PSIG

PENSION SCAMS INDUSTRY GROUP

# COMBATING PENSION SCAMS:

## Framework Document

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

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

April 2021

# 01 FOREWORD BY THE MINISTER FOR PENSIONS AND FINANCIAL INCLUSION

The Government is fully committed to protecting people from pension scams, pursuing those who perpetrate pension scams and bringing them to justice. That is why, with the support of the Pensions Scams Industry Group, I have introduced measures in the Pension Schemes Act 2021 to put trustees in the driving seat when it comes to pension transfers. These new measures will enable trustees to prevent a transfer request if they see evidence of 'red flags'. They will also, for other potentially fraudulent transfers, prevent people's hard-earned savings being moved to suspect schemes without them receiving expert guidance. This builds on the ban on pensions cold calling and tougher rules to stop scammers opening fraudulent pension schemes government has already introduced.

To get real coverage and supply of data from industry PSIG need to increase the number of organisations providing data, which can then feed into Project Bloom, the cross government taskforce established to bring together law enforcement, government and industry to share intelligence, raise awareness of scams through communication campaigns, and take enforcement action where appropriate. To aid this flow of information, I have compelled schemes to share information in order to get on top of the changing methods scammers are using. The Pensions Regulator have also launched their 'Pledge to combat pension scams' urging pension providers to do what they can to protect scheme members and follow the principles of this Code of Good Practice.

It is essential that people remain vigilant to pension scams. ScamSmart, our joint awareness campaign, in conjunction with the Pensions Regulator and Financial Conduct Authority, plays an important part in getting out this message. ScamSmart has reached four out of five pension savers in the target group of 45 to 64 year olds and 77% say they recognise the messages there.

Individuals need access to the right information in order to make informed decisions. The Pensions Advisory Service, Pension Wise, both delivered by the Money and Pensions Service provide this important service.

I welcome this timely update to the voluntary Code, thank PSIG for their continued support in this arena and urge industry to follow these principles.

**Guy Opperman MP**

**Parliamentary Under-Secretary of State at the Department for Work and Pensions**

**1st April 2021**

# 02 INTRODUCTION

Pension scams damage individuals, pension schemes, pension providers and society. Once taken in by tempting offers, pension scheme members can be persuaded to transfer or invest their retirement savings to dubious or high risk, unregulated investment structures, many of which are based overseas.

Pension scams rely on deception, misleading people about risks, returns and taxation. Offers seem attractive and plausible. Scammers spread misinformation about the motives of those who try to explain the risks of such transfers. Layers of fees or commissions can be deducted from the funds and tax penalties can be applied leaving these individuals with substantially reduced retirement benefits. In some cases, the pension funds are simply stolen. Please refer to the Technical Guide for more detailed information.

As the member may have a statutory transfer right, it is the trustees and providers who must determine whether the receiving scheme is one to which they are lawfully able to transfer. They have a duty to act in the interests of all scheme members, including those requesting a transfer. Trustees should perform reasonable, appropriate and proportionate due diligence, without unnecessarily blocking or delaying a valid transfer. Daily judgments must be made, balancing conflicting legal rights and risks.

In 2015, the Pensions Scams Industry Group (PSIG) developed a voluntary Code of Good Practice, written by a group of key stakeholders, including trustees, administrators, legal advisers and insurers. This Code set out suggested steps to help identify whether requested transfers should be paid.

This update (2.2) reflects recent regulatory and legislative changes as well as the evolving nature of pension scams. Other changes have been made to improve usability.

The Code primarily relates to combating pension scams, including investment scams within a pension. However, as many scams take place after savings have been legitimately withdrawn from pension schemes, this Code also encourages communication with scheme members before they transfer or withdraw cash or drawdown from their pension pots in order to raise awareness of unsafe investment schemes.

As part of the Pensions Regulator's efforts to prevent pension scamming, in November 2020 in partnership with PSIG, it launched its Combat Scams Pledge initiative[1]. Please refer to Section 7.6 of the Technical Guide for additional information. PSIG very much welcomes the Pensions Regulator's initiative and the opportunity for transferring schemes to formally pledge and evidence their commitment to this. The Code is fully aligned with the new pension scams module within the Trustee Toolkit and the separate training materials which have been developed to support the pledge.

The March 2021 (2.2) Code has again been reviewed by a wide group of industry bodies and organisations to ensure broad acceptance and encourage widespread adoption of its principles.

This Framework document forms part of the PSIG Code of Good Practice and details the context, structure and principles of the Code. The document should be read as part of the full Code of Good Practice and readers should refer to the other Code documents as required.

[1]https://www.thepensionsregulator.gov.uk/en/pension-scams/pledge-to-combat-pension-scams?msdynttrid=p5TEy22gFSNrjDckaYX4Ypbm557PZcqHTVzRWZ1Q7nQ

# 03 STATUS

The Code itself is not a statutory code, nor does it seek to override guidance issued by regulatory bodies. Rather, the Code of Good Practice is voluntary and seeks to set a best practice industry standard to help identify transfer requests that may be fraudulent or a scam.

The Code is intended to help those involved in the administration of registered pension schemes to assess members' transfer and cash withdrawal requests. The Pensions Regulator (TPR), and members, expects trustees and providers to carry out a reasonable level of due diligence and not aim to rely on the HMRC registration process alone. This voluntary Code represents good industry practice on due diligence.

# 04 PRINCIPLES

When reviewing a member transfer request pension scheme trustees and providers will want to ensure not only that they only make a valid transfer, but also that they help the member to identify and assess any warning flags. For example, there is no statutory right for a transfer to a pension scheme which is not an HMRC registered pension scheme or a QROPS.

"Pension scams" including "pension liberation", may involve fraud and theft. A range of scams have been developed which claim to exploit tax and legal loopholes and can offer members cash payments if they transfer from legitimate pension schemes. Reported scams include promising unrealistic rates of return. These will not necessarily be unlawful, but members are often taking more risk than they realise, potentially risking their entire pension savings.

Scheme members should protect themselves from scams, but they need help to do so. TPR, FCA and HMRC are clear that the pension industry should ensure scheme members are aware of the consequences of falling victim to scams, whether by transferring to a liberation vehicle or by making poor investment choices with their pension fund.

This can be distilled into three core principles:

1. Trustees, providers and administrators should raise awareness of pension scams for members and beneficiaries of their scheme.
2. Trustees, providers and administrators should have robust, proportionate and both regulatory and legislatively compliant processes for assessing whether a receiving scheme may be operating as part of a pension scam, and for responding to that risk.
3. Trustees, providers and administrators 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 refer to the warning flags as indicated in The Pensions Regulator's Guidance, FCA alerts and by Action Fraud.

**See the Technical Guide for further information on the core principles.**

# 05 COMMENCEMENT

The 2021 Code (2.2) takes effect from 1st April 2021 and is available for use in any transfer request processed on or after that date, even if the request for a transfer was received before 1st April 2021.

# 06 UPDATES

The Code will be reviewed and updated periodically to ensure it reflects current risks and good practice. The current version can be found on the industry website:

www.combatingpensionscams.org.uk

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The Code is divided into four further chapters

**Practitioner Guide**

- Detailing the robust and proportionate due diligence steps undertaken by trustees and administrators of pension schemes assessing the pension scam risk of a requested transfer.

**Resource Pack**

- Containing materials these practitioners can use to undertake the due diligence detailed in the Practitioner guide. This includes example scripts, letter and discharge form wording, Action Fraud reporting and case studies.

**Technical Guide**

- Detailing the rationale behind the guide. This includes legislative and regulatory requirements as well as the Combat Scams pledge initiative.

**Summary of Changes**

- Detailing the changes since the previous version of the Code (v2.1) which was issued in June 2019.

# 08 AUTHORS

I am grateful to the members of the Industry Group for giving their time to review the Code and to the individuals (marked with *) who formed the Group's Drafting Committee to update the Code.

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~ Shared representation on the Board.

# 09 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.

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Financial Conduct Authority
Department for Work & Pensions
Association of Member Nominated Trustees
Trades Union Congress
Union of Shop, Distributive and Allied Workers
Sovereign Group
Mercer
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The Society of Pension Professionals
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