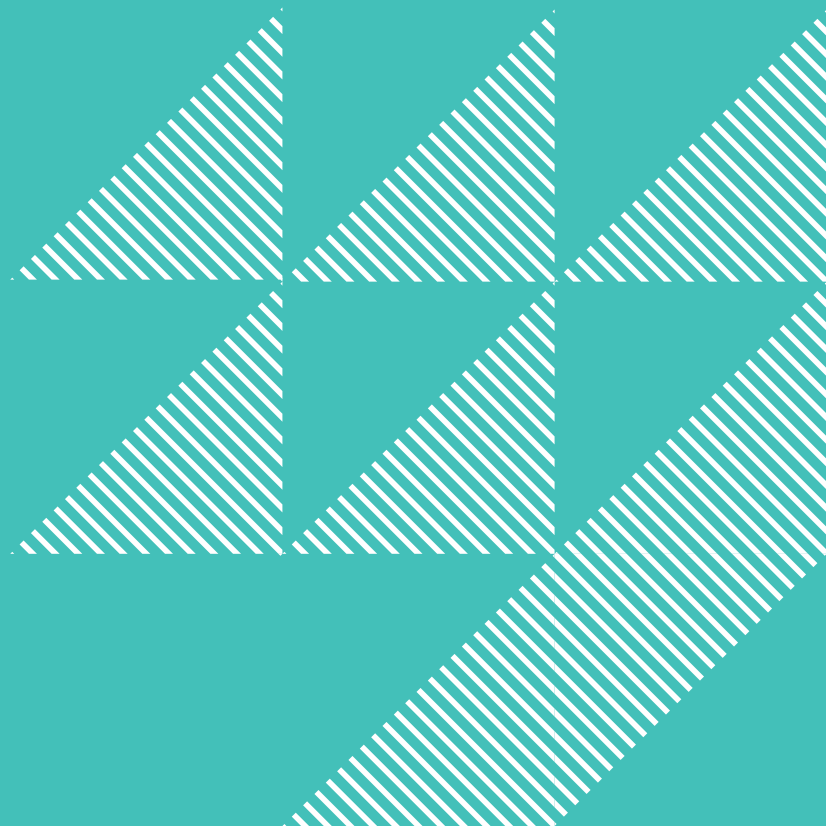
## 8.4 Assess statutory right

Based on your due diligence and the information and evidence you have received from the member, if you have now decided that you have pension scam concerns, one of the following options may now apply:

- There is no statutory right and you will refuse the transfer
- There is a red flag therefore there is no statutory transfer right and you will refuse the transfer

- There are no red flags, but there is an amber flag and you will refer the member to MoneyHelper guidance. Until the member has provided you with evidence of attending a MoneyHelper guidance session there is no statutory transfer right and you will refuse the transfer.

# PART C





## 09

# TRUSTEES AND ADMINISTRATORS

Many trustee boards will delegate some or all of the requirements under the Regulations to their administrators. As with all delegated functions, the trustee board will remain liable for the actions of the scheme administrators in respect of delegated functions. As a result, it is important that trustees engage with their administrators in relation to how they have adapted their transfer processes in light of the Regulations and whether the trustees have a policy in place concerning the exercise of their discretionary powers.

In particular, trustees may wish to discuss the following with their administrators (taking legal advice where necessary):

- do the administrators intend to use a clean list?
- how do the administrators intend to compile, operate and maintain their clean list?
- can the administrators' clean list be shared with the trustees (having line of sight in relation to the schemes on the clean list may provide comfort to the trustees in relation to the use of a clean list)?
- can updates to the list can be shared, either once an update is made, or on a periodic basis or as part of regular administration reports?
- confirm that the new processes (including maintenance of the clean list) will form part of the "services" under the trustees' contract with the administrators and so form part of their Service Level Agreement (SLA) and liability provisions;
- the extent to which additional correspondence and due diligence required in light of the Regulations will be covered by existing fixed fee arrangements;
- whether ongoing reporting to the trustee board will include information on the number of transfer requests with amber or red flags;
- whether the administrators intend to apply the same processes to discretionary transfers as to statutory transfers;
- arranging a review of the member communications and discharges that will be used for transfers, including any template letters to be used where an amber or red flag is present;
- the extent to which red and/or amber flag decisions will be delegated to the administrators, or need to be referred to the trustee board or a sub-committee for approval;
- the extent that red and/or amber flag decisions are to be referred to the trustee board or a sub-committee:
  - what will the format/template for such referrals be (for example, the trustees may want to ask the administrators to prepare: a concise case summary; flag any specific issues in relation to which legal advice is required; a checklist of the information collected; any relevant observations for the trustees' consideration; and a proposal/recommended decision)?
  - trustees should consider whether they require all of the supporting documentation that has been gathered as part of the due diligence to be sent to them, or just the information referred to above;
  - given the importance of quick decision-making in order to meet the deadlines for transfer implementation, will the trustees form a sub-committee to enable them to handle referrals expediently?
  - whether to agree a review of how the arrangements are working, for example six months after implementation.
- to the extent that a transfer protocol has already been agreed in relation to the Regulations, will any changes to that protocol be required in light of this Code?

# 10

## ADDITIONAL GOOD PRACTICE

### 10.1 Communicating the risks of scams to members

#### 10.1.1 Raising awareness

You should regularly warn members about the risk of scams by including scams materials in annual benefits statements, on pre-retirement letters and also, where possible in transfer packs.

The pension scams warning “Beware of pension scams. Falling foul of a scam could mean you lose some or all of your money” or similar messaging and a link to the ScamSmart website<sup>35</sup> should be included in these documents.

Their inclusion in the pre-retirement letters helps members understand the risks of investment scams which target their retirement savings and, in particular, their lump sum once in their own hands.

In addition, when responding to any requests for information on transfers, as outlined in the Pensions Regulator’s Combat Scams Pledge<sup>36</sup>, you should consider referencing the Pensions Regulator’s latest pension scams awareness material<sup>37</sup> and including the Pensions Regulator’s scams warning member leaflet<sup>38</sup>.

For all Defined Benefit (DB) scheme members who request a transfer out (CETV) statement of entitlement, you should provide them with a link to FCA information on considering a pension transfer from a defined benefit pension.<sup>39</sup>

For all Defined Benefit (DB) scheme members who request a transfer, the letter template<sup>40</sup> prepared jointly by the Pensions Regulator, the FCA and the Money and Pensions Service (MaPS) should be issued. The letter contains important information on points the members should consider before making a decision and where they should go for impartial guidance.

When responding to requests for information, you should ensure that you provide information only to those authorised to receive such information.

Pension scam information should also be included prominently on your website and on any apps, web forms or pages used by your members.

Where a member contacts you to say that they think they may be the victim of a pension scam, full evidence of the attempted scam should be captured, and reported to the appropriate authorities as outlined in Section 12.

<sup>35</sup><https://www.fca.org.uk/scamsmart>

<sup>36</sup><https://www.thepensionsregulator.gov.uk/en/pension-scams/pledge-to-combat-pension-scams>

<sup>37</sup><https://www.thepensionsregulator.gov.uk/en/pension-scams>

<sup>38</sup>[https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/16423\\_pensions\\_consumer\\_leaflet\\_screen.ashx](https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/16423_pensions_consumer_leaflet_screen.ashx)

<sup>39</sup><https://www.fca.org.uk/consumers/pension-transfer-defined-benefit>

<sup>40</sup><https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/cetv-members-letter.ashx>

## 10.1.2 Lump sum & income drawdown requests

As outlined in the Pensions Regulator's Scams Pledge requirements, you should encourage members asking for a lump sum or income drawdown to contact Pension Wise (part of the Money & Pensions Service) for free and impartial guidance either online or via their dedicated helpline.

You should do this in annual benefit statements, transfer and retirement packs as well as in member telephone calls and digital member journeys.

The Pensions Regulator expect this each time income drawdown is asked for and not just on the first request. Since 1st June 2022, the Stronger Nudge to Guidance requirements<sup>41</sup> may require that that you do so.

## 10.2 Potential Additional Checks

Before finalising your decision on whether or not to make the transfer, you should:

1. Check if you have identified this scheme, the administrator or any of the parties involved in the transfer as suspicious (as referenced in Section 6.5). Your organisation should keep a list of these and you should also check the FCA warning list<sup>42</sup>.
2. Check if there is any suspicion that the scheme administrator, trustee or anyone connected with the scheme has been linked to pension scamming or to anyone connected with the administration or trusteeship of a scam. Google searches, internal lists, or FCA cases may identify individuals involved in scams. In this regard, you should consider becoming a member of the Pension Scams Industry Forum (PSIF). PSIF shares intelligence on schemes and entities of concern with its member organisations. Details of how to apply for membership can be found on the PSIG website **[www.pensionscamsindustrygroup.co.uk](http://www.pensionscamsindustrygroup.co.uk)**.
3. Consider whether there are there any other causes of concern including the additional information sources in the following section.

### 10.2.1 Additional Information Sources

Trustees and providers should request information from HMRC to complement their own due diligence on any transfers of concern.

<sup>41</sup><https://www.fca.org.uk/publications/policy-statements/ps21-21-stronger-nudge-pensions-guidance-feedback-cp21-11-and-final-rules-and-guidance> and [https://www.legislation.gov.uk/uksi/2022/30/pdfs/uksi\\_20220030\\_en.pdf](https://www.legislation.gov.uk/uksi/2022/30/pdfs/uksi_20220030_en.pdf) and <https://www.legislation.gov.uk/uksi/2021/1237/contents/made>

<sup>42</sup>[https://www.fca.org.uk/scamsmart/warning-list?gclid=CjwKCAiA6aSABhApEiwA6Cbmysk1hX0iP2UvOpymBrvYr15A7M4OEw8uznZOEEwYaczMNyyNwRG2RoCuBAQAvD\\_BwE](https://www.fca.org.uk/scamsmart/warning-list?gclid=CjwKCAiA6aSABhApEiwA6Cbmysk1hX0iP2UvOpymBrvYr15A7M4OEw8uznZOEEwYaczMNyyNwRG2RoCuBAQAvD_BwE)

## 10.2.1.1 HMRC requests

If you have grounds to think the scheme is no longer registered or if you have concerns in addition to an amber or red flag, you should query the registration of the receiving scheme with HMRC and include all the relevant details. To do this you must either attach your enquiry letter to an email and send it to **pensionschemes@hmrc.gov.uk** or write to:

Pension Schemes Services  
HM Revenue & Customs  
BX9 1GH  
United Kingdom

It may be several months before HMRC respond. You should therefore bear this in mind when considering the timing of your request to HMRC. HMRC requests are only likely to be appropriate where you have identified pension scam concerns, but are unable to refer to guidance or block the transfer because neither an amber flag nor a red flag has been triggered.

Currently HMRC provides one of the following responses to the enquiry:

RESPONSE 1	RESPONSE 2
<p>HMRC confirms that at this time, both of the following apply:</p> <ul style="list-style-type: none"> <li>the receiving scheme is registered with HMRC and is not subject to a deregistration notice; and</li> <li>the information held by HMRC does not indicate a significant risk of the scheme being set up or being used to facilitate pension scams.</li> </ul>	<p>HMRC only provide confirmation of registration status when both of the following apply:</p> <ul style="list-style-type: none"> <li>the receiving scheme is registered with HMRC and is not subject to a deregistration notice; and</li> <li>the information held by HMRC does not indicate a significant risk of the scheme being established or being used to facilitate pension scams.</li> </ul> <p>At this time one or both of these conditions does not apply. HMRC is therefore unable to provide the confirmation you have requested.</p>

If response 1 is received, you should use your other due diligence. It should be stressed that a response 1 is not an HMRC endorsement or recommendation in respect of the scheme.

If response 2 is received, then HMRC have been unable to confirm that the receiving scheme is either a registered pension scheme (one of the requirements for the statutory transfer right to exist<sup>43</sup>) or that the scheme does not present a significant pension scam risk. The transfer should be refused if a response 2 is received. A ceding scheme which receives this response has no

certainty that the transfer can be made using a statutory right or even that the transfer would be an authorised payment. It is also possible that the ceding scheme's rules would preclude payments which are not authorised payments.

If the receiving scheme is not HMRC registered, then the payment would be unauthorised and subject to tax charges<sup>44</sup>. The scheme administrator should also file an Event Report in respect of the unauthorised payment<sup>45</sup>.

<sup>43</sup>A recent Pensions Ombudsman determination (PO-16907 Mr N) has confirmed that an inability to confirm the registered status of a receiving scheme was a basis to assert that the scheme had failed to comply with the prescribed requirements of section 95 of the Pension Schemes Act 1993. Ombudsman determinations are not binding although serve as a guidance.

<sup>44</sup>PTM131000 - Unauthorised payments: essential principles - HMRC internal manual - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>45</sup>PTM161000 - Information and administration: the event report: contents - HMRC internal manual - GOV.UK ([www.gov.uk](http://www.gov.uk))

## 10.2.1.2 Law Enforcement Intelligence

The Pension Scams Action Group (formerly Project Bloom), the multi-agency initiative chaired by the Pensions Regulator which aims to combat pension scams, arranged for reports of pension scams to be made to Action Fraud and these reports are analysed by the National Fraud

Intelligence Bureau (NFIB). On occasion, NFIB uses the reports to produce alerts for the industry that can be used as part of the due diligence process.

## 10.3 PASA Good Practice Guidance for Transfers

The Pensions Administration Standards Association (PASA) has published Good Practice Guidance on Defined Benefit (DB) transfers guidance<sup>46</sup>. This includes information on the new statutory transfer regulations as well as a number of recommendations to ensure that legitimate transfers are not unnecessarily delayed. Guidance for defined contribution (DC) transfers has also been recently published<sup>47</sup>.

<sup>46</sup><https://www.pasa-uk.com/wp-content/uploads/2022/05/PASA-DB-Transfers-Good-Practice-Guidance-Final.pdf>

<sup>47</sup>PENSION ADMINISTRATION STANDARDS ASSOCIATION (pasa-uk.com)

# 11

## ADDITIONAL CONSIDERATIONS

### 11.1 Extensions

If the trustees or administrators of an occupational pension scheme need more time for due diligence, then it may be possible to apply to the Pensions Regulator for an extension of the normal six-month time period for transfer payments in respect of statutory transfers.

An extension request should be considered early in the due diligence process, particularly if there is a risk that a safeguarding appointment may be required, in order to make sure the application is made before the extension is required. As the decision to extend is made by the Determinations Panel, it is not possible to accommodate later submissions. It should be noted that pension scam concerns are not specifically referenced in the criteria for an extension but the following may be applicable:

- The member has not taken all such steps as you can reasonably expect in order to satisfy you of any matter which falls to be established before you can properly carry out what the member requires
- You have not been provided with such information as you reasonably require properly to carry out what the member requires

Where an extension is applied for, the trustees should consider notifying the member.

### 11.2 Withdrawal of transfer application

During the due diligence process, a member could withdraw their transfer request. This could be because the information you have supplied and the questions you have asked have led the member to realise that the transfer is possibly connected with a pension scam. Section 100(1) of the Pension Schemes Act 1993 requires that notice of the withdrawal of the request is provided in writing.

Where this happens you should document any identified concerns and retain any written evidence and notes or recording of calls in case further transfer requests to the same scheme are received from this or another member.

## 11.3 Transfer requests from a Defined Benefit (DB) Scheme to a Defined Contribution (DC) Scheme – Advice Requirements

If the member is considering making a transfer from a defined benefit (DB) scheme to a DC scheme you must make sure that any member requesting a transfer with a value of more than

£30,000 has had advice from an FCA regulated adviser. The adviser must have permission for the activity of 'advising on pension transfers and pension opt-outs'.

## 11.4 Governance

Trustees/providers need to have appropriate procedures and governance in place to determine the pension scam risk and whether to transfer. This may include independent legal advice.

Your decision may be challenged by the receiving scheme or by a member complaint. You should have sufficient support and governance in place to deal with such challenges or complaints and appropriate management information (MI) for your risk management and monitoring (as outlined in Section 11.6). If you are able to show that the statutory transfer regulations, Pensions

Regulator guidance and principles in this Code have been followed, this should assist in any defence against allegations that the decision has been made incorrectly; although following the Code still might not prevent a claim being brought.

All concerns, including whether any red or amber flags have been identified, written evidence and notes or recording of calls should be documented.

## 11.5 Data Protection

You must also ensure that you comply with data protection requirements. Chapter 1 Section 6 of the DWP Consultation Response<sup>48</sup> reads as follows:

"Though they build on current due diligence processes, the regulations will require schemes to process their members' data for a new purpose and to potentially ask for additional data from members. This includes, where relevant, to establish whether the employment link or residency link are demonstrated, or to establish the presence of the red and amber flags, where

their current due diligence does not enable them to decide if the flags are not present. Trustees and scheme managers should ensure that they comply with the relevant UK GDPR principles, and that members are made aware of what additional data is being collected and the purpose for which it will be processed. Guidance on UK GDPR requirements and Data Protection Impact Assessments is available from the Information Commissioner's Office (ICO)".

<sup>48</sup><https://www.gov.uk/government/consultations/pension-scams-empowering-trustees-and-protecting-members>

## 11.6 Management Information

Appropriate management information should be developed and maintained. This should include details of all transfers refused, paid following a MoneyHelper appointment or cancelled by the member when concerns have been raised with them either by you as part of your due diligence or following the MoneyHelper appointment.

You may also wish to capture the number of cases you report as well as the number of cases paid under discharge. You may also wish to capture the number of discretionary as opposed to statutory transfers which are made as well as the number of cases which are caught by each red and amber flag.

## 11.7 Member appeals

A member may challenge a decision to refuse a transfer. This challenge may be informal or part of a formal complaint. As part of the challenge, the member may provide sufficient additional information to satisfy the concerns that led to the transfer being refused. If so, you need to reconsider your decision.

If you decide that the transfer should still not proceed because the concerns have not been

resolved, you must notify the member that the original decision not to transfer stands.

If you decide that the transfer should proceed, then the transfer should be processed as quickly and efficiently as possible. You may wish to ask the member to complete a 'discharge form' as outlined in Section 5.2.

## 11.8 Direct Pension Scams

Many pension scams are not pension transfers or switches but are where the member is persuaded to access some or all of their tax-free lump sum or pension savings to purchase some form of inappropriate investment. The new transfer regulations have no bearing on these scams

as they are perpetrated directly on the pension scheme member. There is no transferring scheme to offer the protection of due diligence checks. In terms of prevention therefore, the scheme is limited to the member communications outlined in Sections 10.1.1 and 10.1.2

### 11.8.1 Brand Impersonation Scams

Some of these investment scams are entirely bogus and it is simply theft. One such example of such fraud is "cloned firm" scams. These scams occur when an investor is conned into believing that they are purchasing a genuine investment product (typically some form of bond) from a provider. The scam is facilitated through the setting up of fake online investment comparison websites in order to capture prospective investors' personal information and contact details. Once these details have been captured, the victim is contacted by the fraudsters pretending to

be from the provider (frequently using fake email addresses which are made to look like email addresses of genuine members of staff) and offered an investment product. These fake products offer realistic rates of return so as not to raise concerns and even offer fake online servicing platforms so victims do not become suspicious. Websites have been created which closely resemble genuine login screen which allows victims to login and view the "bonds" they have purchased.



In terms of prevention, if you are a provider, you should consider investing in software which can check for any new domain names which are similar to the valid brand domains that you own. If any are identified, you should liaise with Action Fraud to take the fake websites down as quickly as possible to protect both customers and potential

customers and also to protect your brand from misuse and criminal exploitation. If Action Fraud require any additional information following the submission of the initial report, they may issue an External Suspension Request Form for completed and return to **NFIB-Disruptions@cityoflondon.pnn.police.uk**.

## 11.8.2 Social Engineering Scams

In addition to both brand impersonations and the investment scams referred to in Section 3.2, UK pension scheme members have also fallen victim to social engineering scams where, for example, they are contacted by a fraudster pretending to be from their bank and convincing the member

that their money is somehow at risk and has to be transferred to a supposedly “safe location”. Large sums of money have been lost to such scams. Members reporting such losses should be asked to report to Action Fraud.

## 11.8.3 Victim Support For Financial Scams

The Pension Scams Action Group (PSAG) is developing a proposition to coordinate and support victims of a pension scam. Such support is likely to take the form of individual guidance for victims on how to seek redress as well as to explore alternative ways to make up the loss and to signpost to sources of mental health support. This is not yet in place.

For any actual scams which are reported to you, you should liaise with the victim to capture as much information as possible in respect of the scam. This should include details of how the contact was initiated and any telephone numbers, websites and emails. You should encourage the member to report to Action Fraud or Police Scotland. (see Section 12).

For other financial scams reported to you by a member, you should try to be as helpful as possible. In addition, you should also ask the victim to:

- Contact their bank. The bank will take action to protect their account so no more funds can be withdrawn. They can also block and replace debit and credit cards if these have been compromised. They can also advise if any money can be recovered.
- Change any passwords
- Report to Action Fraud or to Police Scotland (see Section 12)

- Regularly check their credit file to monitor and identify any suspicious activity.

You should also inform the victim of the many sources of support which may be available. These include:

- National Economic Crime Victim Care Unit (NEVCU) (<https://www.actionfraud.police.uk/victim-resources>)
- Money & Pensions Service (MaPS) support provided by MoneyHelper – <https://www.moneyhelper.org.uk/en> or by calling **0800 138 7777**
- Victim Support <https://www.victimsupport.org.uk/> and <https://www.victimsupport.org.uk/more-us/why-choose-us/specialist-services/fraud-and-cyber-crime/>
- Which – <https://www.which.co.uk/consumer-rights/advice/how-to-get-your-money-back-after-a-scam-amyJW6f0D2TJ>
- Mind <https://www.mind.org.uk/>
- Citizens Advice <https://www.citizensadvice.org.uk>
- The Samaritans: [www.samaritans.org.uk](http://www.samaritans.org.uk). Victims can also call the Samaritans on 116 123 free of charge. Their helpline is open 24 hours a day, 365 days of the year.
- <https://www.fca.org.uk/consumers/protect-yourself-scams>
- <https://takefive-stopfraud.org.uk/>

# 12

## REPORTING

All transfers of concern should be reported. Greater detail is available from the Pensions Regulator's guidance published in July 2022<sup>49</sup> and the FCA's guidance<sup>50</sup> published in February 2023 and includes:

- All transfers which are refused.
- All transfers where you have pension scam concerns even if a statutory transfer right has been confirmed following completion of the MoneyHelper appointment.
- All transfers which are cancelled by the member when concerns significant enough to warrant reporting have been raised with them.

If you subsequently find that you have made a transfer in good faith that you now deem to be suspicious, you should also report it to the appropriate authorities.

As per the Pensions Regulator's guidance, reporting should be made as follows:

In England, Northern Ireland and Wales, you should report fraud, cyber-crime or concerns about a potential scam to Action Fraud by submitting a crime report or an information report. To do this, visit <https://reporting.actionfraud.police.uk/registration> and register as a business user. You can then submit your report.

If you are making multiple reports, you can request access to an Expert Reporting Tool by contacting [BSM.NFIB@cityoflondon.police.uk](mailto:BSM.NFIB@cityoflondon.police.uk). Your request will be reviewed to ensure this tool is appropriate for the reports you wish to make before access is given. You should encourage victims to report to Action Fraud at: [www.actionfraud.police.uk/reporting-fraud-and-cyber-crime](http://www.actionfraud.police.uk/reporting-fraud-and-cyber-crime) or by phone on **0300 123 2040**.

If they live in Scotland, you should ask them to call Police Scotland on **101** or Advice Direct Scotland on **0808 164 6000**.

In addition:

Once you have reported to Action Fraud, you should also report to the FCA.

Any transfers of concern should be reported to the FCA ([IntelligenceConsumerHarm@fca.org.uk](mailto:IntelligenceConsumerHarm@fca.org.uk)) or to one of the following mailboxes:

- DB to DC transfers:  
**[DBTransferSchemeInformation@fca.org.uk](mailto:DBTransferSchemeInformation@fca.org.uk)**
- DC to DC transfers:  
**[DCTransferSchemeInformation@fca.org.uk](mailto:DCTransferSchemeInformation@fca.org.uk)**

In addition, for whistleblowing and breaches of the law, you should also report to the Pensions Regulator if:

- you feel you have to refuse a statutory transfer payment even though all of the requirements are met and you consider the request valid but the warning signs of a scam are too strong for you to be comfortable with any other course of action
- there is a breach of the law, as set out in the reporting breaches code of practice: **[www.tpr.gov.uk/en/document-library/codes-of-practice/code-1-reporting-breaches-of-the-law](http://www.tpr.gov.uk/en/document-library/codes-of-practice/code-1-reporting-breaches-of-the-law)**.

Each scheme may have its own reporting process and this may be undertaken by the scheme trustees themselves, by in-house resources or by a third-party administrator.

<sup>49</sup><https://www.thepensionsregulator.gov.uk/en/pension-scams#613797f9a0f7453cb065dc55406ea315>

<sup>50</sup><https://www.fca.org.uk/firms/defined-benefit-pension-transfers/reporting-transfer-requests>

# CONTRIBUTORS

## Authors

I am grateful to the members of the Industry Group Advisory Board for giving their time to review the Code and to the members of the Technical Group (marked with \*) who formed the Drafting Committee to update the Code.

<b>Chair</b>	Margaret Snowdon OBE*	The Pensions Administration Standards Association (PASA), Moneyhub Enterprise, Phoenix Group & XPS Pensions Group
<b>Trade / Consumer / Industry Bodies</b>	Jim Gee	Crowe UK LLP and Visiting Professor and Chair of the Centre for Counter Fraud Studies at University of Portsmouth
	Zoe Smith	Association of Member-Directed Pension Schemes (AMPS) and Barnett Waddingham
	Roger Berry*	Guernsey Association of Pension Providers (GAPP)
	Rob Yuille	Association of British Insurers (ABI)
	Renny Biggins	The Investing and Saving Alliance (TISA)
	Jonny Davies*	Aries
<b>Providers &amp; Advisers</b>	Kevin Whitmore*	Rowanmoor
	Tommy Burns*	Alltrust & Kilgour Wealth Management
	Rob O'Sullivan*	Freetrade
	Phil Warner*	Hargreaves Lansdown
<b>Trustees</b>	Daniel Jacobson*	Muse Advisory
	Brian Spence	Dalriada Trustees~
<b>Pension Lawyers</b>	Sean Browes	Dalriada Trustees~
	John Wilson*	Spence & Partners
	Ben Fairhead*	Pinsent Masons
	David James*	Travers Smith
<b>Administrators</b>	Matthew Swynnerton*	DLA Piper
	Colin Miller*	XPS Pensions Group
<b>Consultancy</b>	Chloe Taylor	Quietroom
	Simon Grover	Quietroom
	Darren Philp	Shula PR & Policy

## Designer

I am also grateful for the information design services of Hayley Westerman, Senior Graphic Designer, Hargreaves Lansdown.

## Reviewers

I am also grateful to the organisations shown below, who generously gave time to review the Code, or provided technical input to the Code. Any errors or omissions are, of course, the responsibility of the Code's authors.

The Pensions Regulator  
Financial Conduct Authority  
The Pensions Ombudsman  
Department for Work & Pensions  
Money & Pensions Service  
Association of Pension Lawyers  
Sovereign Group  
Premier (now part of Isio Group)  
Mercer

The Society of Pension Professionals  
Willis Towers Watson  
Pensions and Lifetime Savings Association  
Pensions Management Institute



**Margaret Snowdon OBE, Chairman**

