

# Combating Pension Scams

## A Code of Good Practice

March 2015

### **Disclaimer**

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 may not prevent a claim being brought against a party.

# Contents

1. Introduction	2
2. Principles of the Code	4
3. Organisations that welcome the Code of Good Practice	7
4. Background	8
4.1. What is a pension scam?	8
4.2. Member transfer rights	8
4.3. The Regulatory Framework	8
4.4. Potential consequences for trustees and providers	10
5. Pension Scams Due Diligence Process - Summary	11
6. Pension Scams Due Diligence Process – In Detail	12
6.1. Transfer Packs	12
6.2. Transfer Request – Initial Analysis	12
6.3. Additional Information Requests	15
6.4. Further Due Diligence	15
6.5. During the Due Diligence Process	25
6.6. Determining Pension Scam Risk	25
6.7. Refusing a transfer and reporting	25
6.8. Reporting to the Regulator	26
6.9. Member appeals	26
6.10. Discharge forms and insistent members	26
6.11. Internal “white list” approach	27
6.12. Example letters	27
APPENDIX A – Example Letters	28
APPENDIX B – Recording Decisions	35
APPENDIX C – Example Discharge Form Wording	41

# 1. Introduction

Pension scams can be damaging to individuals, pension schemes and society generally. People are easily tempted by such offers, but many of those who are taken in find themselves transferring their secure benefits to rather dubious and risky unregulated investment structures, often based overseas. Huge fees are often deducted from the funds and transferees may be subject to tax penalties which they had not understood, leaving transferees with substantially reduced benefits for retirement. In some cases the funds are simply stolen.

Pension scams present a real dilemma for trustees and providers and those that administer schemes on their behalf. The individual often has a statutory right to transfer, but it is the trustees and providers who are required to determine that the receiving scheme is one which they are lawfully able to transfer to and who have a duty to act in the interests of all scheme members, including the ones requesting a transfer to another arrangement. There is no magic bullet, so judgments have to be made, balancing legal rights and risks and trustees and providers struggle with such conflicts on a daily basis. They therefore have called for guidance in making such judgement calls.

To answer the call and to ensure an appropriate response to pension scams, the pensions industry decided to develop a Code of Good Practice, written by a group made up of the key stakeholders, including trustees, administrators, legal advisers and insurers. The Code, which follows, has been reviewed by a wide group of industry bodies and organisations to ensure broad acceptance and encourage widespread adoption of its principles. The reviewing organisations are shown below.

Organisations which welcome the Code are shown at section 3.

## STATUS OF THE CODE OF GOOD PRACTICE

- The Code of Good Practice is voluntary and sets an industry standard for dealing with requests by members for transfers from a UK registered pension scheme to another registered pension scheme or Qualifying Recognised Overseas Pension Scheme (QROPS).
- The Code is not a statutory code.
- The Code does not replace or override existing requirements or guidance issued by regulatory bodies on **transfers** and **pension scams**.

The Code is aimed at trustees, administrators and providers and sets out industry standard due diligence to follow when considering a transfer request. The legislation relating to transfers is not prescriptive as to due diligence that trustees/providers should carry out on transfer applications.

This Code is intended to help those involved in the administration of registered pension schemes to assess members' transfer requests. Trustees and providers should carry out a reasonable level of due diligence and not aim to rely on the HMRC registration process alone.

## OBJECTIVES OF THE CODE OF GOOD PRACTICE

The Code covers:

- Standard Information/evidence required by the transferring scheme to enable a transfer to proceed with reasonable assurance that it would not result in a pension scam.
- Guidance on reasonable steps to take to minimise delay and provide reassurance to all parties.
- A set of example letters.

- Standard information provided to and requested from members and other parties, including ways to raise member awareness of pension scams.
- Additional information to consider when dealing with transfers to a Self-Invested Personal Pension (SIPP), Small Self-Administered Scheme (SSAS) or QROPS.
- The steps for reporting suspicious cases.
- A guide to help trustees and providers to identify some "red flags" which may indicate the need for greater scrutiny.

## COMMENCEMENT DATE

The Code takes effect from 16 March 2015 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 16 March 2015.

## UPDATES TO THE CODE OF GOOD PRACTICE

The Code will be reviewed and updated on a regular basis to ensure it reflects current risks and good practice. The current version can be found on the industry website;

[www.combatingpensionscams.org.uk](http://www.combatingpensionscams.org.uk)

## RECENT DEVELOPMENTS

### Freedom and Choice in Pensions

From 6 April 2015, greater freedom and choice will become available to members of defined contribution pension schemes and with pension freedom comes the risk of poor choice and the risk that scammers will target people with access to those freedoms. They may deliberately try to collect information about scheme members approaching retirement age and may try to target scheme members

who cannot take advantage of the new flexibilities to try to scam them out of their benefits. The due diligence set out in the Code continues to apply to transfers, but practitioners should try to be vigilant where benefits are being paid out in cash. For further information on the pension flexibilities from April 2015, see –

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/385065/TIIN\\_8130\\_2140.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/385065/TIIN_8130_2140.pdf)

### Pensions Ombudsman Cases

In January 2015, the Pensions Ombudsman published long awaited determinations on complaints in connection with suspected pension scam cases. The Industry Group considered the impact of the cases and strengthened the due diligence and decision-making process where relevant. We will keep this under review as further cases are published.

I am also grateful to the organisations shown below, who gave time and expertise to review the Code through its various iterations. Any errors or omissions are, of course, the responsibility of the Code’s authors.

- Association of British Insurers (ABI)
- Confederation of British Industry (CBI)
- Concept Group
- JLT Employee Benefits
- National Association of Pension Funds (NAPF)
- National Crime Agency (NCA)
- Pensions Administration Standards Association (PASA)
- Pensionweb
- The Pensions Ombudsman
- The Society of Pension Professionals (SPP)
- Xafinity Consulting

## THE AUTHORS OF THE CODE OF GOOD PRACTICE

I am grateful to the following individuals who formed the Industry Group and who gave their time to drafting the Code:

<b>Chairman</b>	Margaret Snowdon OBE (PASA and JLT Employee Benefits)
<b>Secretariat</b>	Alison Kennedy, TISA
<b>Consumers</b>	Michelle Cracknell, TPAS Zachary Gallagher, AMPS Steve Coe, TISA
<b>Administrators</b>	Gary Evans, Mercer Sara Cook, Barnett Waddingham Heather Bryson, Towers Watson Darren Philp, B&CE
<b>Trustees/schemes</b>	Brian Spence, Dalriada Trustees Philip Exact, RSA Elaine Emptage, RSA Karen Bennett, AB Foods James Walsh, NAPF
<b>Providers</b>	Tommy Burns, Standard Life Steve Hyndman, Phoenix Life Iain Mills, Zurich
<b>Lawyers/Technical</b>	Matthew Swynnerton, DLA Piper Ben Fairhead, Pinsent Masons John Wilson, JLT Employee Benefits



Margaret Snowdon OBE, Chairman of Pension Liberation Industry Group

## 2. Principles of the Code

There are two key aims that trustees/providers will generally have: firstly to make only a valid transfer, and secondly to help put the member in a position to make an informed choice in relation to a valid transfer where there are suspicious circumstances. A transfer that is not to a registered pension scheme (or a QROPS) is not a valid transfer.

“Pension scams” including “pension liberation”, may involve fraud and theft. A range of scams have been developed that go significantly beyond the original liberation concept of setting up trust-based schemes, to exploit perceived tax and legal loopholes, and, typically, offering members cash payments if they transfer from legitimate pension schemes. Reported scams include ‘cloned’ QROPS, and promising extraordinary rates of return through unusual investment opportunities, typically offered via arrangements such as SIPPs and SSASs. These will not necessarily be unlawful in all cases but members are at risk of losing their pension savings.

Scheme members have a responsibility to protect themselves from scams, but they need assistance in this. The Pensions Regulator (Regulator), the Financial Conduct Authority (FCA) and HM Revenue & Customs (HMRC) are clear that the industry should play its part in ensuring scheme members are aware of the consequences of falling victim to scams.

There are steps that trustees, providers and administrators can take to help protect both themselves and their scheme members. Important measures include: to warn scheme members about the risks of pension scams; to have a robust, but proportionate, process for assessing transfers; to report suspicions to the correct authorities quickly, and to be aware of those strategies that are used to perpetrate pension scams.

These measures will not protect members of schemes from making poor investment choices; their intention is to help prevent members’ pension pots from being at risk of a pension scam.

The steps that trustees, administrators and providers should take to protect scheme members from pension scams 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, but proportionate, 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 refer to the warning flags as indicated in the Regulator’s Guidance, FCA alerts and Action Fraud.

See below for further information on the core principles:

### PRINCIPLE 1

Trustees, providers and administrators should raise awareness of pension scams for members and beneficiaries of their scheme.

- Scheme members should be made aware of the risks of pension scams. Awareness material, in particular the Regulator’s Guidance (the ‘Scorpion’ materials), should be provided in transfer packs and statements, as well as on websites where applicable. (See section 4.3.1 below for online locations of awareness material.) That material should be sent to scheme members directly, rather than through their advisers.
- Administration staff should be made aware of the risk of pension scams. Staff who deal with scheme members should be made aware of the Scorpion materials, to help them to identify potential pension scams.
- Where relevant, Employers should be made aware of the risk of pension scams.

## PRINCIPLE 2

Trustees, providers and administrators should have robust, but proportionate, processes for assessing whether a receiving scheme may be operating as part of a pension scam, and for responding to that risk.

- In dealing with a transfer request, trustees, providers and administrators should conduct proper due diligence on the receiving scheme. Where they suspect that the receiving scheme may be involved in a scam, trustees, providers and administrators should carefully consider whether the transfer should proceed.
- Appropriate due diligence will vary for different types of pension schemes.
  - In carrying out due diligence, trustees, providers and administrators should aim to collect information over the following areas where applicable:
    - Receiving scheme type.
    - Date of establishment.
    - Legal status of the receiving scheme and any administrators or operators.
    - Location of the receiving scheme and any administrators or operators in relation to the scheme member.
    - Any employment link between the receiving scheme and the scheme member.
    - Marketing methods; for example, ask scheme members to confirm how they became aware of the scheme to which they intend to transfer and that they have not been contacted by the receiving scheme through cold calling, unsolicited text messages or emails.
    - Provenance of receiving scheme. Access information about legitimate schemes, and schemes over which there are

concerns by using sources put in place by the authorities, e.g., FCA, HMRC, National Crime Agency. Other sources of information will also be helpful such as Companies House etc.

For additional information, see section 6 (Due Diligence Process).

- The following factors should be considered, in an assessment of a receiving scheme:
  - Risk of scam: Does it look as though there is a material risk that the individual's pension savings will be at risk of a pension scam if transferred?
  - Risk of making an unauthorised payment: Does it look as though there is a material risk that the scheme could be responsible for making an unauthorised payment? Note that the existence of an unauthorised payment or other adverse tax consequences does not mean that a transfer is automatically invalid or that the proposed transfer is a pension scam.
  - Risk of not complying with statutory deadline: Consider the timescales for complying with the transfer request (and whether you can request an extension from the Regulator).
  - Review the information collated during the due diligence and consider whether there is a material risk of a pension scam.
  - Where there is considered not to be a material risk of a pension scam, the transfer should be processed quickly and efficiently.
  - Where there is a material risk of a scam, whether the member has a right to transfer should be checked. This may involve taking advice.
  - If the member does have a right to transfer, it will need to be decided whether to proceed with the transfer despite the risk of a scam.

This involves an assessment of the risks associated with either blocking or allowing the transfer. Again, this may involve taking advice.

- If the member does not have a right to transfer, or if, following the assessment of the risks, it is decided that the transfer should not proceed, the following actions should be taken:
  - Write to the member and inform them that, on the evidence available, the transfer will not be paid. Ensure you include the reasons why the transfer cannot be paid. Provide information about potential consequences of a pension scam and an explanation of the most significant concerns preventing the transfer.
  - Where appropriate, e.g. where there is an active letter of authority, write to the administrator of the receiving scheme and inform them that, on the evidence available, the transfer cannot be processed.
  - Where appropriate, report the scheme and administrator to Action Fraud via: [http://www.actionfraud.police.uk/report\\_fraud](http://www.actionfraud.police.uk/report_fraud).
  - Where required, the Regulator should be notified - see section 6.8 below.
  - If the member challenges a decision to block a transfer, and provides sufficient additional information to satisfy the concerns that have been raised, then the trustees, providers or administrators need to consider whether it is reasonable to proceed with the transfer and inform the member of their decision.
- When dealing with an insistent customer, or where a decision to make a transfer is taken despite concerns about pension scams,

the trustees, providers and administrators should ensure that the discharge forms that the member has signed are suitably robust to reduce risk (although note that such discharge forms may not eliminate risk to trustees and providers of the member or the member's beneficiaries bringing a subsequent claim altogether - see section 4.4 below).

- Due diligence is unlikely to be necessary if the receiving scheme has been vetted previously and is recorded on an internal list of schemes that do not present a pension scam risk. (See section 6.11).
- Trustees, providers and administrators should use their own judgement, take appropriate advice if necessary, and record their decisions.

### PRINCIPLE 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 refer to the warning flags as indicated in the Regulator's Guidance, FCA alerts and Action Fraud (see section 6.1 for links to the guidance). These strategies continue to evolve, but examples at the time of publishing include:

- Pension scams may use documents that look like legitimate scheme documents. *Pension scams will typically use scheme documents that have been taken from legitimate schemes. Although these may look appropriate, the scheme may have no intention of following them.*
- Pension scams will mimic the normal transfer process. *Scheme members may have completed and signed the transfer document; however, they may not have seen or signed any application form or other document.*

- Those intending to operate pension scams will typically make first contact with scheme members via cold calling, unsolicited text messages or emails. *A strong first signal of this would be a letter of authority requesting a company not authorised by FCA to obtain the required pension information; e.g. a transfer value, etc.*
- Schemes established for pension scams might mimic or clone legitimate scheme names. *In particular, this is an issue for QROPS. Make sure that the scheme name matches the QROPS list, but also that other details such as address are correct.*
- Perpetrators of pension scams are likely to apply pressure to force a transfer through. *This may include encouraging direct member complaints, or through other channels such as a local MP, or the perpetrators themselves making that contact. These should be dealt with in accordance with the scheme's normal process; all complaints should come from the scheme member rather than a third party.*
- Pension scams sometimes promise high or guaranteed returns to attract investors. *This has been a particular strategy of scams using SIPPs or SSASs and the FCA have issued information about these particular scams.*
- Scheme members may be coached by those attempting to scam them to answer basic due diligence questions posed by trustees, providers and administrators.

Further information can be found on websites operated by the Regulator, the FCA, and Action Fraud.

### 3. Organisations that welcome the Code of Good Practice

Association of British Insurers

Association of Member-Directed Pension Schemes

Association of Professional Pension Trustees

Department for Work and Pensions

Financial Conduct Authority

HM Revenue & Customs

National Association of Pension Funds

Tax Incentivised Savings Association

The Pensions Administration Standards Association

The Pensions Advisory Service

The Pensions Management Institute

The Pensions Ombudsman Service

The Pensions Regulator

The Society of Pension Professionals



## 4. Background

### 4.1. WHAT IS A PENSION SCAM?

A “pension scam” includes attempts to inappropriately release funds from HMRC registered pension schemes, often resulting in a tax charge that is normally not anticipated by the member.

The “scam” usually occurs through the member of a genuine pension scheme being persuaded to transfer his/her benefits to a new scheme (which might well be a properly registered scheme). The business promoting the scam may charge very high fees and in some cases fraudulently divert funds. The new scheme may allow access to pension savings before normal minimum pension age (normally age 55, other than on ill-health or death) or more cash than would normally be allowed either directly from the new scheme or indirectly via a purported investment made by the scheme (which might be described as a loan or a rebate or commission payment). These payments are very likely to be unauthorised payments and thereby give rise to tax charges.

There are a number of ways in which those promoting pension scams mislead members. For example, the member may not be warned about the tax charges, the very high fees being charged or the way in which the pension funds are being invested. Often, they claim to be taking advantage of a “loophole” that, in reality, does not exist.

### 4.2. MEMBER TRANSFER RIGHTS

In certain circumstances, members have rights to transfer their benefits from their current scheme:

- where the relevant legal requirements are met, and the member exercises their right to a transfer, the transferring scheme has a statutory obligation to make the transfer, and must do so within six months of the application

(or guarantee date in the case of a final salary scheme);

- the transferring scheme rules may also give the member a right to transfer out even where a member does not have a statutory right to a transfer.

Where a member requests a transfer, the trustees/providers must determine whether the member has a right to a transfer. This will involve checking:

- whether there is a right to transfer under the transferring scheme rules. The relevant rules will need to be checked in order to determine, for example, whether the right to a transfer is at the discretion of the trustees/scheme administrator or is subject to any other conditions, such as the payment not being an unauthorised payment (which in turn will need to be assessed). Where the right is discretionary, those holding the discretion will need to consider whether it is appropriate to agree to the transfer request and, in doing so, exercise the discretion reasonably; and
- whether the member has a statutory right to transfer. This will involve an assessment of whether the transfer meets the necessary legal requirements.

These are complex legal questions which may involve a detailed analysis of the transferring and receiving scheme’s governing documents. This analysis is outside the scope of the Code of Good Practice, and is something in relation to which you should seek independent legal advice.

### 4.3. THE REGULATORY FRAMEWORK

#### 4.3.1. The Pensions Regulator

The Regulator is the UK regulator of work-based pension schemes. It has published detailed information on pension scams,

most recently in March (see - <http://www.thepensionsregulator.gov.uk/pension-scams.aspx>), and expects trustees and providers to use the Scorpion leaflet and booklet to make members aware of pension scams.

The Regulator must be notified where a statutory transfer is not made within the relevant statutory timescales. The Regulator has powers to take action, including the power to issue civil penalties in certain circumstances.

The Regulator welcomes the Code of Good Practice.

In its Scorpion materials, the Regulator has stated that it cannot predetermine any future regulatory action it may take. However, where the transferring trustees or administrators can provide evidence for concerns that member funds may be at risk, then this would be a factor to consider when deciding whether to take action in respect of the non-payment of a transfer.

The Regulator is not able to waive a trustee’s legal duty to carry out a transfer within the statutory deadline where the legislative requirements or requirements under the scheme rules are met. The Regulator expects the majority of transfer requests will be completed within the statutory deadline.

If the trustees of a transferring scheme need more time to implement a transfer, for example because they need more time to carry out the due diligence steps in the Code of Good Practice, and if they consider that they meet the criteria for an extension, then they may apply to the Regulator for an extension to the normal six-month time period. Circumstances where an extension may be granted include:

- the member has not taken all steps they need to take for the trustees to carry out the transfer;

- the trustees have not been provided with such information as they reasonably require to properly carry out what the member requires.

The application for the extension must be made within the six month time period. It should identify the grounds for the request for an extension, indicate the additional time required to effect the transfer and the reasons why the transfer cannot be completed on time. Where trustees suspect a pension scam, they should consider making such an application as soon as due diligence raises concerns and they consider that the criteria to request an extension are met.

### 4.3.2. The FCA

The FCA regulates all individual personal pensions, including Self-Invested Personal Pensions (SIPPs), and all stakeholder pensions, as well as all regulated financial advice. The FCA leads on the regulation of workplace personal pensions, such as Group Personal Pensions (GPPs) and Group SIPPs.

The FCA has the overarching strategic objective of ensuring that the relevant markets function well. This is supported by three operational objectives:

- to secure an appropriate degree of protection for consumers
- to protect and enhance the integrity of the UK financial system, and
- to promote effective competition in the interests of consumers.

The FCA ensures that firms provide consumers with appropriate products and services. To do this, the FCA regulates the conduct of around 70,000 businesses, including firms and individuals working in the pensions market, such as insurance firms, independent financial advisers (IFAs) and SIPP Operators.

To reduce harm from financial crime, the FCA ensures that firms:

- take appropriate steps to protect themselves against fraud
- put in place systems and controls to mitigate financial crime risk effectively

- can detect and prevent money laundering, and
- do not use corrupt or unethical methods.

The FCA can take action against firms and individuals involved in scams in the sectors and markets that it regulates. This can include enforcement action against firms and individuals, and restricting or imposing requirements on firms' business. The FCA's enforcement action makes it clear that there are real and meaningful consequences for firms or individuals that don't play by the rules.

The FCA has produced several warnings about pension scams, for instance:

- <http://www.fca.org.uk/consumers/scams/early-pension-release-liberation>
- <http://www.fca.org.uk/consumers/financial-services-products/pensions/protect>
- <http://www.fca.org.uk/your-fca/documents/protect-your-pension-pot>

### 4.3.3. HMRC

Where a scheme meets certain conditions it can be registered by HMRC.

Recently, HMRC's registration process has been changed to deter pension scams:

- HMRC carries out a risk assessment process before deciding whether or not to register a pension scheme;
- HMRC requires that the main purpose of a registered pension scheme should be to provide authorised pension benefits; and
- HMRC has powers to de-register a scheme where it has reason to believe it is involved in pension scams or if the pension scheme administrator is not fit and proper.

A transferring scheme can also ask HMRC to provide confirmation of the registration status of the receiving scheme. HMRC can provide such confirmation without seeking consent from the receiving scheme. For further information, see section 6.3.1.

Tax legislation sets out a list of payments which a registered pension scheme is authorised to make in respect of members, without incurring a tax charge. A transfer of a member's pension benefits will be an unauthorised payment unless it is a recognised transfer. In order to be a recognised transfer various conditions need to be met, including that the receiving scheme is a registered pension scheme (or a QROPS).

It is not just non-recognised transfers that result in unauthorised payments. Many of the payments made by schemes involved in pension scam activity, such as pension payments before normal pension age, will be unauthorised.

Where unauthorised payments are made, this could result in the following tax charges applying:

- (i) an "unauthorised payments charge" of 40% of the value of the payment;
- (ii) an "unauthorised member payment surcharge" of a further 15% of the payment;
- (iii) a "scheme sanction charge" of up to 40% of the unauthorised payment (subject to partial deduction to the extent payment is made of the unauthorised payments charge); and
- (iv) in extreme cases, if the scheme loses its registered status, a deregistration charge of 40% of the scheme assets.

The charges at (i) and (ii) would be levied on the member. The charges at (iii) and (iv) will be borne by the scheme.

### 4.3.4. The Pensions Ombudsman (Ombudsman)

The Ombudsman has jurisdiction to decide complaints of injustice due to maladministration and disputes of fact or law. Members may complain to the Ombudsman if trustees/providers have blocked a transfer that the member believes should have been made, or if a transfer is made which a member believes should not have been.

Where a complaint is upheld, depending on the facts of the case, the Ombudsman could make directions requiring a blocked transfer to be made and/or for the payment of compensation for financial loss and/or any distress or inconvenience caused to the member.

The Ombudsman must determine matters in accordance with the law and will therefore assess cases by reference to whether members have a statutory right to transfer and/or transfer rights under the scheme rules. The Ombudsman published three determinations in January 2015 in relation to cases where providers had blocked transfers because they suspected the receiving scheme was involved with pension scams.

In all three cases, following a detailed analysis of the receiving schemes' governing documents, the Ombudsman concluded that there was no statutory right to a transfer (although in one case the complaint was partly upheld in relation to the exercise of a discretionary transfer power under the scheme rules), but the providers had not carried out the necessary analysis to establish the members' transfer rights.

*In his closing observations, the Ombudsman commented that "providers, trustees, managers and administrators will want to keep in mind that strictly they can only refuse to make a transfer beyond the end of the statutory period if there is no statutory right to it. They should satisfy themselves of the position, on the balance of probabilities and a correct interpretation of the law, based on such evidence as they can obtain from the member or receiving scheme or other sources - and reaching a decision may involve drawing inferences from a failure to provide evidence. Where they find that there is no right to transfer they should be expected to be able to justify that to the person asserting the right."*

In an update published alongside the determinations the Ombudsman stated that "if the transferors had had a statutory right that they were determined to enforce, even in the face of severe warnings, then,

*after the providers had made such enquiries as thought necessary to establish whether the right existed, the providers could not have further resisted payment."*

#### 4.4. POTENTIAL CONSEQUENCES FOR TRUSTEES AND PROVIDERS

The difficulty for those faced with a suspected pension scam is that, on one hand, the member may have a statutory transfer right (or a right to transfer under the scheme), but on the other the trustee or provider has regulatory and other general responsibilities to act with due care and in the best interests of their members, who could risk losing their pension savings through pension scams. Whether the trustees or providers block or allow the transfer, there are potentially negative consequences for trustees/providers which must be weighed up.

If trustees/providers block a valid transfer request, the potential consequences include the following.

- The Regulator may take action where there was a statutory right to transfer, including imposing a financial penalty of up to £1,000 in the case of an individual and up to £10,000 in any other case on anyone who has failed to take all such steps as are reasonable to ensure the transfer was made (although, note the Regulator's comments at section 4.3.1 above).
- The member could complain to the Ombudsman that they had a right to transfer and the trustees/providers should not have blocked it. Costs may be incurred defending the complaint which, if upheld, could result in a direction to pay compensation covering any actual financial loss to the member of the transfer not having been made and/or a payment for any distress or inconvenience caused to the member. As noted at section 4.3.4 above, the Ombudsman's key focus in determining a complaint is

likely to be on whether the member has a right to transfer and, based on the Ombudsman determinations published to date, where such a right exists it is likely that the complaint would be upheld.

- Having to recalculate and pay the transfer value.
- There may be reputational issues for the trustees/providers if it is perceived that they have blocked a legitimate transfer request.

If trustees/providers make a transfer to a scheme that it transpires is a pension scam vehicle, the potential consequences include the following:

- They may have made an unauthorised payment, resulting in tax penalties for the member and the transferring scheme (see section 4.3.3 above).
- The member could complain to the Ombudsman that the trustees/providers should not have made the transfer. Again, costs may be incurred defending the complaint which, if upheld, could result in a direction to pay compensation covering any financial loss to the member of the transfer having been made and/or a payment for distress or inconvenience.
- The trustees/providers may not benefit from the statutory discharge from any obligation to provide benefits to which the transfer relates. This means that, despite the trustees/providers having transferred out the member's benefits, the member (and any contingent beneficiaries) could still claim benefits from the scheme.
- Even if the member has signed a bespoke, non-statutory discharge, this may not bind contingent beneficiaries, meaning the scheme could face claims by contingent beneficiaries for benefits.
- There may be reputational issues for the trustees/providers if it is perceived that they have not adequately safeguarded member benefits.

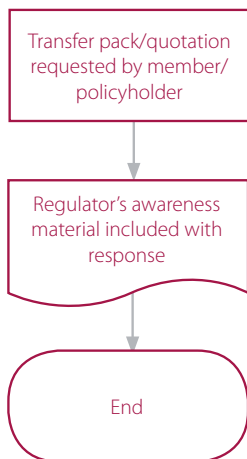
## 5. Pension Scams Due Diligence Process - Summary

A detailed description of the Pension Scams Due Diligence Process is set out in Chapter 6. By way of overview, the Process consists of:

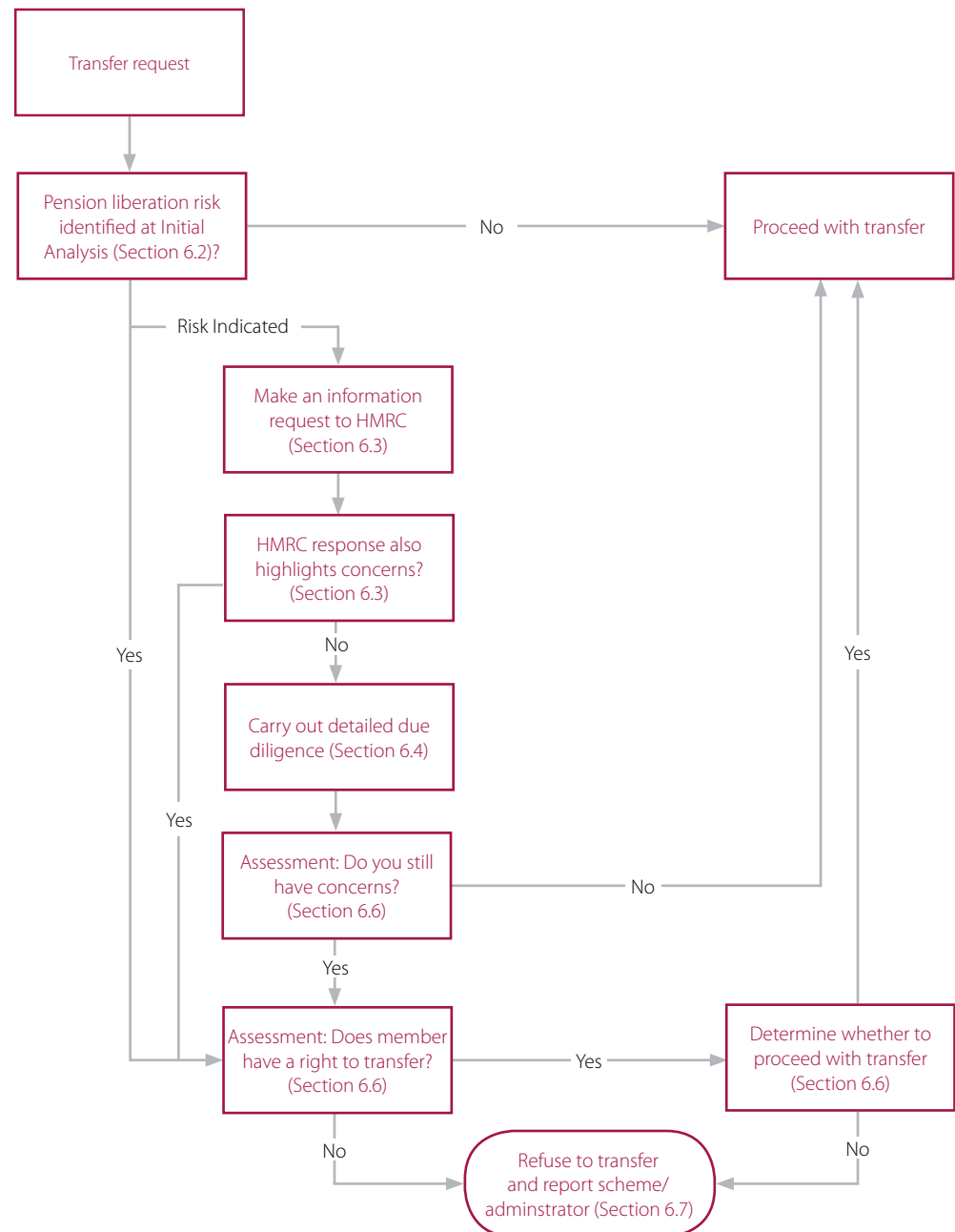
- Transfer Packs (section 6.1)
- Transfer Request - Initial Analysis (section 6.2)
- Additional Information Requests (section 6.3)
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- Reporting to the Regulator (section 6.8)
- Member appeals (section 6.9)
- Discharge forms and insistent members (section 6.10)
- Internal "white list" approach (section 6.11)
- Example letters (section 6.12)

The flow charts below summarise the Pension Scams Due Diligence Process.

### TRANSFER QUOTATION



### TRANSFER REQUEST



## 6. Pension Scams Due Diligence Process – In Detail

### 6.1. TRANSFER PACKS

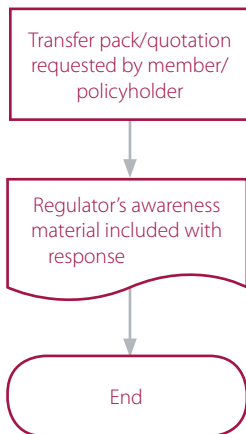
Every pension transfer pack needs to include pension scam awareness material. If a transfer pack is not being sent to a member directly, pension scam awareness material should still be sent to the member’s home address.

This should include a copy of the Regulator’s latest pension scam awareness material. The Regulator’s current awareness material can be found here:

<http://www.thepensionsregulator.gov.uk/professionals/pension-scams-professionals.aspx>

Where an individual responds to say that they think they may be the victim of an attempted pension scam, go to section 6.7.

#### TRANSFER QUOTATION



### 6.2. TRANSFER REQUEST – INITIAL ANALYSIS

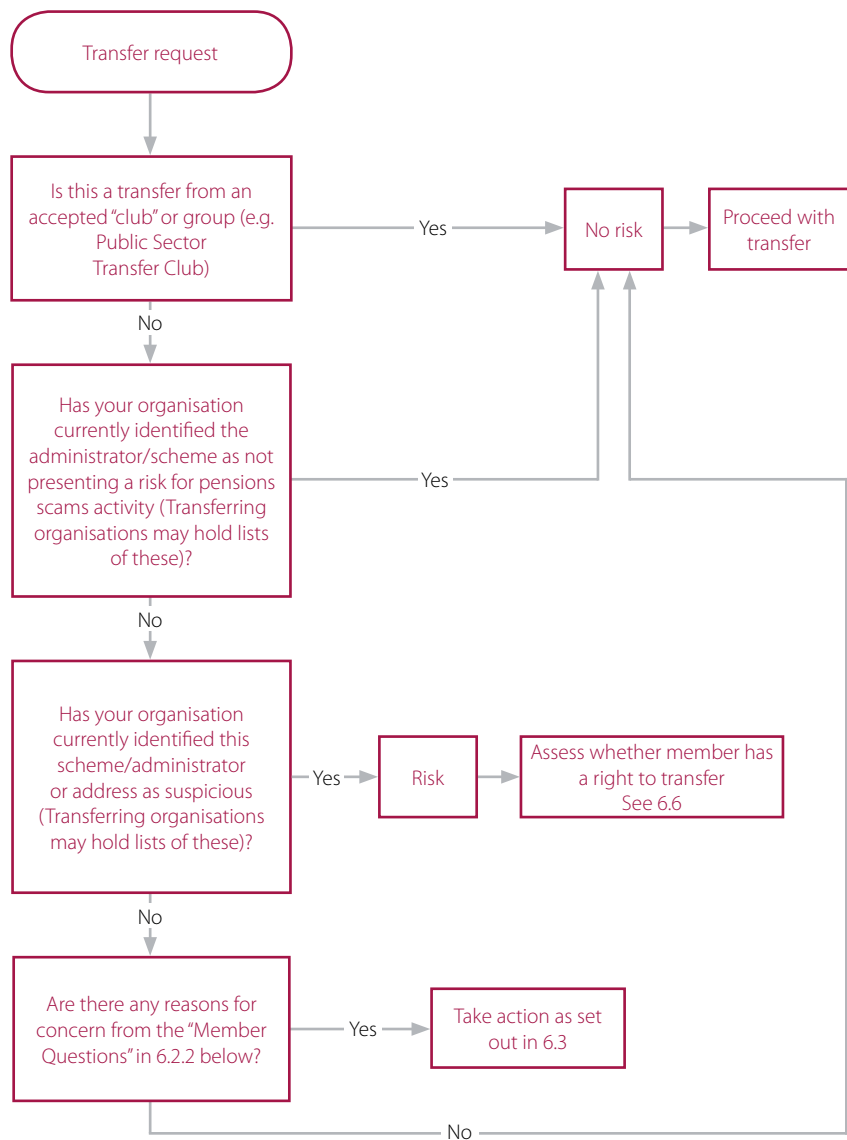
The purpose of this stage of the process is to decide whether detailed due diligence is required. This guidance is in addition to your normal transfer processes.

We would expect that during the course of the normal transfer processes you would collect the following information as a minimum:

- member requesting transfer: name and address; and
- receiving scheme: name, address, HMRC registration number, payment details and type of scheme.

Once you have those details you can begin the initial analysis:

#### TRANSFER REQUEST



### 6.2.1 Initial Analysis – First Questions

When a transfer request is received, each of the following steps should be undertaken initially:

STEP	RESPONSE
(i) Is this a recognised 'club' or group transfer (e.g. Public Sector Transfer Club, known group or recipient)?	If yes, "No Risk", proceed with the transfer. If no, go to (ii)
(ii) Has your organisation currently identified the administrator/ scheme as <b>not</b> presenting a risk of pension scam activity (Transferring organisations may hold lists of these)?	If yes, "No Risk", proceed with the transfer. If no, go to (iii)
(iii) Has your organisation currently identified this scheme/ administrator or address as suspicious (Transferring organisations may hold lists of these)?	If yes, 'Risk', consider whether transfer should be refused, see 6.7. If no, go to (iv)
(iv) Do the responses to the 'Member Questions' in 6.2.2 indicate a risk of Pension Scam?	If no, then proceed with the transfer. If yes, then take action as set out in 6.3.

The answers to the above questions are designed to determine if the transferring scheme can proceed with the transfer without undertaking further due diligence (i.e. it can be fast tracked to payment or refusal).

Section 6.3 provides further guidance on how you may undertake the initial steps to identify whether schemes and administrators present a risk of pension scams.

### 6.2.2 Initial Analysis – Member Questions

Some information will be required to undertake the initial analysis set out above. It will be for providers or trustees to decide how they obtain this information but it is suggested that the members should be asked to provide the information below to facilitate the transfer. It is preferable to obtain information in writing to support your due diligence. You will need to retain an audit trail of the information requested and the decision you have made.

Ask the following questions;

STEP	RESPONSE
Of the individual requesting transfer:	If the answer to any of these questions is 'yes', you should consider further action (see 6.3).
<ul style="list-style-type: none"> <li>• Will you be receiving any cash payment, bonus, commission or loan from the receiving scheme or its administrators, as a result of transferring your benefits?</li> <li>• Did the receiving scheme/adviser or sales agents/ representatives for the receiving scheme make the first contact (e.g. a cold call)?</li> <li>• Have you been told that you can access any part of your pension fund under the receiving scheme before age 55, other than on the grounds of ill-health?</li> <li>• Have you been told that you will be able to draw a higher tax free cash sum as a result of transferring?</li> <li>• Have you been promised a specific/guaranteed rate of return?</li> <li>• Have you been informed of an overseas investment opportunity?</li> </ul>	

**Additional questions will depend on the receiving scheme type:**

STEP	RESPONSE
<p>For an OPS:</p> <ul style="list-style-type: none"> <li>Who is the administrator of the receiving scheme? The administrator will be the company who is responsible for providing you with information about your pension savings - for example an annual statement.</li> </ul>	<p>If the Trustee/Provider/Administrator and Scheme is not known to you and you consider that it does pose a risk, then take action as set out in 6.3 and 6.4.</p> <p>If the Trustee/Provider/Administrator and Scheme is known to you and does not pose a risk, proceed to 6.6.</p>
<p>For a Contract-Based Scheme (CBS) (e.g. personal pension):</p> <ul style="list-style-type: none"> <li>Does the scheme provider show a registration number from the FCA on their letterhead? Please provide the number.</li> <li>Who has advised you to go ahead with the transfer? Please provide their FCA registration number.</li> </ul>	<p>To check whether the CBS is FCA authorised, see 6.2.3.</p> <p>If the Provider is not FCA authorised, or if the Provider is FCA authorised and there is a risk of a pension scam, take action as set out in 6.3 and 6.4.</p> <p>If the adviser is not FCA authorised, do not provide the adviser with any information and inform the member (see sample letter in Appendix A (iv)).</p>
<p>For a SIPP:</p> <ul style="list-style-type: none"> <li>Does the scheme operator show a registration number from the FCA on their letterhead? Please provide the number.</li> <li>Who has advised you to proceed with the transfer? Is this person authorised by the FCA, to advise on pension transfers? Please provide their FCA registration number.</li> </ul>	<p>To check whether the SIPP is FCA authorised, see 6.2.3.</p> <p>If the Provider is not FCA authorised, or if the Provider is FCA authorised and there is a risk of a pension scam, take action as set out in 6.3 and 6.4.</p> <p>If the adviser is not FCA authorised, do not provide the adviser with any information and inform the member (see sample letter in Appendix A (iv)).</p>
<p>For a SSAS:</p> <ul style="list-style-type: none"> <li>Who is the administrator of the SSAS?</li> </ul>	<p>If the Provider/Administrator and Scheme is not known to you and potentially poses a risk, then take action as set out in 6.3 and 6.4.</p> <p>If the Provider/Administrator and Scheme is known to you and does not pose a risk, proceed to 6.6.</p>
<p>For a Qualifying Recognised Overseas Pension Scheme (QROPS):</p> <ul style="list-style-type: none"> <li>Who is the administrator of the QROPS?</li> </ul>	
<p>Have you been able to obtain the information required above?</p>	<p>If 'no', then you may not have received sufficient information to process a valid transfer – go to 6.7.</p>

If the member refuses to answer questions, it is reasonable to take this into account when making a decision on whether the transfer is likely to be lawful and valid.

### 6.2.3. Identifying CBS and SIPP and FCA register

CBS providers and SIPP operators are regulated by the FCA.

As part of that regulatory supervision the approved persons undergo "fit and proper" tests, which give the FCA a wide range of information and oversight, in excess of any information you would obtain via due diligence. However, if you receive a request to transfer to a scheme provided, or operated, by an FCA authorised firm the FCA would still expect you to carry out further due diligence if

your initial due diligence (above) alerted you to the risk of a pension scam.

You can check whether the provider or operator is authorised by searching the FCA Register:

<http://www.fsa.gov.uk/register/home.do>

Also, a provider of a CBS or SIPP must not only be FCA authorised but also hold permission to "establish/operate/wind up a personal pension scheme".

Overseas firms passporting 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 FCA register. This is not correct.

Report individuals who appear to be undertaking regulated advice but are not authorised to do so:

<http://www.fca.org.uk/consumers/protect-yourself/report-an-unauthorised-firm>

If you believe that the transfer would not be valid, or would be unlawful, report to Action Fraud - [http://www.actionfraud.police.uk/report\\_fraud](http://www.actionfraud.police.uk/report_fraud) - (see section 6.7).

## 6.3. ADDITIONAL INFORMATION REQUESTS

It is important that trustees and providers do not go straight to requesting information from HMRC or NFIB instead of first carrying out their own due diligence as set out above. Decisions on transfers based solely on HMRC responses or the NFIB alerts may not be robust enough at this stage and will tie up limited resources.

### 6.3.1. HMRC requests

If, after completing the initial analysis, you are unable to rule out the risk of a pension scam you should query the status of the receiving scheme with HMRC and include all the relevant details.

To do this you must either attach your enquiry to an email and send it to [pensionschemes@hmrc.gov.uk](mailto:pensionschemes@hmrc.gov.uk) or write to:

HM Revenue & Customs  
Pension Schemes Services  
FitzRoy House  
Castle Meadow Road  
Nottingham  
NG2 1BD

It may be several months after your initial request before you get any response from HMRC. You should therefore bear this in mind when considering the timing of your request to HMRC.

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

#### Response 1

*HMRC confirms that at this time, both of the following apply:*

- *the receiving scheme is registered with HMRC and is not subject to a deregistration notice; and*
- *the information held by HMRC does not indicate a significant risk of the scheme being set up or being used to facilitate pension scams.*

#### Response 2

*HMRC only provide confirmation of registration status when both of the following apply:*

- *the receiving scheme is registered with HMRC and is not subject to a deregistration notice; and*
- *the information held by HMRC does not indicate a significant risk of the scheme being established or being used to facilitate pension scams.*

*At this time one or both of these conditions does not apply. HMRC is therefore unable to provide the confirmation you have requested.*

If response 1 is received from HMRC you should move to section 6.4 and undertake further due diligence.

If response 2 is received from HMRC, you should collate with other information gathered during the initial analysis stage and proceed to section 6.6 to determine whether the transfer should or should not be paid.

HMRC's response will be based on information available at the time and is intended to help the scheme decide whether to make a transfer. It should not be the only check that the scheme carries out and relies on. The scheme should make further checks to satisfy themselves before making a transfer.

Any confirmation provided is **not** to be taken as a recommendation of a scheme or product by HMRC.

### 6.3.2. Law Enforcement Intelligence

Project Bloom is the multi-agency approach for dealing with pension scams. It includes representation from the National Crime Agency, City of London Police, the Regulator, the FCA and HMRC amongst others. The Project has worked on raising awareness of pension scams with the pensions industry and the general public, and has referred certain scams for investigation.

Project Bloom arranged for reports of pension scams to be made to Action Fraud (the details for reporting are included section 6.7), 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.

## 6.4. FURTHER DUE DILIGENCE

The level of due diligence that should be conducted is partially dependent on the type of receiving scheme that the transfer is being made into, therefore this guidance has been divided into the following sections:

- 6.4.1 Occupational Pension Schemes (OPS)
- 6.4.2 Self-Invested Personal Pension (SIPP) and Contract-Based Schemes (CBS)
- 6.4.3 Small Self-Administered Schemes (SSAS)
- 6.4.4 Qualifying Recognised Overseas Pension Schemes (QROPS)

At this stage, further due diligence should be undertaken in respect of a wide range of issues, including regulatory, geographical link and receiving scheme provenance. You should keep a record of your decisions in relation to each area of due diligence. An example decision sheet has been provided to help you with this (see Appendix B).

Depending on the systems and processes of your organisation, you may find certain information easier to collect and interpret. Therefore, it is up to you how you collect the information; example questions are included in each section.

It may not be appropriate to ask all questions, in all cases.



### 6.4.1. Occupational Pension Schemes (OPS)

When conducting due diligence on an OPS for the first time, there are a number of key types of information to consider.

Sections (a) to (e) set out what types of information should be collected and the purpose of collecting that information.

Each section sets out example questions that you can use to find the type of information that will be useful to you when making a decision about whether a scheme or administrator poses a pension scam risk. You can choose which questions to use and you can ask alternative questions that will achieve the same purpose. This is to help you fit the due diligence process into your existing processes.

Next to each question is an example of the evidence that you can collect to support your decision. Although there is flexibility in the evidence you require, it is essential that evidence is collected and retained.

When you have gathered your due diligence go to section 6.6 to determine if you should proceed with the transfer.

#### (a) Pension scam risk

##### (i) Purpose

Pension funds under an OPS should not be accessible (without attracting tax penalties) until normal minimum pension age has been reached (save in cases in cases of ill-health or death; or where the member has a protected pension age).

##### (ii) Example questions

QUESTION	VALIDATION
Will you be receiving any cash payment, bonus, commission or loan from the receiving scheme or its administrators, as a result of transferring your benefits?	Request to the member in writing or by telephone.
Have you been told that you can access any part of your pension fund under the receiving scheme before age 55, other than on grounds of ill-health?	Request to the member in writing or by telephone.

#### (b) Regulatory

##### (i) Purpose

There is no requirement for an OPS or its administrator to be FCA registered but trustees of all OPSs must be registered with the Information Commissioner for Data Protection purposes.

Insurance companies that provide occupational schemes must be FCA registered. There is a substantial due diligence process involved, and clear rulebook to follow. Appropriate FCA registration should give substantial comfort that the scheme has not been established for suspicious purposes.

##### (ii) Example questions and validation

QUESTION	VALIDATION
Is this an insured pension scheme? If yes, is Provider FCA regulated?	Check the FCA Register <a href="http://www.fsa.gov.uk/register/home.do">http://www.fsa.gov.uk/register/home.do</a>
Are the trustees of the receiving scheme registered with the Information Commissioner's Office as Data Controllers (if the trustees are exempt from the requirement to register as Data Controllers, please provide an explanation of why they are exempt)?	Letterheaded paper; request other evidence of registration.

#### (c) Employment link

##### (i) Purpose

All OPSs should normally have a clear link between scheme employer and member. Is the information about the employer consistent with the occupation details from the member/policyholder? A lack of identifiable link may be a risk indicator.

## (ii) Example questions and validation

QUESTION	VALIDATION
Is there an employment link?	
Is there evidence of employment by a participating employer?	Request payslip from the member/policyholder.
If you are <b>not</b> employed by an employer that participates in the receiving scheme, please can you provide a brief explanation of your reasons for wishing to transfer your benefits?	Membership of an OPS might be extended to non-employees, but these would normally be connected with existing members. OPSs are not usually marketed to third parties.
What is the date of incorporation of the principal employer for the receiving scheme?	Letterheaded paper or internet research to evidence that the employer was already in existence before the member asked to transfer.
What is the Company registration number for the principal employer of the receiving scheme?	Letterheaded paper or internet research to evidence that the employer is real.
What is the business, service or trade provided by the principal employer for the receiving scheme?	Letterheaded paper or internet research.
Is the principal employer an active or dormant company?	Internet research or Companies House WebCheck – Pension scams often involves a dormant company to suggest an employment link.

## (d) Geographical link

## (i) Purpose

In an OPS, the employer and the member would normally operate from a similar location. Larger companies may operate from a number of locations; however, your research should indicate when this is the case.

## (ii) Example questions and validation

QUESTION	VALIDATION
If you are employed by an employer that sponsors the receiving scheme, please provide the address of your usual place of work for the employer.	Letterheaded paper, internet research or member question for other evidence.
Is the employer/provider/administrator address near to the member's home address?	Letterheaded paper, internet research or member question for other evidence.

## (e) Marketing methods

## (i) Purpose

OPSs are not generally marketed to a potential member. Cold calling or other unsolicited approaches may be risk indicators.

## (ii) Example questions and validation

QUESTION	VALIDATION
How did you become aware of the provider/ adviser/receiving scheme? Did the receiving scheme/provider/adviser make the first contact? What was the method of communication?	Request to the member in writing or by telephone.
Have you received any advice in connection with transferring your pension benefits? If so, please provide details of the organisation or company that provided you with that advice.	Request to the member in writing or by telephone.
During the transfer process, has the receiving scheme (or its administrators) contacted you with official documentation or has all communication been by text, email and/or telephone?	Request to the member in writing or by telephone.
Has a courier been sent to your home to collect signed documentation?	Request to the member in writing or by telephone.

What do you want to achieve through the transfer that you can't in your current scheme?	Request to the member in writing or by telephone.
Have you received any promotional material or information about the receiving scheme? If so, please provide copies.	Request to the member in writing or by telephone.
Have you been pressured by anyone to make a quick decision about transferring your pension?	Request to the member in writing or by telephone.
What have you been told about the investments of the scheme?	Request to the member in writing or by telephone.

## (f) Provenance of receiving scheme

### (i) Purpose

An OPS intended for pension scam purposes might have been established recently (e.g. within the last six months). It may even have been established after the transfer request was made. The sponsoring employer or the administrator may also have been established recently. They may also be operating from 'virtual' offices, or using PO Boxes for correspondence purposes.

### (ii) Example questions and validation

QUESTION	VALIDATION
Date on which the receiving scheme was registered with HMRC.	Copy of Registration certificate and print-off from HMRC Scheme Administrator website.
Request copies of the receiving scheme's governing documentation and formal scheme documents e.g. trust deed and rules, member booklet, scheme accounts.	If these documents are not forthcoming, this may indicate a risk of a pension scam. If these documents are supplied, check them for any obvious inconsistencies e.g. in relation to the identity of the sponsoring employer and the member eligibility provisions.
Is the transfer being requested in advance of the scheme being registered / established?	Compare date of transfer request with date of scheme establishment.
Name and address of the scheme administrator for the receiving scheme and (if appropriate) company registration number.	If the Scheme Administrator for the receiving scheme is a company, print-off from Companies House WebCheck.
Name, address, account number and sort code for the bank account of the trustees of the receiving scheme.	Confirmation of trustees' and scheme's bank account details.
Is the receiving scheme/administrator run from a 'virtual' office?	Internet research.
Is the receiving scheme/administrator quoting only a PO Box address?	Internet research.
If the transfer payment is not to be paid direct to the trustees' account, please provide an explanation of why the payment is being made to a different account.	For an OPS this is poor practice (and your internal controls may not allow this) and might be suspicious - seek a written explanation.
Has the scheme or administrator been connected to investments linked to high fraud risk?	Internet research Example fraud-risk investments include: <ul style="list-style-type: none"> <li>• Carbon credit schemes</li> <li>• Land banking schemes</li> <li>• New ecological opportunities</li> <li>• Green oil from trees</li> <li>• Precious earth metal schemes</li> <li>• Boiler room share investment schemes</li> <li>• Overseas property developments</li> <li>• Storage pods</li> </ul>
Are there links with other administrators/schemes /providers for which you already have suspicions of pension scam activity?	Companies House WebCheck and review director and address information against other transfers you already have noted as suspicious.

Does the administrator have current accreditation from an independent body (for example PASA)?	Documentation confirming accreditation and period valid for. A check with the independent body may be appropriate.
Have a number of schemes been established recently from sponsoring employers with the same address?	Internet research – this might suggest suspicious activity.
Is the director(s) of the sponsoring employer or trustee company also a director of other companies incorporated at the same time?	Companies House WebCheck – this might suggest suspicious activity.
Have a number of schemes been established by administrators with the same address?	Internet research – this might be suspicious activity.
Have a number of schemes been established recently from the same address?	Companies House WebCheck and review director and address information – this might be suspicious.
Is the scheme connected to an unregulated investment company or is it covered by Financial Services Compensation Scheme?	Check FCA register.

#### 6.4.2. Self-Invested Personal Pensions (SIPP)/other Contract-Based Schemes (CBS)

When conducting due diligence for the first time, there are a number of key areas in which information is required. Sections (a) to (d) set out what types of information that should be collected and the purpose of collecting that information.

If the due diligence you have conducted satisfies the purpose of each area you should proceed with the transfer and keep a record of your decision.

If section (a) indicates pension scam activity you should consider further action (see section 6.3) without collecting any additional information.

If the due diligence has not satisfied the purpose of sections (b) to (d)

##### (a) Pension scam risk

###### (i) Purpose

Pension funds under a CBSs should not be accessible (without attracting tax penalties) until normal minimum pension age has been reached (save in cases of ill-health or death; or where the member has a protected pension age).

###### (ii) Example questions

QUESTION	VALIDATION
Will you be receiving any cash payment, bonus, commission or loan from the receiving scheme or its administrators, as a result of transferring your benefits?	Request to the member in writing or by telephone.
Have you been told that you can access any part of your pension fund under the receiving scheme before age 55 (other than on grounds of ill-health) or that you will be able to access your pension fund more tax efficiently?	Request to the member in writing or by telephone.

##### (b) FCA Regulation

###### (i) Purpose

SIPP operators must be FCA registered. There is a substantial due diligence process involved, and clear rulebook to follow. Appropriate registration should give substantial comfort that the scheme has not been set up for suspicious purposes.

## (ii) Example questions

QUESTION	VALIDATION
Is the SIPP operator FCA regulated?	FCA Register.
Does the provider have the appropriate FCA permissions?	FCA Register.
Are the trustees of the receiving scheme registered with the Information Commissioner's Office as Data Controllers (if the trustees are exempt from the requirement to register as Data Controllers, please provide an explanation of why they are exempt)?	Letter-headed paper; request other evidence of registration.
Is the transfer into the SIPP advised by the same company or individuals who are administering the SIPP?	Request to the member in writing or by telephone.

## (c) Marketing methods

## (i) Purpose

Although SIPPs are actively marketed it would be very unusual for schemes to contact prospective members through unsolicited calls.

## (ii) Example questions

QUESTION	VALIDATION
How did you become aware of the adviser/receiving scheme? Did sales agents for the underlying investment or the receiving scheme/adviser make the first contact?	Request to the member in writing or by telephone.
Have you received any advice in connection with transferring your pension benefits? If so, please provide details of the organisation or company that provided you with that advice.	Request to the member in writing or by telephone.
During the transfer process, has the receiving scheme (or its administrators) contacted you with official documentation or has all communication been by text, email and/or telephone?	Request to the member in writing or by telephone.
What do you want to achieve through the transfer that you can't in your current scheme?	Request to the member in writing or by telephone.
Have you received any promotional material or information about the 'receiving scheme'? If so, please provide copies.	Request to the member in writing or by telephone.
Have you been pressured by anyone to make a quick decision about transferring your pension?	Request to the member in writing or by telephone.

## (d) Provenance of receiving scheme

## (i) Purpose

SIPPs set up for pension scam purposes might have been set up recently (i.e. within the last six months.) They may even have not been set up before the transfer request is made. The Administrator may also have been set up recently. They may also be operating from 'virtual' offices, or using PO Boxes for correspondence purposes.

## (ii) Example questions

QUESTION	VALIDATION
Date on which the receiving scheme was registered with HMRC.	Copy of Registration certificate and print-off from HMRC Scheme Administrator website.
Request copies of the receiving scheme's governing documentation and formal scheme documents e.g. trust deed and rules, member booklet, scheme accounts.	If these documents are not forthcoming, this may indicate a risk of pension scam. If these documents are supplied, check them for any obvious inconsistencies e.g. in the identity of the sponsoring employer and the eligibility provisions.

Is the transfer being requested in advance of the scheme being registered / set up?	Compare date of transfer request with date of scheme establishment.
Name and address of the scheme administrator for the receiving scheme and (if appropriate) company registration number.	If the scheme administrator for the receiving scheme is a company, print-off from Companies House WebCheck.
Name, address, account number and sort code for the bank account of the trustees of the receiving scheme.	Confirmation of trustees' and scheme's bank account details.
Is the receiving scheme / administrator run from a 'virtual' office?	Internet research.
Is the receiving scheme / administrator quoting only a PO Box address?	Internet research.
If the transfer payment is not to be paid direct to the trustees' account, please provide an explanation of why the payment is being made to a different account.	Seek a written explanation.
Has the scheme or administrator been linked to investments linked to high fraud risk?	Internet research  Example fraud risk investments include: <ul style="list-style-type: none"> <li>• Carbon credit schemes</li> <li>• Landbanking schemes</li> <li>• New ecological opportunities</li> <li>• Green oil from trees</li> <li>• Precious earth metal schemes</li> <li>• Boiler room share investment schemes</li> <li>• Overseas property developments</li> <li>• Storage pods</li> </ul>
Are there links with other administrators / schemes / providers for which you already have suspicions of pension scam activity?	Companies House WebCheck and review director and address information – this might be suspicious.
Have a number of schemes been set up recently from sponsoring employers with the same address?	<ul style="list-style-type: none"> <li>• Internet research – this might be suspicious.</li> </ul>
Is the director of the sponsoring employer also a director of other companies set up at the same time?	Companies House WebCheck – this might be suspicious.
Have a number of schemes been set up by administrators with the same address?	Internet research – this might be suspicious
Have a number of schemes been set up recently from the same address?	Companies House WebCheck and review director and address information this might be suspicious.
Is the scheme connected to unregulated investment company?	Companies House WebCheck.

### 6.4.3. Small Self-Administered Scheme (SSAS)

A SSAS is an OPS of a type which, until 5 April 2006, was recognised by HMRC as being subject to the provisions of Chapter 20 of IR12 (2001), "Occupational Pension Schemes Practice Notes". Though there is no longer a formal definition of SSAS in legislation or elsewhere, the term continues to be used in regard to an OPS with fewer than twelve members, where all the members are trustees and take responsibility for determining how monies held by the scheme should be invested.

When conducting due diligence on a SSAS for the first time, there are a number of key types of information to consider.

Sections (a) to (d) set out what types of information should be collected and the purpose of collecting that information.

Each section sets out example questions that you can use to find the type of information that will be useful to you when making a decision about whether a scheme or administrator poses a pension scam risk. You can choose which questions to use and you can ask alternative questions that will achieve the same purpose. This is to help you fit the due diligence process into your existing processes.

Next to each question is an example of the evidence that you can collect to support your decision. Although there is flexibility in the evidence you require, it is essential that evidence is collected and retained.

SSASs do not need an FCA regulated person to be involved. However, many genuine SSAS providers will be a member of an industry group such as the Association of Member Directed Pension Scheme (AMPS) and association with such trade bodies can be taken into account.

When you have gathered your due diligence go to section 6.6 to determine if you should proceed with the transfer.

#### (a) Employment link

##### (i) Purpose

As SSAS are a type of OPS, there should normally be some employment link, with at least one member. A lack of identifiable link may indicate that a SSAS vehicle is being used for another purpose.

##### (ii) Example questions

QUESTION	VALIDATION
Is there an employment link?	
Is there evidence of employment?	Request payslip.
If you are <b>not</b> employed by an employer that sponsors the receiving scheme, please can you provide a brief explanation of your reasons for wishing to transfer your benefits?	Membership of a SSAS might be extended to non-employees, but these would be normally be connected with existing members. SSASs are not usually marketed to third parties.

#### (b) Geographical link

##### (i) Purpose

As above, an employer from a different location may be a sign that the SSAS vehicle is not being used for the purpose of an OPS.

##### (ii) Example questions

QUESTION	VALIDATION
If you are employed by an employer that sponsors the receiving scheme, please provide the address of your usual place of work for the employer?	Letterheaded paper, internet research or member question for other evidence.
Provider/Administrator address near to the member's home address?	Letterheaded paper, internet research or member question for other evidence.

#### (c) Marketing methods

##### (i) Purpose

SSASs are not generally marketed to potential members, therefore cold calling or other unsolicited approaches may indicate that the SSAS vehicle is not being used for the purpose of an OPS.

##### (ii) Example questions

QUESTION	VALIDATION
How did you become aware of the adviser/receiving scheme? Did sales agents for the underlying investment or the receiving scheme/adviser make the first contact? What was the method of communication?	Request to the member in writing or by telephone.
Have you received any advice in connection with transferring your pension benefits? If so, please provide details of the organisation or company that provided you with that advice.	Request to the member in writing or by telephone.

During the transfer process, has the receiving scheme (or its administrators) contacted you with official documentation or has all communication been by text, email and/or telephone?	Request to the member in writing or by telephone.
What do you want to achieve through the transfer that you can't in your current scheme?	Request to the member in writing or by telephone.
Have you received any promotional material or information about the 'receiving scheme'? If so, please provide copies.	Request to the member in writing or by telephone.
Have you been pressured by anyone to make a quick decision about transferring your pension?	Request to the member in writing or by telephone.

**(d) Provenance of receiving scheme**

(i) Purpose

A SSAS intended for pension scam purposes might have been established very recently (e.g. within the last six months.) It may even have been established after the transfer request was made. The sponsoring employer or the Administrator may also have been established recently. They may also be operating from 'virtual' offices, or using PO Boxes for correspondence purposes.

(ii) Example questions

QUESTION	VALIDATION
Date on which the receiving scheme was registered with HMRC.	Copy of Registration certificate and print-off from HMRC Scheme Administrator website.
Request copies of the receiving scheme's governing documentation and formal scheme documents e.g. trust deed and rules, member booklet, scheme accounts.	If these documents are not forthcoming, this may indicate a risk of a pension scam.  If these documents are supplied, check them for any obvious inconsistencies e.g. in relation to the identity of the sponsoring employer and the member eligibility provisions.
Is the transfer being requested in advance of the scheme being registered/established?	Compare date of transfer request with date of scheme establishment.
Name and address of the scheme administrator for the receiving scheme and (if appropriate) company registration number	If the scheme administrator for the receiving scheme is a company, print-off from Companies House WebCheck.
Name, address, account number and sort code for the bank account of the trustees of the receiving scheme.	Confirmation of trustees' and scheme's bank account details.
Is the receiving scheme/administrator run from a 'virtual' office?	Internet research.
Is the receiving scheme/administrator quoting only a PO Box address?	Internet research.
Has the scheme or administrator been linked to investments linked to high fraud risk?	Internet research.  Example fraud-risk investments include: <ul style="list-style-type: none"> <li>• Carbon credit schemes</li> <li>• Land banking schemes</li> <li>• New ecological opportunities</li> <li>• Green oil from trees</li> <li>• Precious earth metal schemes</li> <li>• Boiler room share investment schemes</li> <li>• Overseas property developments</li> <li>• Storage pods</li> </ul>
Are there links with other administrators/schemes/providers for which you already have suspicions of pension scam activity?	Companies House WebCheck and review director and address information against other transfers you have already noted as suspicious.



Have a number of schemes been established recently from sponsoring employers with the same address?	<ul style="list-style-type: none"> <li>Internet research – this might suggest suspicious activity.</li> </ul>
Is the director of the sponsoring employer also a director of other companies established at the same time?	Companies House WebCheck – this might suggest suspicious activity.
Have a number of schemes been established by administrators with the same address?	Internet research – this might suggest suspicious activity.
Have a number of schemes been established recently from the same address?	Companies House WebCheck and review director and address information – this might suggest suspicious activity but could also indicate a large, well established SSAS provider.
Is the scheme connected to an unregulated investment company?	Companies House WebCheck.

#### 6.4.4. Qualifying Recognised Overseas Pension Schemes (QROPS)

A QROPS is the only form of overseas pension scheme to which a UK registered pension scheme can pay a “recognised transfer”. If an overseas pension scheme does not meet the conditions of a QROPS, a transfer to that scheme will not be a recognised transfer, and will therefore constitute an unauthorised payment from the UK scheme.

For an overseas pension scheme to receive and maintain QROPS status, it must meet certain requirements as detailed in UK legislation and as monitored and enforced by HMRC. Before making a transfer payment to a QROPS, the transferring scheme’s managers must be satisfied that the receiving scheme has QROPS status. It should be noted that although HMRC maintains a list of QROPS, managers of individual QROPS can opt not to have their scheme included on that list.

HMRC’s list of QROPS can be viewed via the link below. It is recommended that, irrespective of the level of due diligence carried out prior to the making of a transfer payment to a QROPS, the status of the receiving scheme should be checked on the date of the proposed payment to that scheme, and that a record of that check is made.

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.). The check should include making sure that the payment is going to the correct country for the registered QROPS. Payment to a clone scheme is likely to be deemed an unauthorised payment by HMRC.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/403878/qrops.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/403878/qrops.pdf)

Unlike, for example, “SIPP” or “SSAS”, the term “QROPS” does not signify whether the scheme is of the occupational or personal type. The status of a particular QROPS should be ascertained during the due diligence stage, in any request for payment of a transfer from a UK scheme to a QROPS.

Rather than complicate this Code by offering separate sets of due diligence questions for both occupational QROPS and those comparable to personal pension schemes, it is suggested that, broadly, those due diligence questions detailed in section 6.4.3 in relation to SSASs should be considered, in regard to QROPS. The key items to consider are the rationale for moving funds offshore, and the likelihood that the receiving scheme is a bona fide pension scheme, as if HMRC determine retrospectively that it is not, there may be a scheme sanction charge liability regardless of whether the receiving scheme was included on the list or not.

Before paying a transfer to a QROPS, receiving scheme managers should ensure that the transferring member has lodged with them a completed form APSS263, as issued by HM Revenue & Customs.

## 6.5. DURING THE DUE DILIGENCE PROCESS

### 6.5.1. Withdrawal of transfer application

It is possible that, during the due diligence process, the member will withdraw their transfer request. This could be because the awareness 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 and it is not in their best financial interests to proceed.

Where this happens, no further action is required in respect of the transfer, although it would be worthwhile documenting any concerns revealed by any due diligence undertaken and retaining 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. A sample decision sheet has been provided to help organisations with this process in Appendix B.

### 6.5.2. Extensions

In certain circumstances an application for an extension for processing a transfer request can be submitted to the Regulator. See section 4.3.1. Where an extension is applied for, the trustees should then notify the member - see Appendix A (vii).

## 6.6. DETERMINING PENSION SCAM RISK

Once you have completed the due diligence process as set out in sections 6.2, 6.3 and 6.4 as appropriate, and if the member has not withdrawn their transfer request, you need to decide how to proceed.

### 6.6.1. Governance

Trustees/providers need to ensure they have appropriate governance processes in place to determine the risk of a pension scam and whether a transfer should

proceed. This may include discussing cases with law enforcement (see section 6.7) and HMRC, and taking independent legal advice where required.

Challenges to the decision may be received. These may take the form of schemes writing directly, or members or customers deciding to make a complaint. Therefore, it is necessary to ensure there is sufficient support and governance in place to deal with such challenges or complaints. Being able to show that the principles in the Code of Good Practice have been followed should assist in any defence to allegations that the decision has been made incorrectly.

All concerns, any written evidence and notes or recording of calls should be documented. A sample decision sheet has been provided to help organisations with this process in Appendix B.

### 6.6.2. Determination

The individual(s) responsible for making the determination should collate and review the information gathered during the due diligence process. The decisions needed are set out below and summarised in the flow diagram at the end of this section.

If there has been a failure to supply information or respond to information requests, then you should consider what inferences can be drawn from the particular failures to provide evidence.

If, in light of all the information collated, you consider that there is no material risk of a pension scam, you should proceed to pay the transfer.

If you consider that there is a material risk of a pension scam, you should consider whether the member has a right to transfer, meaning there is a duty to process the transfer.

A right to transfer could be either a statutory right, or a right arising under the transferring scheme rules (which may be discretionary). Information on how the existence of a transfer right should be assessed is set out in section 4.2. If there is a discretionary transfer

power, the information gathered during the due diligence process may be considered when deciding whether to agree to the transfer.

If you consider that the member does not have a right to transfer, you should proceed to section 6.7. You should be prepared to explain to the member why you believe that they do not have a right to transfer.

If the member does have a right to transfer, but you consider that there is a material risk of a pension scam, you will need to make a judgement about whether to proceed with the transfer. This will involve an assessment of the risks associated with either blocking the transfer or allowing it to proceed. These are summarised in section 4.4. You may wish to seek independent legal advice on the potential consequences of either decision:

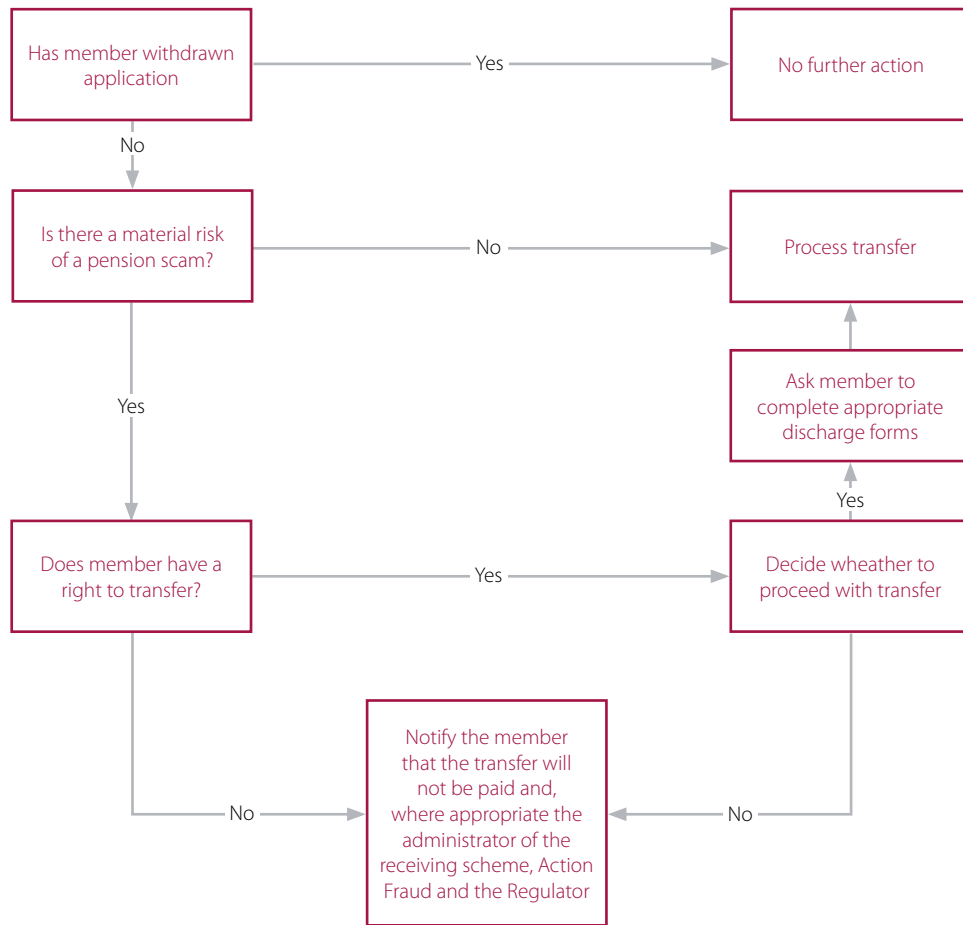
- If you then decide that the transfer should not be made, proceed to section 6.7. You should be prepared to explain to the member why the transfer is not being made.
- If you decide that the transfer should be made, proceed to pay the transfer. To mitigate the risk to you, ensure that a suitably robust discharge is obtained from the member before the transfer is paid - see section 6.10.

If, during this process, you find that you have made a transfer in good faith that you now deem to be suspicious, it should also be reported to Action Fraud - covered in section 6.7.

## 6.7. REFUSING A TRANSFER AND REPORTING

If you determine under section 6.6 that the transfer should not proceed, you should:

- Write to the member and inform them, with reasons, that you are unable to make the transfer (e.g. risk of receiving scheme not being a genuine pension scheme too high) - see Appendix A (v).



- Where appropriate, e.g. where there is an active letter of authority, write to the administrator/adviser and inform them that you are unable to make the transfer – see Appendix A (vi).
- Report the scheme and administrator to Action Fraud via: [http://www.actionfraud.police.uk/report\\_fraud](http://www.actionfraud.police.uk/report_fraud).

### 6.8. REPORTING TO THE REGULATOR

Where you have refused a statutory transfer payment, where all of the requirements are met and you consider the request valid, you should notify the Regulator (see section 4.3.1 above).

You may also have a duty to report breaches of the law, as set out in the Regulator’s Code of Practice 1: reporting breaches of the law - <http://www.thepensionsregulator.gov.uk/codes/code-reporting-breaches.aspx>.

### 6.9. MEMBER APPEALS

A member may challenge a decision to refuse a transfer payment. This challenge may be informal or part of a formal complaint. You should be prepared to explain to the member why the transfer was refused.

As part of the challenge, the member may provide sufficient additional information to satisfy the concerns or failure to provide information that led to the transfer being refused. If so, you need to consider whether it is now reasonable to proceed with the transfer.

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 pay the transfer stands.

If you decide that the transfer should proceed, then the transfer should be processed as quickly and efficiently as

possible. You could ask the member to complete a ‘discharge form’ (see section 6.10).

### 6.10. DISCHARGE FORMS AND INSISTENT MEMBERS

When dealing with an insistent member, or where you decide to make a transfer despite the existence of concerns that there is a risk of a pension scam, you could ask the member to complete a discharge form. You should ensure that the discharge form that the member signs is sufficiently robust to reduce your risk.

An example discharge form is set out at Appendix C. You may wish to take independent legal advice on the content of any discharge form and should note that a discharge form signed by the member may not eliminate risk altogether and may not be capable of binding the member’s beneficiaries.

## 6.11. INTERNAL “WHITE LIST” APPROACH

Section 6.2.1 asks “(ii) Has your organisation currently identified the administrator/scheme as not presenting a risk of pension scam activity (Transferring organisations may hold lists of these)?” and “(iii) Has your organisation currently identified this scheme/administrator or address as suspicious (Transferring organisations may hold lists of these)?”

This section provides guidance on how trustees/providers or administrators might manage schedules of schemes deemed to present a risk or not present a risk.

Some organisations have experienced high levels of suspicious transfer requests and in processing them have built up a body of knowledge. They have used this, to determine at an early stage if they already have enough information to decide if the transfer application is valid or if it could be an unauthorised payment.

It is for each organisation to decide if they wish to build and maintain a process to manage a list of organisations, scheme or individuals that do or do not present a risk of pension scams and ensure that they have robust and ongoing due diligence to support it.

Undertaking this work may significantly reduce the due diligence needed on individual transfers. Some key considerations in deciding whether to build the process are:

- the volume of transfers processed;
- the resource needed to create and maintain the lists; and
- the organisation’s risk appetite.

In building the process, organisations will need to consider:

- the basis for adding an organisation, scheme or individual to a list. This could be following a decision being made to pay or refuse a transfer request, or it could also incorporate other information from law enforcement, regulatory alerts etc.;

- the appropriate sign off to add or remove a scheme or administrator;
- how schemes and administrators will move between lists (or be removed) as new information is gathered;
- how information from external sources, e.g. industry bodies, will be incorporated;
- how information gathered will be verified, for example, where an administrator with multiple offices is added to a list, how you will ensure that all valid contact information is recorded;
- the controls needed to ensure the list is reviewed before transfers are processed and when;
- how you will ensure that staff only have access to the current list – what restrictions may be needed on printing or saving; and
- how the controls in place will be monitored.

## 6.12. EXAMPLE LETTERS

Example letters for various stages of this process are attached as Appendix A:

- Supporting Section 6.2: Letters (i) and (iv)
- Supporting Section 6.3.1: Letters (ii)
- Supporting Section 6.4: Letters (iii)
- Supporting Section 6.7: Letters (v), and (vi)

## APPENDIX A – Example Letters

### (I) MEMBER LETTER WORDING (SEE SECTION 6.2.2)

This example letter must be adapted for your specific circumstances. You may wish to take independent legal advice on its content.

The Pension Scam Due Diligence Process, section 6.2.2 refers to information that providers and trustees should ask members to supply as part of their due diligence process. If they decide to write and request further information, the following suggested wording may assist them in doing so:

Dear <NAME>

#### **Pension transfer request - policy number <INSERT NUMBER>**

As a <SCHEME ADMINISTRATOR/PENSION PROVIDER> we have a duty to look for early warning signs that a pension is being transferred as part of a pension scam. This could be a transfer of a pension to an arrangement that allows benefits to be paid out before age 55 (the earliest age from which pension benefits can normally be accessed), or promises to pay out a tax-free lump sum greater than HM Revenue & Customs allow after age 55. Some companies are promising savers that they can cash in their pension benefits early by transferring their pension savings to them. They are enticing people with pension loans or cash incentives. However, their information can be misleading and this is when it turns into fraud. They are often not telling savers about the huge tax charges and the costs in terms of fees. Such a transfer could leave you with a tax bill of more than your pension.

We don't know if this is the case here and so as part of our standard due diligence checking process we need to ask you to answer the following questions and/or to provide the following information:

Depending on the information you have already received, you may ask the member/policyholder to provide the following:

- Will you be receiving any cash payment, bonus, commission or loan from the receiving scheme administrators as a result of transferring your benefits?
- How did you hear about the receiving scheme?
- Have you been told that you can access any part of your pension fund under the receiving scheme before age 55, other than on grounds of ill-health?
- Have you been promised a specific or guaranteed rate of return on your pension fund under the receiving scheme?

Depending on the type of receiving scheme you may consider asking the member/policyholder to provide further information and evidence. The receiving scheme type to which the question is relevant is in brackets:

- What is the name of the individual or company providing day-to-day administration services for the receiving scheme (Occupational Pension Scheme/Small Self-Administered Scheme (SSAS))?
- Does the scheme provider show a registration number from the Financial Conduct Authority (FCA) on their letterhead? What is it? (Contract-based/personal pension scheme/Self-Invested Personal Pension (SIPP))
- Who has advised you to go ahead with the transfer? Please provide evidence of their FCA registration number. (Contract-based/personal pension scheme / SIPP)

You can get more information about pension scams from the Pensions Regulator's website:

<http://www.thepensionsregulator.gov.uk/pension-scams.aspx>

Yours sincerely

## (II) LETTER TO HMRC (SEE SECTION 6.3)

This example letter must be adapted for your specific circumstances. You may wish to take independent legal advice on its content.

Where due diligence checks indicate pension scam activity or information requests from the other areas have not been met then you should confirm the status of the receiving scheme with HMRC. The following example wording may be helpful to you in drafting a suitable letter. You may also want to adapt it to the circumstances of a particular case, by including an explanation as to why there are concerns about the receiving scheme.

Dear <NAME>

### **Pension transfer request**

We have received a request from <INSERT PROVIDER/ADVISER NAME> to transfer pension funds into <INSERT NAME OF RECEIVING SCHEME>.

We understand that there have been an increased number of requests to transfer pension benefits to schemes that may be involved or associated with pension scams.

Our research indicates that <INSERT SCHEME ADMINISTRATOR NAME> were the scheme administrators in respect of transfer requests to alleged pension scams <INSERT OTHER RELATED COMPANY NAMES>. Therefore before we proceed with any request(s) to transfer pension funds into <INSERT NAME OF RECEIVING SCHEME>, we would request that HMRC provide written confirmation that the scheme is a registered pension scheme.

Enclosed with this letter are copies of:

- approval from the authorised signatory for <NAME> Administration authorising HMRC to confirm to <INSERT YOUR OWN COMPANY NAME> that the <INSERT NAME OF RECEIVING SCHEME> is a registered scheme; and
- a copy of the HMRC PSTR confirmation letter that we have been provided with in relation to the receiving scheme.

We will await your response before progressing the member's request to transfer and would therefore be grateful for a prompt response. Please do not hesitate to contact me in the meantime if you require further information.

Yours faithfully

### (III) MEMBER LETTER WORDING (SEE SECTION 6.4)

This example letter must be adapted for your specific circumstances. You may wish to take independent legal advice on its content.

The Pension Scam Due Diligence Process, section 6.4 refers to information that providers and trustees should ask members to supply as part of their due diligence process. If they decide to write and request further information, the following suggested wording may assist them in doing so:

Dear <NAME>

#### **Pension transfer request - policy number <INSERT NUMBER>**

We are writing to you further to your letter of <insert date> requesting that we transfer your benefits to <XYZ RETIREMENT BENEFIT SCHEME>. As a <SCHEME ADMINISTRATOR/PENSION PROVIDER> we have a duty to look for early warning signs that a pension is being transferred as part of a pension scam. This is the transfer of a pension to an arrangement that could allow benefits to be paid out before the minimum pension age of 55, or promises to pay out more cash "tax-free" than HM Revenue & Customs allow after age 55.

Some companies are promising savers that they can cash in their pension benefits early by transferring their pension savings to them. They are enticing people with pension loans or cash incentives. However, their information can be misleading and this is when it turns into fraud. They are often not telling savers of the huge tax charges and the costs in terms of fees. Such a transfer could leave you with a tax bill of more than your pension.

We don't know if this is the case here and so as part of our standard due diligence checking process we need to ask you to answer the following questions and/or to provide the following information:

Depending on the information you have already received, you may ask the member/policyholder to provide the following:

- Please send a recent payslip as evidence of employment by a participating employer of the receiving scheme (Occupational Pension Scheme).
- If you are employed by an employer that sponsors the receiving scheme, please provide the name and address of your usual place of work for the employer.
- If you are not employed by an employer that participates in the receiving scheme, please provide a brief explanation of your reasons for wishing to transfer your benefits (Occupational Pension Scheme).
- How did you become aware of the Provider/adviser/receiving scheme? Did they make first contact? (OPS)
- Have you received any advice in connection with transferring your pension benefits? If so, please provide details of the organisation or company that provided you with that advice and a copy of the advice.
- During the transfer process has the receiving scheme (or its administrator) contacted you with official documentation or has all communication been by text, email and/or telephone?
- What do you want to achieve through the transfer that you can't in your current scheme?
- Have you been pressured by anyone to make a quick decision about transferring your pension?
- What have you been told about where your funds will be invested by the receiving scheme? Please send copies of any information or brochures you have been sent.

You can get more information about pension scams from the Pensions Regulator's website:

<http://www.thepensionsregulator.gov.uk/individuals/dangers-of-pension-scams.aspx>

Yours sincerely

#### (IV) UNREGULATED ADVISER MEMBER LETTER (SEE SECTION 6.6)

This example letter must be adapted for your specific circumstances. You may wish to take independent legal advice on its content.

The Pension Scam Code Due Diligence Process, section 6.2.2 refers to the requirement for persons advising on pension transfers to be authorised by the FCA to give advice regarding pension transfers. Administrators may find the following example wording useful where they need to write to a member advising that they have not provided information to the adviser in these circumstances:

Dear <NAME>

**Pension transfer request - policy number <INSERT NUMBER>**

I refer to a recent letter we have received from <XYZ RETIREMENT BENEFIT SCHEME> requesting information regarding your pension record.

Please note that we have not provided the requested information as the company does not appear to be authorised by the Financial Conduct Authority (FCA) to give advice regarding pension transfers, which is a requirement for most transfers.

We can provide this information to you if you contact us directly to request this. However, before doing so you may be interested to read the enclosed leaflet published by a group of Regulatory and Law Enforcement bodies warning of the dangers of pension scams.

You can also get more information about pension scams from the Pensions Regulator's website:

<http://www.thepensionsregulator.gov.uk/individuals/dangers-of-pension-scams.aspx>

If you have any questions or would like to discuss any concerns please contact us.

Yours sincerely



## (V) TRANSFER DENIED – LETTER TO MEMBER/POLICYHOLDER (SEE SECTION 6.7)

This example letter must be adapted for your specific circumstances. You may wish to take independent legal advice on its content.

Dear <NAME>

### **Pension transfer request - policy number <INSERT NUMBER>**

We are contacting you in relation to a pension transfer request that we have received from <PROVIDER NAME> that instructs us to transfer your fund from your <INSERT BRAND NAME> pension to <INSERT SCHEME NAME>.

We are contacting you in relation to a Pension transfer request that we have received from <PROVIDER NAME> that instructs us to transfer your fund from your <INSERT BRAND NAME> pension to <INSERT SCHEME NAME>.

We have taken a decision not to transfer the fund to the required scheme due to the possible risk of a pension scam [and because you do not have a legal right to transfer]. We understand that being able to access your pension pot before the age of 55 may sound very attractive. However, the contributions you have paid into your pension fund have received tax relief and as a result there are tax rules about when and how you can take money from your pension pot that must be adhered to.

### **GIVE SPECIFIC DETAIL AS TO WHY THE DECISION HAS BEEN MADE NOT TO PROCEED WITH THIS TRANSFER**

The scheme that you have asked us to transfer your pension fund to has flagged up against a number of the scenarios above. [In addition, you do not have a legal right to a transfer for the reasons given above]. Having reviewed the information available to us we have decided not to make the transfer to this scheme as we believe there are reasonable grounds to suspect that the scheme to which you have chosen to transfer may be involved in pension scams.

We apologise for any inconvenience that this may cause, however we hope that you can appreciate the need for us to be vigilant in order to protect our customers and ourselves from unnecessary losses.

### **What should I do next?**

Your pension fund will remain safely with us until we hear from you further or you approach your selected retirement age, when we will contact you again. If you believe that you have a genuine need to transfer your pension to another provider we would recommend that you seek independent financial advice from an adviser that is regulated by the Financial Conduct Authority. If you need help in finding a regulated adviser then please visit [www.unbiased.co.uk](http://www.unbiased.co.uk).

If you have any questions, you can call <SCHEME/PROVIDER CUSTOMER HELPLINE ON XXX XXXX XXXX> or write to us if preferred. Our contact details and opening hours are shown at the top of this letter, together with the policy number and our reference details, which we will need you to provide when contacting us.

Yours sincerely

## (VI) TRANSFER DENIED – LETTER TO RECEIVING SCHEME (SEE SECTION 6.7)

This example letter must be adapted for your specific circumstances. You may wish to take independent legal advice on its content.

Dear <NAME>

**Pension transfer request for policyholder <NAME> - policy number <INSERT NUMBER>**

**Pension transfer request for member <NAME> - scheme name <INSERT NUMBER>**

I refer to your request of <DATE> to transfer the above pension to the <PROVIDER NAME> scheme.

We have reviewed the information available to us, and we have concluded that we are unable to process the transfer due to the possible risk of a pension scam [and because the member does not have a legal right to transfer].

### **GIVE SPECIFIC DETAIL AS TO WHY THE DECISION HAS BEEN MADE NOT TO PROCEED WITH THIS TRANSFER**

We are therefore unable to process this transfer, and we will be writing to the <POLICYHOLDER/MEMBER> to inform them of our decision.

If you need to contact us please do so using the above telephone number.

Yours sincerely

### (VIII) SUGGESTED WORDING TO MEMBER WHERE THE TRUSTEE/PROVIDER HAVE APPLIED TO THE REGULATOR FOR AN EXTENSION TO THE 6 MONTH DEADLINE

This example letter must be adapted for your specific circumstances. You may wish to take independent legal advice on its content.

If scheme administrators need more time to carry out the necessary due diligence checks, they may apply to TPR within the normal time period for payment of statutory transfers for an extension to that time period. TPR is not able to reply to all such applications within the time period.


Administrators may find the following example wording helpful in updating members:

The Trustees/provider have, within the statutory period, made an application to the Pensions Regulator for an extension in respect of consideration of payment of a transfer to a registered pension scheme. The Regulator has the power to grant an extension in accordance with the statutory regulations.

The Trustees/provider now await the Regulator's response.

# APPENDIX B – Recording Decisions

## (I) EXAMPLE PENSION SCAM DECISION SHEET – OCCUPATIONAL PENSION SCHEME

<p>Scheme Information:</p> <p>Name:</p> <p>Type:</p> <p>Address:</p> <p>Advisers and Role:</p>		<p>High proportion of risk indicators</p> <p>Higher risk that transfer application may not be valid – consider if payment should be made</p> <p>High proportion of mitigation indicators</p> <p>Lower risk that transfer application may not be valid – consider if grounds not to pay</p>
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### Pension Scam Indicators

FACTORS/INDICATORS (INCLUDES QUESTIONS WHICH YOU MAY HAVE ASKED THE MEMBER)	CONCERN (✓)	NO CONCERN (✓)	N/A (✓)	EVIDENCE (EXPLAIN OR ADD LINK)
<b>Pension Scam Risk Initial Indicators</b>				
Will you be receiving any cash payment, bonus, commission or loan from the receiving scheme or its administrators, as a result of transferring your benefits?				
Have you been told that you can access any part of your pension fund under the receiving scheme before age 55, other than on grounds of ill-health?				
Have HMRC provided confirmation that the scheme fully meets the conditions of approval?				
<b>A. Regulatory</b>				
Are the trustees/provider of the receiving scheme registered with the Information Commissioner’s Office as Data Controllers (if the trustees are exempt from the requirement to register as Data Controllers, please provide an explanation of why they are exempt)?				
Is this an Insured pension scheme if yes is the Provider FCA regulated?				
<b>B. Employment Link</b>				
Is there an employment link?				
Is there evidence of employment by a participating employer?				

If you are not employed by an employer that participates in the receiving scheme, please can you provide a brief explanation of your reasons for wishing to transfer your benefits?				
What is the date of incorporation of the principal employer for the receiving scheme?				
What is the Company registration number for the principal employer of the receiving scheme?				
What is the business, service or trade provided by the principal employer for the receiving scheme?				
Is the principal employer an active or dormant company?				
<b>C. Geographical Link</b>				
If you are employed by an employer that sponsors the receiving scheme, please provide the address of your usual place of work for the employer?				
Is the Employer/Provider/Administrator address near to the member's home address?				
<b>D. Marketing Methods</b>				
How did you become aware of the Provider/ adviser/receiving scheme? Did the receiving scheme/Provider/adviser make the first contact?				
Have you received any advice in connection with transferring your pension benefits? If so, please provide details of the organisation or company that provided you with that advice				
During the transfer process, has the receiving scheme (or its administrators) contacted you with official documentation or has all communication been by text, email and/or telephone?				
Has a courier been sent to your home to collect signed documentation?				
What do you want to achieve through the transfer that you can't in your current scheme?				
Have you received any promotional material or information about the 'receiving scheme'? If so, please provide copies				
Have you been pressured by anyone to make a quick decision about transferring your pension?				
What have you been told about the investments of the scheme?				
<b>E. Receiving Scheme Provenance</b>				
Date on which the receiving scheme was registered with HMRC				
Request scheme governing documentation and other formal scheme documents e.g. trust deed and rules, member booklet, scheme accounts.				
Is the transfer being requested in advance of the scheme being registered/established?				

Name and address of the Scheme Administrator for the receiving scheme and (if appropriate) company registration number				
Name, address, account number and sort code for the bank account of the trustees of the receiving scheme				
Is the receiving scheme/administrator run from a 'virtual' office?				
Is the receiving scheme/administrator quoting only a PO Box address?				
If the transfer payment is not to be paid direct to the trustees' account, please provide an explanation of why the payment is being made to a different account.				
Has the scheme or administrator been linked to investments linked to high fraud risk?				
Are there links with other administrators/schemes/providers for which you already have suspicions of pension scam activity?				
Does the administrator have current accreditation from an independent body (for example PASA)				
Have a number of schemes been established recently from sponsoring employers with the same address?				
Is the Director of the sponsoring employer also a director of other companies established at the same time?				
Have a number of schemes been established by administrators with the same address?				
Have a number of schemes been established recently from the same address?				
Is the scheme connected to an unregulated investment company or is it covered by Financial Services Compensation Scheme?				

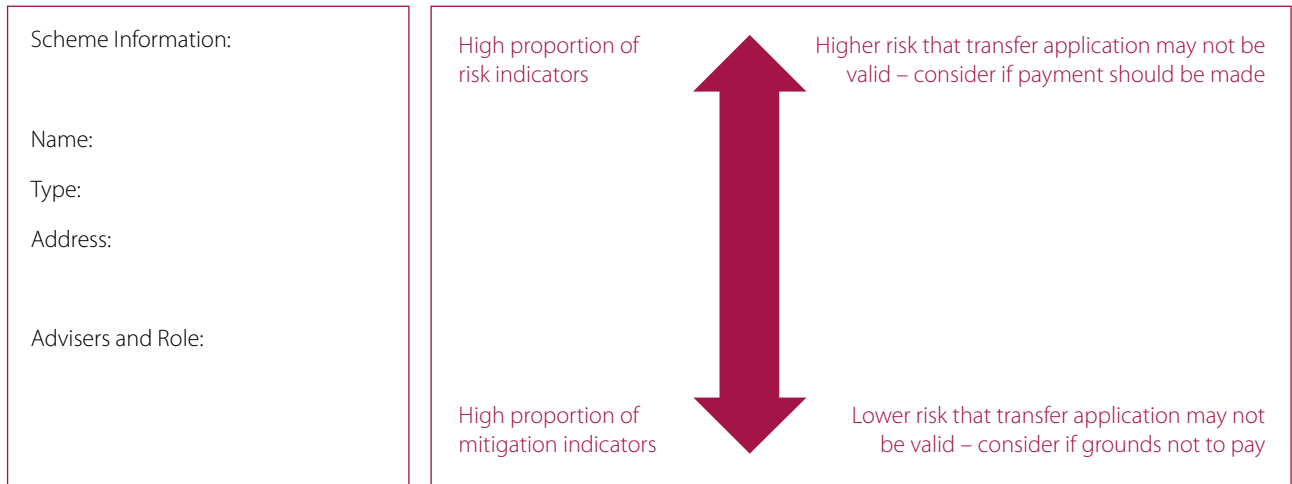
**Summary**

<ADMINISTRATOR TO SET OUT RECOMMENDATION BASED ON DUE DILIGENCE CARRIED OUT.>

**Decision**

<TRUSTEE/SCHEME MANAGER TO RECORD DECISION.>

(II) EXAMPLE PENSION SCAM DECISION SHEET – SSAS



Pension Scam Indicators

FACTORS/INDICATORS (INCLUDES QUESTIONS WHICH YOU MAY HAVE ASKED THE MEMBER)	CONCERN (✓)	NO CONCERN (✓)	N/A (✓)	EVIDENCE (EXPLAIN OR ADD LINK)
<b>Pension Scam Risk Initial Indicators</b>				
Will you be receiving any cash payment, bonus, commission or loan from the receiving scheme or its administrators, as a result of transferring your benefits?				
Have you been told that you can access any part of your pension fund under the receiving scheme before age 55, other than on grounds of ill-health?				
Have HMRC provided confirmation that the scheme fully meets the conditions of registration?				
<b>A. Employment Link</b>				
Is there an employment link?				
Is there evidence of employment by a participating employer?				
If you are not employed by an employer that participates in the receiving scheme, please can you provide a brief explanation of your reasons for wishing to transfer your benefits?				
<b>B. Geographical Link</b>				
If you are employed by an employer that sponsors the receiving scheme, please provide the address of your usual place of work for the employer?				
Is the Employer/Provider/Administrator address near to the member’s home address?				
<b>C. Marketing Methods</b>				
How did you become aware of the Provider/adviser/receiving scheme? Did the receiving scheme/Provider/adviser make the first contact?				

Have you received any advice in connection with transferring your pension benefits? If so, please provide details of the organisation or company that provided you with that advice				
During the transfer process, has the receiving scheme (or its administrators) contacted you with official documentation or has all communication been by text, email and/or telephone?				
Has a courier been sent to your home to collect signed documentation?				
What do you want to achieve through the transfer that you can't in your current scheme?				
Have you received any promotional material or information about the 'receiving scheme'? If so, please provide copies				
Have you been pressured by anyone to make a quick decision about transferring your pension?				
What have you been told about the investments of the scheme?				
<b>D. Receiving Scheme Provenance</b>				
Date on which the receiving scheme was registered with HMRC				
Request scheme governing documentation and other formal scheme documents e.g. trust deed and rules, member booklet, scheme accounts.				
Is the transfer being requested in advance of the scheme being registered/established?				
Name and address of the Scheme Administrator for the receiving scheme and (if appropriate) company registration number				
Name, address, account number and sort code for the bank account of the trustees of the receiving scheme				
Is the receiving scheme/administrator run from a 'virtual' office?				
Is the receiving scheme/administrator quoting only a PO Box address?				
Has the scheme or administrator been linked to investments linked to high fraud risk?				
Are there links with other administrators/schemes/providers for which you already have suspicions of pension scam activity?				
Have a number of schemes been established recently from sponsoring employers with the same address?				
Is the Director of the sponsoring employer also a director of other companies established at the same time?				
Have a number of schemes been established by administrators with the same address?				



Have a number of schemes been established recently from the same address?				
Is the scheme connected to an unregulated investment company or is it covered by Financial Services Compensation Scheme?				

**Summary**

<ADMINISTRATOR TO SET OUT RECOMMENDATION BASED ON DUE DILIGENCE CARRIED OUT.>

**Decision**

<TRUSTEE/SCHEME MANAGER TO RECORD DECISION.>

**(III) OTHER SCHEMES**

The decision sheets above can be adapted for a CBS, SIPP or a QROPS.

## APPENDIX C – Example Discharge Form Wording

This discharge wording must be adapted for your specific circumstances. You may wish to take independent legal advice on the content of any discharge form and in particular whether to include the square bracketed sections. You should note that a discharge form signed by the member may not eliminate risk altogether and may not be capable of binding the member’s beneficiaries.

### DECLARATION, INDEMNITY AND DISCHARGE

I confirm that I have read and understood <INSERT NAME OF EXISTING ADMINISTRATOR>’s letter dated <DATE> and the additional information published by the Pensions Regulator about pension scams supplied with it and I confirm that I still wish to proceed with the transfer to <INSERT SCHEME NAME>. I confirm the following:

- I have been advised by the Trustees of the <XYZ PENSION SCHEME> to seek and obtain independent financial advice from a financial adviser authorised by the Financial Conduct Authority (FCA). If the transfer value exceeds £30,000, then you must take advice if the transfer is taking place after 6th April 2015.
- I have / have not\* obtained financial advice from:

\_\_\_\_\_ FCA Registration No \_\_\_\_\_  
 (Insert name of financial adviser, if applicable)

- I understand and acknowledge that the Trustees of the <XYZ PENSION SCHEME> have a statutory obligation to report certain transfers to HM Revenue & Customs (HMRC) and will carry out that obligation.
- I understand and acknowledge that if I access any of the funds before the age of 55 (except in limited circumstances of ill-health) this will result in an unauthorised payment under tax legislation and I will be required to declare this to HMRC and will be personally liable to pay tax and other charges, normally totalling 55% of any such unauthorised payment, and I agree to settle such charges from my personal assets. If I fail to declare an unauthorised payment to HMRC, I may be charged further penalties.
- I understand that when accessing any of the funds the maximum that can normally be paid tax free is 25%.
- [I hereby indemnify the Trustees of the <XYZ PENSION SCHEME> in respect of any additional tax and/or sanction charges that may be levied upon them in relation to this transfer.]
- I fully discharge the Trustees of the <XYZ PENSION SCHEME> from their obligation to provide any benefits to me or my beneficiaries if the transfer is paid.
- [I hold the Trustees of the <XYZ PENSION SCHEME> harmless from and against all actions, claims, demands, liabilities, damages, costs, losses or expenses (including without limitation, consequential losses, loss of profit, loss of reputation and all interest, penalties, legal and other professional costs and expenses) resulting from my decision to proceed with my transfer request.]
- I confirm that any information provided about me by the receiving scheme/adviser has been verified by me as factual and correct and that the Trustees of the <XYZ PENSION SCHEME> are in no way responsible for any quotation or any literature issued by the receiving scheme/adviser.

\* delete as applicable

Signed (Member name): \_\_\_\_\_

Dated: \_\_\_\_\_

In the presence of (Witness name – IN CAPITALS): \_\_\_\_\_

Witness address: \_\_\_\_\_

\_\_\_\_\_ Postcode \_\_\_\_\_

Witness signature: \_\_\_\_\_

