Spotlight on Pensions
PRESENTS
Le Grand View

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Transfer trauma

One effect of the COVID-19 pandemic is to exacerbate pre-existing system weaknesses. In the pensions world one such area of weakness is the vulnerability of members' funds to fraud, particularly through the transfer system.

We know that transfers have long provided a portal through which scammers can access a member's retirement funds. It is a downside of the freedoms given to members from 2015 to make their own decisions on where and how their retirement funds are invested and ultimately used.

The complexity of the subject, combined with low levels of financial knowledge and expertise across the general population, was always going to exacerbate existing vulnerabilities. And so it has proved, with an estimated £30 million of pension monies having been lost to scams since 2017, according to Action Fraud (although some believe this to be a conservative figure).

The COVID-19 effect

The pandemic has increased the risk of members being scammed. More are working from home, with reduced contact with colleagues and other sources of information, and experiencing increased financial pressures from reduced income through to redundancies. Such circumstances make access to pension scheme monies an even more attractive – albeit short-term – solution to pressing financial difficulties. The scene is set for members to be tempted by approaches from slick-talking salesmen promising "no questions asked" early access to monies and stellar investment returns without risk on monies remaining in funds.

Early mistakes

Progress with combatting scams has been slow and far less effective than required, with schemes often several steps behind the well-organised and flexible fraudsters. Trustees and managers have often understandably felt on their own with insufficient support from Government and regulators. The pension freedoms were introduced without sufficient thought having been given to the scam risk, despite an already well-established pattern of fraudulent activity under the previous tighter legislative regime. That placed trustees in a difficult position as the protectors of their members' interests, without sufficient power to prevent members from falling victim to what the trustees could often see were scams. To rub salt into the wound, trustees were then often still held liable for not having in some way prevented the scam.

Some improvements

Over recent years the situation has improved, although still at a slow pace. Telephone cold calling about pensions investments has been outlawed, and TPR and FCA have been working more closely to fight the menace on a number of fronts. There has been a significant increase in materials to help guide and educate, both trustees/managers and members, including periodic public information campaigns. In addition, the Money and Pensions Service (MaPS) has increased its influence and effectiveness in this area, helping a growing number of members to acquire knowledge to avoid becoming victims of fraud.

However, for as long as the system allowing freedom of transfers exists, so will the fraud risk. Therefore, given that the policy fundamentals on transfer freedom are unlikely to change, the emphasis will have to continue to be on prevention in individual cases. That means that trustees and managers of schemes will always be in the front line of protecting their members. They will require ongoing, proactive and meaningful support from Government and regulators, through co-ordinated teamwork.

Recent developments

There are signs that the pace of change is picking up, with for example tighter restrictions being introduced by the FCA on the transfer advice market, including a ban on commission-funded transfer advice (a move that appears also to be having the unintended consequence of hindering legitimate transfers, due to a growing shortage of suitably qualified advisers). In addition, there are provisions in the current Pension Schemes Bill to tighten the cash equivalent transfer rules in the Pensions Schemes Act 1993 and to allow further amendments to be made by statutory instrument. This should allow the Government scope to move quickly – should it so decide - to introduce new rules to support trustees in investigating and applying conditions before making a transfer that is clearly suspicious, when faced with the latest clever scam. However, there appears to be no intention to grant trustees a general power to refuse to make transfers.

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Further pressure on schemes

But these developments have been accompanied by further pressure on trustees and managers. The latest of these is the launch by TPR, supported by the Pension Scams Industry Group (PSIG), of the "pledge" to combat pension scams. This curious initiative invites those in the pensions industry to publicly sign up to the pledge and to applying robust processes to identify and combat scams.

On one level this could be regarded as little more than a publicity stunt, since it effectively merely publicises and reinforces trustees' existing duties to look after their members. However, it is supported by a new online interactive scams training module from TPR for practitioners. It will also serve both to focus trustees' attention on the issue and what they are doing to combat scams, and to provide a means of highlighting that focus to members and potential scammers.

Making the pledge is a voluntary act. However, it seems highly likely that the Ombudsman will take into consideration whether a scheme has done so when considering an allegation of maladministration where a transfer has been effected which turned out to have involved fraud and financial loss to the member.

Making the pledge

So, what does "making the pledge" involve? It requires a commitment to:

- regularly warn members about pension scams
- encourage members asking for cash drawdown to get impartial guidance from The Pensions Advisory Service
- get to know the warning signs of a scam and best practice for transfers by completing the scams module in TPR's Trustee Toolkit and encouraging all relevant staff or trustees to do so; studying and using the resources on the FCA ScamSmart website, TPR's scams information and the PSIG code; considering becoming a member of the Pension Scams Industry Forum by contacting PSIG
- take appropriate due diligence measures by carrying out checks on pension transfers and documenting pension transfer procedures
- clearly warning members if they insist on high-risk transfers being paid
- report concerns about a scam to the authorities and communicate this to the scheme member.

Those taking the pledge should then take action to implement these principles. These are set out at high level on TPR's website and comprise existing best practice actions. Of more practical use are the detailed provisions of PSIG's Code of Good Practice on combating pension scams.

Once done, they will be able to self-certify to TPR to demonstrate to members and the pensions industry that they are following the pledge principles. TPR will send resources for them to use to show their commitment and demonstrate that they are using best practice. TPR is at pains to stress that the process involves self-certification and therefore does not imply any TPR endorsement of a party taking the pledge or of their implementation of the principles, and that any party's communication of having taken the pledge should make that clear.

A never-ending challenge

The issue of creating a genuinely safe environment for an open pension transfer market is complex. The global size of pension pots will always provide a magnet for criminal activity, with the potential rewards justifying the attention of the brightest criminal minds. Countermeasures will need to be under constant review, and reaction times to new threats reduced. It will require a suite of measures and in that context the pledge should prove a useful – if limited – addition.

However, some believe fervently that more radical actions are needed. The Work and Pensions Select Committee has been consulting on the subject and has proposed new measures for inclusion into the Pension Schemes Bill, but without success. It seems that notwithstanding the recent flurry of developments there will continue to be valid concerns over the extent to which pension scheme members' funds can be protected.

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Ultimately that is a matter of concern for everyone involved in workplace pension provision, but especially so for the state, which forces employers to provide employee pension arrangements and pressurises employees to participate. In the financially-challenged post-pandemic world, that concern will only grow.

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