

New ability to block transfers is a welcome step, but wider scam checks remain crucial



What you **need to know**

- The Pension Schemes Act 2021 provides for new conditions allowing trustees to stop transfers being processed, restricting statutory transfer rights. This is intended to combat pension scams.
- The Department for Work and Pensions (DWP) is consulting on the detailed legislation which introduces four conditions. The conditions, which apply to both occupational and personal pension schemes, must be tested in order and one condition has to be met before a transfer can proceed.
- The conditions are broadly that the transfer is to one of a defined type of pension schemes; linked to either a member's employment or country of residence; or does not show any red or amber flags as defined in legislation.
- Schemes will need to take action to obtain information to check some of the conditions (e.g. the nature of the receiving scheme) while members will have to provide some of the information needed (e.g. proof of employment).
- The restrictions are expected to be effective from Autumn this year, and will be a positive step in the fight against pension scams if seen as a minimum level of protection. We expect the majority of transfers to satisfy one of the conditions, meaning there is limited ability to use the transfer restriction.



Actions you can take

- **Check** your administrators will have processes updated in time to carry out the checks required by the new regulatory conditions.
- **Review your scam protection procedures** to ensure that they are robust and aim to identify potential scams in all cases, not just those which do not meet the conditions set out in the legislation.
- **Update transfer communications** to make clear what information members will need to provide under the new conditions.

Applying the new rules to previous red flag transfers

We have applied the First Condition to all transfers covered by our Scam Protection Service since 1 July 2018. 37% of high-risk transfers would have met the First Condition under the proposed rules, allowing the transfer to continue and not requiring any further regulatory conditions to be checked.

Scam risk identified by XPS	Number of cases	Proportion that meet the First Condition
High risk of a scam	462	37%
Some risk of a scam	1,143	69%
No scam red flags	2,184	64%

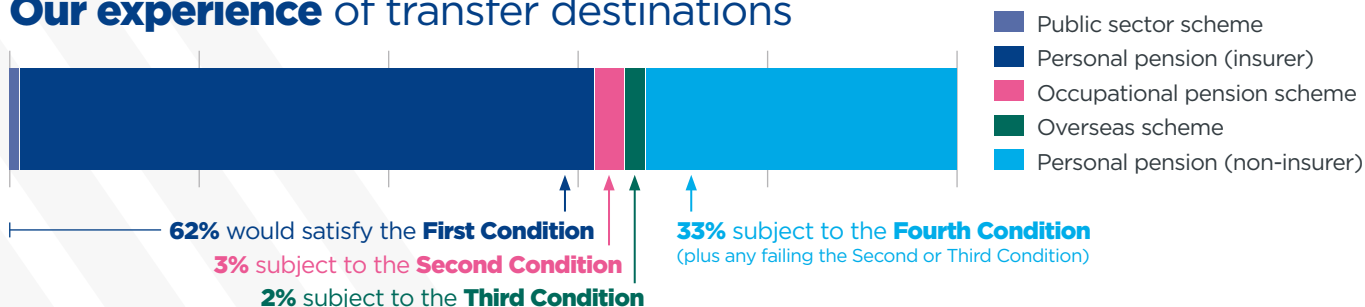
Source: XPS Scam Protection Service

The finer detail: The conditions in the consultation

The DWP consultation sets out four conditions that need to be applied to each transfer before it can be processed. These conditions are applied in order and it is only if all four conditions are not met that the statutory right to a transfer is removed and trustees can block the transfer from proceeding. The conditions, the order they need to be applied and the actions that trustees need to take, is set out below.

SATISFIED IF		ACTIONS THAT TRUSTEES WILL NEED TO TAKE
1	The transfer is to: <ul style="list-style-type: none"> • A public sector pension scheme; • An authorised Master Trust; • An authorised Collective Money Purchase Scheme; or • A personal pension through an insurer (with appropriate authorisations and registrations). 	Trustees to obtain confirmation of the type of scheme the member is transferring to The trustees cannot require the member to supply the proof.
2	The transfer is to an occupational pension scheme and the individual can demonstrate an employment link.	Member provides evidence to the trustees Proof of an employment link to the receiving scheme is required. The member must also have been paid a wage of at least the lower earnings limit (currently £120 per week) for three consecutive months.
3	The transfer is to a Qualifying Registered Overseas Pension Scheme and the individual can demonstrate either an employment link (under the second condition), or a residency link.	Member provides evidence to the trustees Proof is required that the member lives in the same country as the receiving scheme and has done so for the previous six months. Trustees will need to decide if the evidence demonstrates residency.
4	The transfer does not exhibit any 'red flags' or 'amber flags', as defined in the consultation. A transfer exhibiting an amber flag can only proceed if the individual can demonstrate that they have taken expert scams guidance from the Money and Pensions Service.	Trustees carry out further checks The member will need to provide the information required to assess the transfer against the red and amber flags.

Our experience of transfer destinations



Source: XPS Scam Protection Service, 3,789 transfers reviewed since 1 July 2018

For further information, please get in touch with **Mark Barlow** or **Helen Cavanagh** or speak to your usual XPS Pensions contact.



t 0113 284 8001

e mark.barlow@xpsgroup.com



t 0113 487 4835

e helen.cavanagh@xpsgroup.com

twitter @xpsgroup

linkedin xpspensionsgroup