

# Pension Schemes Act 2021 gives trustees power in the fight against pension scams



## What you **need to know**

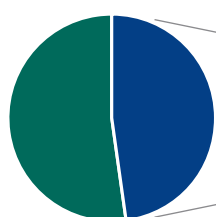
- Until now, all members of defined benefit pension schemes who are more than a year away from their normal retirement age have broadly had an automatic statutory right to a transfer value.
- The Pension Schemes Act 2021 (the Act) imposes conditions on this statutory right, intended to combat the rise in pension scams.
- The conditions themselves are yet to come into effect as they need to be introduced by secondary legislation. The Act suggests conditions related to employment or place of residence, although it does not restrict them to those areas.
- The Department for Work and Pensions (DWP) is currently drafting the legislation to introduce these conditions, focussing on the key red flags that indicate a scam and are possible to regulate. A consultation is expected shortly, with legislation expected to come into force in autumn 2021. From this point, trustees will be able to block transfers which satisfy the conditions.
- These developments are a positive step in the fight against pension scams. Trustees will need to ensure their processes are sufficient to implement these conditions.



## **Actions** you can take

- **Be aware** of the possible legislative changes around transfer values, intended to combat pension scams.
- **Review** your scam identification procedures to ensure that they will be able to spot the conditions that might be included in forthcoming legislation.
- **Update** your communications to ensure members are aware of the conditions for a transfer to proceed.
- **Consider** helping your members to access high-quality financial advice to reduce the likelihood of members failing these conditions at the point of transfer.

## The key causes of **red flags** in 2020



### Transfers showing:

- At least one red flag
- No red flags



### Breakdown of all red flags observed, due to issues with:

- 1 Charges
- 2 Advice
- 3 Receiving scheme
- 4 Understanding
- 5 Unsolicited contact
- 6 Other

Source: XPS Member Engagement Hub, covering approximately 250 pension schemes and looking for 'red flags' based on the Pension Scams Industry Group's Code of Good Practice in Combatting Pension Scams. Based on a review of 1,337 transfers worth a total of £380m during 2020.

#### Intended to address cause of red flags

- 1 Charges
- 2 Advice
- 3 Receiving scheme
- 4 Understanding
- 5 Unsolicited contact

# The finer detail: How the possible conditions could address the key red flag causes

## Highly likely as referenced in the Act

Evidence of employment	3	Requires trustees to obtain evidence of employment to prove a genuine link between the member and the scheme receiving the transfer value.
Place of residence	3	Requires trustees to obtain evidence that the individual is resident in the country that they are transferring to. Intended to combat the rise in scams operating through overseas vehicles.
Guidance from an appropriate person	2	Requires trustees to obtain evidence that members received guidance and information from an appropriate person. Could potentially be used to tackle the concern around unregulated introducers.

## Likely as mentioned by Guy Opperman, the Minister for Pensions and Financial Inclusion, and the DWP\*

Appropriate permissions	3	Requires trustees to obtain evidence that the receiving scheme or parties to the transfer have the appropriate permissions with the Financial Conduct Authority.
Unsolicited contact	5	Requires trustees to obtain evidence about how the member was contacted about financial advice on their pension. Despite the cold calling ban, there are still a number of members who receive unsolicited contact, for example through social media.
Time pressure	2	Requires trustees to obtain evidence about whether the member was put under time pressure to complete a transfer. This is a tactic often used in pension scams.

## Less likely

HMRC registration	3	<b>Possible</b> as referenced by Guy Opperman and the DWP* Requires trustees to obtain evidence that the receiving scheme is authorised with HMRC. Further work is apparently ongoing in this area.
Unclear or excessive charges	1	<b>Unlikely</b> as difficult to set out in legislation. This is the most common red flag seen by our Scam Protection Service during 2020, with many members unaware of the charges they'll incur as a result of transferring. Members will remain reliant on the wider support provided by the trustees.
Lack of member understanding	4	<b>Very unlikely</b> as difficult to set out in legislation. Members will remain reliant on the wider support and education services provided by the trustees.

\*In providing evidence to the Work and Pensions Select Committee's inquiry into the Pension Freedoms

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