

**PENSIONS AND
LIFETIME SAVINGS
ASSOCIATION**

**THE ADVICE REQUIREMENT AND OVERSEAS PENSION TRANSFERS:
CONSULTATION RESPONSE BY THE PENSIONS AND LIFETIME SAVINGS
ASSOCIATION**

23 December

INTRODUCTION

We're the Pensions and Lifetime Savings Association; the national association with a ninety year history of helping pension professionals run better pension schemes. With the support of over 1,300 pension schemes and over 400 supporting businesses, we are the voice for pensions and lifetime savings in Westminster, Whitehall and Brussels.

Our purpose is simple: to help everyone to achieve a better income in retirement. We work to get more money into retirement savings, to get more value out of those savings and to build the confidence and understanding of savers.

SUMMARY

The Pensions and Lifetime Savings Association (the PLSA) welcomes the opportunity to respond to this consultation on overseas transfers.

The PLSA believes that:

- ▶ Making it easier for UK residents to transfer their pensions overseas risks running counter to the Government's own agenda on tackling scams. Any new policy in this area should take full account of the challenge of tackling scams (which should be the first priority) and should be coordinated with the DWP and HMT's consultation on scams.
- ▶ There might be a case for doing something in the specific case of people already resident overseas, so they do not have to get two lots of IFA advice. But the Government must be careful not to create a new loophole whereby UK residents claim to live overseas in order to use an overseas IFA, perhaps provided by the scammer.
- ▶ The due diligence run by schemes to facilitate transfers is already very complex, and in the case of overseas transfers takes place in a vacuum of information. Therefore, any additional requirements for schemes to run due diligence on residency or the authenticity of advice from local advisers in different jurisdictions would not only increase this complexity but also increase their liability.

CONSULTATION QUESTIONS

Q1: DO YOU HAVE ANY INFORMATION ON THE SCALE OF TRANSFERS OF SAFEGUARDED PENSION SAVINGS OVER THE LAST FIVE YEARS TO OVERSEAS PENSION SCHEMES, AND ANY ASSESSMENT OF FUTURE DEMAND FOR PENSION TRANSFERS?.

In a survey of PLSA members conducted in autumn 2016, around half (48%) of respondents who had received transfer requests that failed their due diligence checks had received requests to transfer to QROPS. Malta was the most commonly mentioned destination country.

Q2. WHAT ARE THE ADVANTAGES, OR DISADVANTAGES, OF CONTINUING TO APPLY THE ADVICE REQUIREMENT IN ITS CURRENT FORM TO MEMBERS NOW RESIDENT OVERSEAS?

It is important to continue to provide sufficient safeguards for DB Scheme members if they wish to access their pensions flexibly. The Government's recent consultation on scams illustrates their concern over the increase in pension scams in light of the pension freedoms and it is important that the DWP considers the issue of overseas transfers in light of these concerns.

When the Pension Freedoms were announced the PLSA (then the NAPF) welcomed the Government announcement that deferred private sector DB members would retain their existing right to a transfer. However the PLSA argued that members should have to take independent financial advice before making such a transfer in order to ensure that they fully understand the value of any benefits they might be forfeiting as a result. We are pleased this safeguard is now in place and think it should remain for all members of DB schemes at the advice threshold.

The PLSA also lobbied strongly for an extension to ensure that scheme members moving DB benefits to an occupational DC scheme can be confident that the advice they receive will be regulated and they will have recourse to the FCA and ultimately the Financial Ombudsman should that advice be inappropriate.

Q3. WHAT ARE THE ADVANTAGES, OR DISADVANTAGES, OF LIFTING THE ADVICE REQUIREMENT FOR MEMBERS LIVING OVERSEAS, OR POTENTIALLY MOVING OVERSEAS?

Although the PLSA is unable to comment fully on the pricing structures of the advisory community, it seems that the higher cost of advice for overseas transfers reflects two aspects: 1, that this is a niche area which fewer financial advisers will be qualified on and 2, that the risks involved in transferring to jurisdictions that the advisers are less familiar with are far greater than advising on transfers within the UK.

While the cost of advice may be limiting for some members of schemes that wish to transfer, the answer should be in addressing the two aspects that might be driving up costs, rather than removing the requirement for pension scheme members over the

threshold to take financial advice, or operating a different advice threshold for these member. As the risks for these members are the same if not higher there is no legitimate reason for reducing the threshold for this requirement.

There may be a case for doing something in the specific case of people already resident overseas, so they don't have to pay for two lots of IFA advice. But the Government should be careful not to create a new loophole whereby UK residents claim to live overseas in order to use an overseas IFA, perhaps provided by the scammer. One way of doing this would be for the regulations to make it clear what administrators can accept as proof of overseas residence.

Q4. WE WELCOME VIEWS ON THE USE OF PERMANENT RESIDENT CRITERIA TO ESTABLISH WHETHER THE ADVICE REQUIREMENT SHOULD BE LIFTED. HOW MIGHT TRUSTEES, SCHEME ADMINISTRATORS OR OTHERS VERIFY THAT THE RESIDENCE CRITERIA HAD BEEN MET?

It is the role of HMRC and the UK Foreign Office to establish whether or not residency requirements are being met, and not the role of pension trustees. There is no appetite amongst pension trustees to extend their due diligence duties with respect to pension transfers; this would require them to develop additional expertise and further increase their liability – the costs of these extra requirements will ultimately be borne by members.

The PLSA survey showed that due diligence work on transfer requests absorbs – on average – around 9 hours of staff time. Some schemes reported receiving as many as 50 transfer requests over a six-month period. This illustrates why schemes would be very reluctant to take on yet more due diligence checks.

If the Government insists on going ahead, and if pension trustees are required to verify additional information to facilitate a transfer, the Government should commit to providing trustworthy publicly available information on residency or qualified overseas advice for example.

Last year HMRC retracted its publication of the QROPS list and instead started publishing a ROPS list. That is, it stopped publishing information on who it deems to be a Qualified Recognised Overseas Pension Schemes for the purposes of the tax treatment of overseas transfers. This has significantly increased the amount of investigative work that pension schemes have had to perform, no longer being able to verify with publicly available information whether a transfer to a QROPS is taking place, despite the fact that the HMRC acts on its own intelligence on which ROPS are qualified with respect to the tax treatment of transfers. This is a clear example of pension schemes operating in vacuum of information, which ultimately has consequences for the protection of pension scheme members.

In the recent PLSA member survey, 37% of respondents reported that some transfer requests had failed their due diligence checks. This supports the high level of concern in Government and across the pensions industry about the volume of scams activity.

Given the scale of the scams problem at present, it would seem ill-advised to do anything that could create a further opportunity for scammers to exploit - all the more reason for the Government to resolve its anti-scams policy first, before returning to the issues covered in this consultation.

Q5. HOW CAN GOVERNMENT BEST ENSURE LOCAL ADVISERS MEET APPROPRIATE QUALITY STANDARDS?

In principle, the UK Government could develop bilateral arrangements with the advisory communities in different jurisdictions and their qualifying bodies, though this may not be possible in all jurisdictions.

Q6. WE WOULD WELCOME EVIDENCE ON THE TYPE AND LEVEL OF FINANCIAL REDRESS THAT IS AVAILABLE FOR OVERSEAS RESIDENTS TRANSFERRING THEIR SAFEGUARDED PENSION BENEFITS TO OVERSEAS JURISDICTIONS OTHER THAN THAT PROVIDED BY THE UK

N/A

Q7. HOW CAN MEMBERS WITH SAFEGUARDED BENEFITS WHO ARE NOW RESIDENT OVERSEAS DEMONSTRATE TO THE CEDING SCHEME THAT THEY HAVE OBTAINED INDEPENDENT ADVICE FROM A LOCAL ADVISER ?

N/A

Q8. THE GOVERNMENT WELCOMES ANY INFORMATION ON CURRENT TRANSFER PRACTICES INVOLVING SCHEMES OR ADVISERS IN THIRD COUNTRIES, INCLUDING HOW THESE PROCESSES MEET THE EXISTING ADVICE SAFEGUARD.

N/A

Q9. WHAT ARE THE RISKS AND BENEFITS OF ALLOWING OVERSEAS MEMBERS WITH SAFEGUARDED BENEFITS TO TAKE ADVICE FROM A FINANCIAL ADVISER WHO IS AUTHORISED IN A COUNTRY DIFFERENT FROM THEIR COUNTRY OF RESIDENCE - FOR EXAMPLE IN THE COUNTRY WHERE THE RECEIVING PENSION SCHEME IS REGISTERED, OR IN ANOTHER COUNTRY?

N/A