

# COMBATING PENSION SCAMS:

Summary of changes



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**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 might not prevent a claim being brought against a party.

# 01

## INTRODUCTION

This document outlines the key changes to the Pension Scams Industry Group (PSIG) Code of Good Practice in this version (v2.2) from the previous update to the Code (v2.1) which was issued in June 2019. This summary is intended purely as a reference document. Please refer to the other Code documents for full information on each of the changes.

# 02

## STRUCTURE

The Code now comprises the following elements:

### **Practitioner Guide**

- Detailing the robust but proportionate due diligence steps that should be undertaken by pension schemes assessing the pension scam risk of a requested transfer.

### **Resource Pack**

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

### **Technical Guide**

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

### **Summary of Changes**

- Detailing the changes since the previous version of the Code (v2.1).

# 03

## REGULATORY DEVELOPMENTS

### 3.1 TPR

Key actions relate to:

- The Combat Scams Pledge initiative.
- A new defined benefits (DB) letter which warns members who are thinking of transferring their benefits to a defined contribution (DC) arrangement of the risks of doing so.
- Additional guidance for trustees which calls on them to:
  - highlight the free, impartial pensions guidance from Pension Wise, including phone appointments and online information;
  - encourage members to take regulated advice to understand their retirement options;
- identify increased risks in how a member has decided to access their pension funds and give appropriate warnings of the risks and implications of their chosen option; and
- monitor CETV requests and inform FCA of unusual or concerning patterns, such as spikes or the same adviser across multitude of requests.

### 3.2 FCA

Key actions relate to:

- Updates to the ScamSmart site following the Covid-19 pandemic.
- The identification of “three generations” of scams (as outlined in Section 2 of the Technical Guide).
- British Steel advice complaints.
- Concerns regarding International SIPPs and offshore investment bonds.
- A warning on complicated investment structures.
- Final rules and guidance on pension transfer advice including the Contingent Charging ban.
- Guidance on what a member should expect when taking advice in relation to transferring out of a DB scheme and into a DC arrangement.
- The FCA Call for Input on Consumer Investment Market.

### 3.3 DWP

Reference is made to the regulations which are being developed following the passing of the Pension Schemes Act 2021.

# 04

## THE PENSIONS OMBUDSMAN (TPO) DETERMINATIONS

Various recent TPO determinations issued since the last Code update are featured.

# 05

## LEGAL DEVELOPMENTS

### 5.1 UK

The following High Court judgements are referenced:

- Fraud Compensation Fund: Pension Protection Fund v Dalriada Pension Trustees.
- FCA v Avacade Limited & Alexandra Associates (UK) Limited.
- Adams v Carey Pensions

### 5.2 Overseas

A number of overseas court cases are referenced including the Khuller v FNB Appeal in the Royal Court of Guernsey.

# 06

## ADDITIONAL DEVELOPMENTS

These include:

- A report by the Police Foundation which outlined a series of recommendations for improvement.
- The Work & Pensions Committee Pension Scams Inquiry.
- The establishment of the All Party Parliamentary Group (APPG).
- A section on the work of the Financial Ombudsman Service (FOS).
- HM Treasury consultations on the Regulatory Framework for Approval of Financial Promotions and Cryptoasset Promotions.

# 07

## SPECIFIC CALLS TO ACTION

- The recommendation to consider the use of the telephone to better engage with the member during the due diligence process and also that a final telephone call should be made with the member before any transfer payment is made when sufficient concerns of pension scamming have been identified. This mirrors the requirements outlined in TPR's Combat Scams pledge.
- All transfers of concern should be reported (not merely those transfers which are refused).
- Reports should be made to a number of different agencies as required. Full information is provided in Section 8 of the Practitioners Guide.
- Appropriate management information should be developed and maintained. This should include details of transfers refused, cancelled by the member when concerns have been raised with them and transfers paid under discharge at the insistence of the member.

# 08

## OTHER CHANGES

- Additional questions have been included within the Questions To Ask Members section.
- The Recording Decision Sheet has been revised to reflect all product types.
- Case studies have been revised and include examples of International SIPP transfers.
- Reference to the rebranding of the Money and Pensions Service (MaPS), the Pensions Advisory Service (TPAS) and Pension Wise as MoneyHelper from June 2021<sup>1</sup>.

<sup>1</sup><https://maps.org.uk/moneyhelper/?cn-reloaded=1>

