Work and Pensions Committee Inquiry Response

Protecting pension savers: five years on from the Pension Freedoms: Pension scams

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About this inquiry

The Work and Pensions Select Committee is running a three-part inquiry into the impact of the Pension Freedoms, five years on from their introduction. This major policy change radically altered the way savers use and engage with their pension saving. This is the first part of this inquiry, looking into pension scams – how they have changed, the impact they have, and what can be done to tackle them.

Key points and recommendations

- Over two in five savers are at risk of being scammed out of their pension saving, according to research by the Financial Conduct Authority, and being scammed can have lasting financial and psychological implications.
- The ‘freedom and choice’ pension reforms have increased the opportunities for scammers, including through investment scams, cold calls, and transfers out of DB schemes.
- We are concerned the cold calling ban is not as effective as the Government initially hoped, and it should be reviewed and strengthened as necessary.
- We are also concerned that many transfers out of defined benefit schemes may go directly into legal or quasi-legal investments held in SIPPs. The amount of money lost in this way is likely to be under-reported, and we believe the FCA should conduct a thorough review of the SIPP marketplace and introduce appropriate regulation to ensure that savers are not exposed to scams.
- The Government should introduce an ‘opt-out’ default into Pension Wise, to ensure that the vast majority of savers get either guidance or financial advice prior to accessing their pension saving for the first time. This will help improve understanding of people’s options and the risk of scams.
- A Duty of Care would incentivise the industry to take further action to help consumers avoid being scammed.
- Trustees should be given the power to block transfers where they have reasonable grounds for suspicion that the receiving scheme is fraudulent.

About Age UK

Age UK is a national charity that works with a network of partners, including Age Scotland, Age Cymru, Age NI and local Age UKs across England, to help everyone make the most of later life, whatever their circumstances. In the UK, the Charity helps more than seven million older people each year by providing advice and support. It also researches and campaigns on the issues that matter most to older people. Its work focuses on ensuring that older people: have enough money; enjoy life and feel well; receive high quality health and care; are comfortable, safe and secure at home; and feel valued and able to participate.

Questions

1. What is the prevalence of pension scams?

1.1 Pension scams are widespread, with the Financial Conduct Authority (FCA) and the Pensions Regulator (TPR) having estimated that 42 per cent – up to 5 million pension savers – are at risk of falling victim to pension scammers.[i]

1.2 It can affect everyone and anyone, with even financially savvy savers falling victim. It is important to consider how scams fits in with the vulnerable consumers agenda, which the FCA in particular has been very vocal on.

1.3 It is highly likely that reported scams represent just the tip of the iceberg. It has been estimated that up to £10 billion could be lost each year on pension scams, with many transfers out of DB schemes into Self Invested Personal Pensions going into unregulated investments that may or may not be scams – the reality is no-one knows and much money is being lost in this way.

1.4 There is also a definitional question of what constitutes a scam – there is often a fine line between a ‘dodgy’ yet legal investment, and something illegal. For example, a fund investing in a tropical hotel scheme may be technically legal, but the risks may be extremely high and the fund managers may well charge exorbitant fees. These investments need more robust regulation and strong guidelines: the FCA should thoroughly investigate the SIPP marketplace and examine the role it plays in facilitating these investments for savers. Appropriate measures should be introduced to restrict illegal and bad investments.

2. What are the current trends in pension scams?

2.1 The freedom and choice reforms have exacerbated scams. Prior to 2015, pension liberation scams were prevalent, where savers are encouraged to access their pension prior to age 55. Since this time, freedom and choice has opened up new opportunities for scammers, in particular investment scams, typically using both DB transfers and people accessing their DC pension under the pension freedom rules, to convince people to pay a lump sum into a fraudulent fund or bank account.

2.2 Age UK recently worked with the Pensions Policy Institute to produce a briefing on pension scams since freedom and choice. The briefing considered recent trends:

> *"Perpetrators of investment scams may offer investment opportunities that don't actually exist. Alternatively, the investment opportunity offered may be real, but rather than investing the victim's money, the scammers take it for themselves. Scammers also some-times pretend to be representatives of a legitimate investment group, in order to encourage trust from victims. In other cases, scammers may actually invest the victim's money but the value of the underlying asset is severely eroded by an unnecessarily complex structure of high charges and hidden costs, known as 'fractional scamming' or 'skimming'."*[ii]

2.3 Freedom and choice has led to a significant increase in transfers out of DB schemes, and as noted in paragraph 1.3 this puts savers at high risk of falling victim to a scam. Many people transfer their money into a SIPP which can act as a wrapper for a range of investments, the regulation of which is inadequate. Urgent action needs to be taken by the FCA and HM Treasury to ensure that this marketplace is properly regulated and does not unnecessarily expose people to fraudulent investments.

3. What are the common outcomes of pension scams for perpetrators and victims?

3.1 There are organisations who work directly with scam victims who are better placed to answer this question. However it is clear that being a scam victim can have a devastating impact both financially and psychologically. Many people see their retirement plans go up in smoke, while losing their confidence to make decisions and their trust in the financial services industry. These outcomes often have a significant impact for the rest of people's lives.

3.2 There is also inadequate support for victims of scams. There is a clear need for this, and Victim Support should extend and improve its offer here. Often scam victims, and fraud victims more generally, are not perceived as needing support because the crime lacks physical repercussions. This is often not the case, and we believe the psychological impact could be mitigated if better support were in place.

5. What more can be done to prevent pension scammers operating?

5.1 We are concerned the cold calling ban has not been as effective as the Government initially hoped, and are led to believe that scammers have simply moved their operations abroad or changed to targeting people online.

5.2 Age UK raised concerns with the DWP as the ban was being passed into law. This included that it was too narrow in scope, with scammers still able to offer 'investment opportunities' as long as they steered clear of pensions; and that there was confusion over how to report fraudulent approaches and what action would be taken. The reporting system is not being well used by the public, with only a small minority reporting it to the police or Action Fraud.

5.3 We need firm evidence on these (and more). The DWP should conduct a thorough review of the cold calling ban as soon as possible, and be prepared to amend the legislation to strengthen it as a result.

6. What more can be done to prevent individuals becoming victims of pension scams?

6.1 Awareness raising among individuals is part of the solution. Freedom and choice has shifted the burden of decision-making to individuals, and with savers bearing the risk it is important people fully understand the implications of their choices. We support the regulators' 'Take Five' campaign, however this needs more widespread promotion if it is to reach the 'auto enrolment generation'. Also, there should be a thorough review of how providers alert savers to scams when accessing their pension. However much more is needed.

6.2 As already mentioned in our responses to questions 1 and 2, we believe the FCA needs to improve regulation of investments held within SIPPs. This is a necessary follow-on from the review of the DB transfer advice process which has recently been undertaken.

6.3 One clear action that we believe would help scammers would be to default all savers into Pension Wise the first time they access their pension. Much research has concluded many individuals are ill-equipped to understand their pensions access options without impartial guidance or regulated advice. Even the more financially sophisticated still struggle with decisions they have not had to make before – with the impact of Coronavirus providing additional opportunities for pension scammers to target the financially unaware or vulnerable.

6.4 Although Pension Wise has experienced low take-up, feedback has been extremely positive among the minority who have used it. Non-advised savers are likely to need impartial support in order to make informed decisions.

6.5 We are disappointed that the “stronger nudge” trials conducted by MAPS and the Behavioural Insights Team showed only limited improvement in Pension Wise usage rates. To provide the most effective support and protection for savers we would like to see the vast majority of people using the service, whereas the “nudge” approach would still leave the numbers languishing at a similar level. We believe the Government should learn from different choice architecture, where people are automatically opted-in but with the option to opt-out – such as the approach which has delivered emphatic results in relation to auto-enrolment. As people are opted in to workplace pension saving, this approach should be mirrored at the point before access, with non-advised savers being opted-in automatically, but with the option to actively opt-out if they so choose.

6.6 Furthermore, this intervention stems from provisions in the Financial Guidance and Claims Act, which received Royal Assent in May 2018. It is unacceptable that this has still not been implemented some two and a half years later, and we urge the Committee to emphasise the importance of putting in place a suitable opt-in process as soon as possible.

7. What role should the pensions industry have in preventing scams?

7.1 Financial institutions – including pension providers – should have a Duty of Care, and improve efforts to identify and protect vulnerable customers at risk of fraud. The pension industry must also find more effective ways to warn people how to protect themselves, delay large or unusual payments and ‘rescue’ and return stolen monies from scammers’ accounts. As above, the FCA rules for how providers and schemes ensure impartial pensions guidance is actually used will be important, because the present usage figures indicate how limited “signposting”, advertisements and information prompts have been as a means of achieving impartial guidance usage.

7.2 Trustees should be given the power to block transfers, when they have reasonable grounds for suspicion that the transfer is into a fraudulent scheme. Many scammers are adept at persuading people to transfer and brief them what to do and say to providers to insist that the transfer should go ahead, even when their existing scheme may be warning them against the transfer. Trustees are in a position to identify potential scam victims and should be given power to block transfers in certain circumstances.

8. Is HMRC's position on the tax treatment of pension scam victims correct?

8.1 To an extent, HMRC's hands are tied and the ultimate responsibility for how it acts on the law rests with Ministers. However, it could have done more. HMRC has acted insensitively and inappropriately towards scam victims, choosing to pursue a literal interpretation of law over common sense and fairness.

8.2 The Government should create an exemption to allow HMRC to waive tax charges on unauthorised payments incurred as part of a liberation scam.

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[i] https://www.fca.org.uk/news/press-releases/5m-pension-savers-could-put-retirement-savings-risk-scammers

[ii] https://www.pensionspolicyinstitute.org.uk/media/3482/20200519-bn121-how-have-scams-evolved-since-the-introduction-of-pension-freedoms.pdf