House of Commons

Work and Pensions Committee

Protecting pension savers–five years on from the pension freedoms: Pension scams: Government, The Pensions Regulator and Financial Conduct Authority Responses to the Committee's Fifth Report of Session 2019–21

Second Special Report of Session 2021–22

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Work and Pensions Committee

The Work and Pensions Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Work and Pensions and its associated public bodies.

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Committee reports are published on the publications page of the Committee's website and in print by Order of the House.

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The current staff of the Committee are Morenike Alamu (Committee Operations Officer), Henry Ayi-Hyde (Committee Operations Officer), David Betteley (Committee Specialist), Harrison Card (Assistant Policy Analyst), Oliver Florence (Senior Media and Communications Officer), Anne-Marie Griffiths (Clerk), Ed Hamill (Committee Operations Manager), Ailish McAllister-Fisher (Second Clerk), Dr Libby McEnhill and James Mirza Davies (Senior Committee Specialists).

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Second Special Report

On 28 March 2021, the Work and Pensions Committee published its Fifth Report of Session 2019–21, Protecting pension savers–five years on from the pension freedoms: Pension scams (HC 648). We received the Government's response on 24 June 2021, the Financial Conduct Authority's response on 11 June 2021, and The Pensions Regulator's response on 18 June 2021. The responses are appended to this report.

Appendix 1: Government Response

The Government notes the Committee's Report of 28 March 2021.

The Committee's initial terms of reference set out the scope of the inquiry: to look at 'how savers are prepared and protected to move from saving for retirement to using their pensions savings'. The first stage of the inquiry focused on pension scams, and what could be done to prevent them. The inquiry looked at three areas:

- What common pensions scams are;
- What happens to people who are victims of scams; and
- What more public bodies could do to tackle scams.

Overview

The recommendations the report makes are wide-ranging and we thank the Committee for highlighting such important issues. The Government takes them very seriously.

Over the past few years, the Government, and its partners, have taken huge steps forward in tackling this problem:

- We established Project Bloom, a cross-government taskforce that brings together law enforcement, government and industry to share intelligence, raise awareness of scams through communication campaigns, and take enforcement action where appropriate.
- We implemented a ban on pensions cold calling, which has cut off a key route used by scammers to target their victims.
- We introduced new, tougher rules to stop scammers opening fraudulent pension schemes in the 2018 Finance Act.
- The Financial Guidance and Claims Act 2018 allowed us to bring together services delivered by Pension Wise, the Money Advice Service and The Pensions Advisory Service, into one place, the Money and Pensions Service. This Service provides people with a single place to turn to when they need to get answers about their pensions and money.
- We are currently consulting on regulations that will introduce a new two-tier red and amber flag system for pension transfers. These will allow for transfers to be prevented, or paused, whilst the member takes guidance about the possibility

> of scams. They will give new powers to pension scheme trustees to act as the first line of defence against those who would try to scam people out of their hard-earned savings.

Making sure people can have the best retirement they can is a key commitment of this Government. We recognise that there is still work to be done across Government to prevent people losing their hard-earned savings to fraud and scams. Those who commit these crimes have become increasingly smarter using new technology and social media as platforms to con people out of their savings. We are absolutely clear that an effective response requires unified and co-ordinated efforts from across Government, law enforcement and the private sector to better protect the public and businesses from fraud, reduce the impact of fraud on victims, and increase the disruption and prosecution of fraudsters.

Recording & reporting

The Government believes the Committee was right to highlight the role the pensions industry should play in reporting scam activity and that they have the potential to be a valuable source of information about scams. We agree that reporting needs to improve and are continuing to work with our partner agencies to look at ways this can be achieved, and have re-doubled efforts to encourage industry to improve both their reporting and the quality of their reports.

The Minister for Pensions and Financial Inclusion has put on record that industry must do a great deal more and, in keeping with the commitment he gave to the Committee on 27 January, wrote to 122 pension schemes on 11 March making it clear that they should work with the Pension Scams Industry Group (PSIG) in order to share their data with wider Project Bloom partners. In turn, they are working together to understand what issues and barriers there may be to reporting, and how the processes can be improved. The response to the letter has been very encouraging with many of those contacted writing back to the Minister to show their support. These efforts have increased the membership of the PSIG and are helping to ensure industry understand their role in reporting and preventing scams, including that they should be sharing their data.

The Pensions Regulator (TPR) is also doing excellent work in this area. In November 2020 it launched its 'Pledge to Combat Pension Scams' campaign. One of the key principles of the Pledge is to report to Action Fraud. A month-on from its launch 117 pledges had been made, including three Master Trusts, which alone represent 50,000 savers. By March 2021 over 200 organisations had signed up to the Pledge.

The Committee's report refers to some of the difficulties experienced by Action Fraud in these areas over recent times, and makes a number of recommendations on what it might do.

These are addressed separately in the sections below. The Home Office are working very closely with the City of London Police, who are responsible for the delivery of the Action Fraud Service, on plans to refresh and upgrade the current service, and this work will address some of the concerns the Committee had in that area.

Prevention

The Department is working closely with the Financial Conduct Authority (FCA), The Pensions Regulator (TPR), the Money and Pensions Service (MaPS) and others on the regulations underpinning the Pension Schemes Act 2021, and launched its consultation on the regulations on the 14 May. The intention is these will come into force in the autumn of this year.

On 29 April, the Home Office and the Department for Digital, Culture, Media and Sport (DCMS) jointly chaired a Ministerial roundtable with the tech and banking sectors to address the threat from online fraud. The roundtable's purpose was to agree next steps for developing a more effective cross-sector response to online fraud. The Minister for Pensions and the Economic Secretary to HM Treasury attended, as did representatives from Google, Facebook, Amazon, Twitter, Microsoft and Snap Inc., as well as techUK, the industry voice of the UK tech sector. The retail banking sector was represented by UK Finance, and law enforcement was represented by the City of London Police and National Economic Crime Centre. The FCA and National Cyber Security Centre also attended.

Attendees agreed to progress a tech sector charter for tackling fraud. The Joint Fraud Taskforce, under the Security Minister's chairmanship is overseeing work to explore the potential for fraud sector charters with the retail banking, telecommunications and accountancy sectors. These charters would set out the actions government and industry could take to better protect people from fraud.

The Government has also announced that aspects of online fraud will be included in scope of the Online Safety Bill. This means that companies in scope of regulation will need to take action to tackle fraud, where it is facilitated through user-generated content. It will increase people's protection from the devastating impact of illegal activity like romance scams and fraudulent social media posts about investment opportunities. The Bill will be subject to pre- legislative scrutiny in this session.

The Bill will not tackle fraud facilitated through paid-for advertising, such as adverts on search engines. DCMS is considering how online advertising is regulated through its Online Advertising Programme. This work will look at ensuring that standards about the placement and content of advertising are effectively applied and enforced online to reduce consumers' exposure to harmful or misleading advertising. This work will look at the role advertising can play in enabling online fraud and help inform our future efforts to tackle it. DCMS will be consulting on this issue later this year.

The Economic Crime Strategic Board, co-chaired by the Chancellor and the Home Secretary, has agreed an ambitious framework for a fraud action plan, covering the years 2022 to 2025. This will include the Government working with industry to remove the vulnerabilities that fraudsters exploit, with intelligence agencies to shut down known fraudulent infrastructure, with law enforcement to identify and bring the most harmful offenders to justice, and with all partners to ensure that the public have the advice and support they need.

The Fraud Action Plan is now being developed and will commit key partners in the public sector and industry to do more to tackle fraud, focussing on key areas of response, public awareness and victim support. The Plan will be published after this year's Spending Review.

Project Bloom has made good progress to date through educational campaigns, improving intelligence-sharing, partnership working, and disruption and enforcement. TPR has recently completed a review of Project Bloom, identifying a number of improvements to take forward. Some immediate 'next steps' include:

- improving their current pension scams threat assessment;
- working with Action Fraud to raise awareness and encourage industry reporting (this included an industry webinar at the end of April 2021);
- the next iteration of the FCA-led ScamSmart campaign for consumers to be run in July; and
- the next burst of the Pensions Regulator led Pledge campaign for industry to be run in September.

Education remains one of the strongest tools in the battle against fraudsters. In recent years TPR and the FCA have jointly run the high-profile multi-million pound ScamSmart advertising campaign across television, radio, online and digital media. It has reached four out of five pension savers between 45–64, the group most at risk, with 77% reporting they recognise the TV campaign.

The campaign has prompted action, with 37% of the campaign target audience indicating they would visit the ScamSmart website to check whether an organisation is legitimate in order to protect themselves against pension fraud. There have been more than one million visits to the ScamSmart website over the past three years, and around half of this traffic has been driven by the campaign.

The campaign represented a multi-million (£5,214,341) investment by the FCA and TPR and included a TV advert advising savers to get to know the warning signs of a scam and to visit ScamSmart to check who they are dealing with, which was viewed 180 million times. It also generated more than 1,000 (1,021) media articles and served more than 80 million digital advert impressions.

Enforcement

There are already many examples of where the Government's approach to enforcement is making a big difference. For example, through the Joint Fraud Taskforce, we are working collaboratively with law enforcement and the private sector financial organisations. This includes improving the law enforcement response, delivering financial fraud prevention campaigns, and closing vulnerabilities across the financial sector. Recent successes include 'The Banking Protocol', an initiative between high street banks and the police to identify frauds in action, preventing individuals falling victim to a fraud and capturing the perpetrators. To date, it has prevented £142 million of fraud and enabled 843 arrests.

TPR has acted to dismantle scammer business models by appointing trustees, bringing action in the courts and working with police forces, the Insolvency Service and other partners. It is currently carrying out four criminal investigations into scams and fraud. These cases cover 19 schemes, have 26 suspects and have indicative losses to savers' pensions of just under £30 million.

In 2020, TPR secured two confiscation orders under the Proceeds of Crime Act, which will see more than half-a-million pounds returned to the victims it was stolen from. They also appoint independent trustees to take over schemes suspected of being used by scammers stopping fresh victims joining and more money being taken while they investigate and trustees attempt to recover the funds. It has banned 34 trustees – many in relation to scams. The Regulator has also worked with eight constabularies and three specialist regional organised crime teams in the past two-and-a-half years to execute warrants, search for evidence and question suspects with a view to prosecuting for fraud or other offences. This March, for the first time, TPR worked with the police to secure the extradition of a suspect in a pensions fraud investigation.

Between January and October 2020, the FCA's work on scams generally resulted in approximately £14.3 million being awarded under restitution orders, over £6.9 million worth of funds being frozen and over £5.9 million being secured for investors for redistribution.

Over the same period, the FCA reviewed and assessed over 24,000 reports of unauthorised business activity, and issued 1,053 alerts, 401 of which were about 'clone' firms where fraudsters pretend to be authorised firms. For every alert issued, the FCA also take steps to try to suspend any linked websites and/or social media. As at 31 October 2020, the FCA was undertaking 47 investigations involving unauthorised activity, the majority of which related to scams. In addition, the FCA was undertaking approximately 30 investigations or proceedings relating to the conduct of FCA regulated firms and individuals where consumers invested in

potential scams or higher risk investments. The FCA has committed to publish updated data through its investments harm report on a half yearly basis. Updated figures setting out the action taken by the FCA regarding scams in the last financial year will be published over the summer.

Supporting pension scam victims

The Home Office, alongside other partners, considered options to further improve the support offered to victims of fraud, focusing on delivering consistency, speed and quality of support.

This resulted in the National Economic Crime Victim Care Unit (ECVCU) model, which is being rolled out and will cover the majority of the population of England and Wales by the end of 2021.

The ECVCU pilot was designed to deliver services to victims of fraud and cybercrime to support recovery and prevent them becoming victims again. It supports individuals who report a fraud or cybercrime to Action Fraud, but who do not receive any focused service as their cases are not escalated for investigation.

The Money and Pensions Service (MaPS) is already doing very good work in supporting victims of scams. Their helpline and webchat are often the first point of contact for individuals who have been scammed. MaPS has been developing a Pension Loss tool to equip its specialists with the information they need, and gave a presentation to the Committee in December last year on how it will work.

MaPS also offer a specific Pension Loss appointment for consumers who believe they have been the victim of a scam. We have included more information about this appointment in our response to recommendation 31.

Recommendations

In the paragraphs that follow we have addressed each of the recommendations the Committee has made. Although the report did not number them, we have done so in the response to help easily identify them. We have agreed with many of the recommendations from the outset – indeed some of them reflect work that was already in progress across Government before the inquiry started. We will continue to look closely at the remaining recommendations to see if there is any further work we can do in these areas.

Select Committee recommendations

Introduction

Recommendation 1: We recommend that DWP should publish details of its plans to co- ordinate work with the Treasury to combat pension scams as a matter of urgency. Following the introduction of the pension freedoms there is now less practical distinction between the areas of Treasury responsibility, including investments and advice, and DWP's role in combatting pension scams.

Government response: The Department for Work and Pensions (DWP) and HM Treasury already work collaboratively on these issues, including through Project Bloom, and recognise the importance of doing so to address the vulnerabilities the fraudsters exploit. This joined-up approach also recognises the interlinkages between both departments in the areas of financial advice, guidance and pensions / investment fraud. However, combatting pension scams requires cross-government co-ordination and DWP is also working closely with the Home Office and the Department for Digital, Culture, Media and Sport to ensure there is a consistent and unified approach to these issues.

We cannot commit to publishing details of policy discussions between Government departments as much of this work will be sensitive. However, as referenced in the introduction, the Government is committed to publishing a comprehensive Fraud Action Plan after this year's Spending Review, that will commit key partners in the public sector and industry to do more to tackle fraud.

Recording and reporting

Recommendation 2: We recommend that Project Bloom, the multi-agency taskforce set up to tackle pension scams, should develop a range of measures to enable a better understanding of the scale of pension scamming, rather than relying solely on the current Action Fraud data. The lack of a definitive measure of the scale of pension scams makes it difficult for both the public and policy makers to make an appropriate judgement about the priority that should be given to tackling pension scams and the resources they should deploy.

Government response: Both the Government and Project Bloom members recognise the difficulty in determining the scale of pension scams and the barrier this creates in effectively tackling the problem. We accept the Committee's observation that the real scale of pension scams is undoubtedly much larger than that reported to Action Fraud. Pension scammers have changed their modus operandi over time – moving from predominantly pensions liberation to a range of ways that savers can ultimately lose funds – and this has presented new problems that need to be tackled seriously.

To develop our assessment of the scale of pension scams we all agree the need to build a better intelligence picture through comprehensive reporting by pension schemes in to Action Fraud. This means improving the number and quality of information reports made by industry. Last November, The Pensions Regulator (TPR) launched its 'Pledge to Combat Pensions Scams', one of the key principles of which is to report to Action Fraud, and there are ongoing communications encouraging and clarifying the industry reporting process.

As referenced in the introduction, the Minister for Pensions and Financial Inclusion has put on record that the industry has to do a great deal more to do, and has written to pension schemes making it clear that they should work with the Pension Scams Industry Group (PSIG) in order to share their data with wider Project Bloom partners.

In addition, Project Bloom partners are working together to understand what further issues and barriers to industry reporting exist, how the reporting processes can be improved, and how data is categorised and recorded. This will provide a clearer and more current picture of the scale of the pension scam problem in terms of financial loss and total volumes of reports relating to transfers, pension scams and investment fraud.

Both TPR and the Department for Work and Pensions have conducted their own internal reviews into Project Bloom, The Government will look closely at the recommendations of both reviews and then set out the way forward later this year.

Recommendation 3: We recommend that Project Bloom should continue to use the Pension Scams Industry Group definition of pension scams, which should be treated as the industry standard. Members of Project Bloom may need to use different definitions within their own settings—for example, to avoid double counting a case of investment fraud under several different categories—but they should record data in a way that is compatible with the definition used by Project Bloom.

Government response: The existing Pension Scams Industry Group definition was developed by Project Bloom in 2016 following consultation with all partners. Pension scams can be particularly harmful due to the impact on people's retirement provision for later life. The definition focuses on accessing funds from a pension pot, which we believe remains fit for purpose.

There are broader threats impacting consumers, such as the emergence of cloned websites, and 'sharp practice' (e.g. misleading people about a contract, fees or investments) within some segments of the pensions and investment advice industry. We keep such threats under review via the Project Bloom threat assessment.

In addition, a number of agencies within Project Bloom have a broader focus than just pension scams, and the existing definition feeds into their broader view of, and response to, fraud generally.

Project Bloom partners are currently exploring options to improve the reporting process and data collected.

Recommendation 4: We recommend that Action Fraud should be accountable to Project Bloom, or any successor organisation, for its work on pension scams. A failure to manage victims' expectations, an investigation by the Times and a lack of action on cases has left Action Fraud with a tattered reputation. The City of London Police should make annual reports to Parliament on efforts to repair it.

Government response: The City of London Police (CoLP) are the National Lead Force for fraud, and responsible for the delivery of the Action Fraud Service. They are an active member of Project Bloom and report into them on a regular basis.

The Government has strong existing governance and monitoring processes in place for holding the CoLP to account for the delivery of the Action Fraud Service. Alongside routine programme monitoring, this governance includes implementation of actions addressing the recommendations from Sir Craig Mackey's independent review of Action Fraud to deliver a better service, and monitoring the recommendations on the police response to fraud, as set out in Her Majesty's Inspectorate of Constabulary and Fire & Rescue Service's (HMICFRS) inspection.

Given the level of monitoring already undertaken as part of policing's operational delivery, it is in our view unnecessary to provide additional reporting to Parliament. Instead, we believe the oversight should remain with the Government.

Recommendation 5: We recommend that Action Fraud should have a coordinating role for pension scam victims. Anyone who contacts Action Fraud should not be required to self-direct to other bodies which may be able to help them and instead Action Fraud should set up initial appointments for them. If a potential scam victim contacts a body other than Action Fraud their case should routinely be recorded with Action Fraud, which should signpost the relevant support available.

Government response: Action Fraud is the national reporting service for fraud and cybercrime. Reports are submitted, considered by the National Fraud Intelligence Bureau, and disseminated to forces for investigation where there is a viable line of enquiry. These reports come direct from individuals and, in line with the recommendation, through other related bodies including the Credit Industry Fraud Avoidance System (CIFAS) and UK Finance.

Where required, as well as assessing the case for possible police investigation, Action Fraud also directs victims to specialist organisations where additional support can be provided. These referrals are made twice each week, so victims are usually referred days after the event. For pension-related fraud, this referral process can include reporting to the Financial Conduct Authority through their ScamSmart campaign, or signposting to the Money and Pensions Service. This ensures that the victims receive the best support available.

At this stage we do not believe it appropriate for Action Fraud to take a role in individually setting up appointments with related bodies for victims of pension related fraud. Action Fraud is a victim support service and reporting tool, and though it plays a key role in referring victims to specialist support, it is not intended to, nor does it have capacity to, play an administrative role in organising meetings with external organisations.

Recommendation 6: We recommend that The Pensions Regulator and the Financial Conduct Authority should use their scams awareness campaign, ScamSmart, to warn of the risk of secondary scammers.

Government response: We agree the issue of secondary scammers awareness must be increased and it is an important issue. The Money and Pensions Service also provide guidance on secondary scammers.

The Pensions Regulator and the Financial Conduct Authority will further consider communications about the risk of secondary scammers (recovery fraud) throughout the course of the next financial year and beyond. The Pension Regulator's next burst of paid-for activity, which focuses on the Pledge and the pensions industry, is scheduled for September. More details on both the ScamSmart campaign and the Pledge campaign can be found in response to Recommendation 17.

Recommendation 7: We recommend that Action Fraud should make it clear that the industry should make reports of scam activity to Action Fraud and should provide clear guidance and an effective tool for the industry to do so. The member organisations of Project Bloom should ensure that they provide clear guidance to the industry about how to report suspected scam activity.

Government response: The Government continues to stress the importance of reporting instances of fraud to Action Fraud, both to support police investigations as well as allowing the development of a stronger intelligence picture across a range of threats. Action Fraud also makes their role as the national reporting service clear and receives a large number of reports each year related to pension scams, both from individuals and from industry. In 2020, there were 637 reports of pension scams, of which 545 were passed out to UK law enforcement.[1]

The Government will continue, alongside Action Fraud, to communicate the importance of reporting all instances of fraud to the service to the public and industry. To ease this process, there is already a dedicated contact number as well as online reporting tool and associated guidance covering how to report instances of fraud, including pension scams.

Furthermore, Action Fraud works hard to proactively protect the public from pension fraud, including through communicating key warning signs to be aware of, and important steps for consumers to take to protect themselves. Recent pensions-related advice includes crosschecking the Financial Conduct Authority's (FCA) Register to ensure the advice or other financial services provided are FCA authorised, as well as reporting pensions cold calling to the Information Commissioner's Office (ICO).

Work is in progress to make it clear that industry as well as individuals should report to Action Fraud. City of London Police has appointed an industry liaison officer, and is working with The Pensions Regulator, the PSIG, and the National Economic Crime Centre on industry communications, including a webinar for pension scheme providers to clarify reporting process they should be following.

Recommendation 8: We recommend that Project Bloom should facilitate industry intelligence sharing and that the Government should legislate to require industry participation in intelligence sharing at the next opportunity.

1 Action Fraud receives 637 pension scam reports in 2020 - Pensions Age Magazine

Government response: Project Bloom is exploring options for improved coordination of industry intelligence via its National Economic Crime Centre led Intel & Ops Group. We are also emphasising the need for increased industry reporting to Action Fraud via The Pensions Regulator-led Pledge campaign, the Pension Scams Industry Group code and the City of London Police industry communications. The Government will continue to explore options with Project Bloom members for both legislative and non-legislative options for improved intelligence sharing.

Recommendation 9: We recommend that Project Bloom should actively encourage the pensions industry to sign up to the pledge. The Pensions Regulator should monitor and report twice annually to this Committee on the effectiveness of its pledge to combat pension scams.

Government response: The Pensions Regulator (TPR) launched the industry-focused Pledge campaign, working closely with the Pension Scams Industry Group (PSIG) in November 2020. It encourages industry to make a public pledge to combat pension scams and to adopt the recently updated PSIG Code of Good Practice in Combatting Pension Scams.

The Pledge campaign gives the industry the tools they need to comply with the PSIG code, which is voluntary - but ultimately, we would support the code becoming a statutory requirement, resulting in even stronger protection for savers.

So far, more than 240 organisations have pledged or self-certified they meet the principles of the pledge. We continue to monitor the number of sign ups and TPR is continuing to promote the campaign. For example, in March, TPR hosted a webinar for more than 500 trustees and providers. A recording of the webinar is already available on its website and will be shared through their regular industry communications. TPR have also increased its paid digital activity, emails, stakeholder engagement and organic social media posts.

TPR is actively working with the industry to support them to make the pledge and continues to meet regularly with those wanting to improve their anti-scams processes. TPR have assured us that, if required, it can continue to provide results of the campaign to the Committee. Its next burst of paid for activity is scheduled for September.

Recommendation 10: We recommend that the Money and Pensions Service should run—and report on—a programme to encourage eligible expatriates to access the free guidance it offers through its new consumer facing brand MoneyHelper when it launches in June 2021.

Government response: We agree that expatriates should be able to make use of the services provided by the Money and Pensions Services (MaPS) and are aware that scammers do target those with overseas savings as well.

MaPS services are already available to expatriates and will continue to be available when MaPS have launched their MoneyHelper. Expatriates are entitled to Pension Wise appointments, where they are 50 years or older with a Defined Contribution pension provision. They can also contact the Pensions helpline by phone (which is an accessible 020 phone number for overseas customers), webchat, writing to the service, or through specialist appointments. Expatriates, and all other eligible individuals, are encouraged to make use of these services and online resources, including online guidance.

Prevention

Recommendation 11: We recommend that a review of the legislation should be published within 18 months of the regulations being operational. If there are any concerns about the operation of the policy this will allow legislative changes to be made during this Parliament.

Government response: The Government agrees with this recommendation and it fits within the plans of the Department for Work and Pensions (DWP) to review the policy. Scams are ever evolving and DWP recognises the importance of making sure the legislation is effective in tackling pension scams. DWP cannot, however, guarantee that any legislative changes following a review could be made during this Parliament. This would very much depend on the nature and urgency of any changes, and the legislative timetable.

Recommendation 12: We recommend that the suitability of the red and amber flags should form part of the 18-month review and then be reviewed at least every 3 years thereafter.

Government response: The Government agrees with this recommendation, and it will form part of the Department for Work and Pension's plan to review the policy (see response to Recommendation 11).

Recommendation 13: We recommend that inclusion on the FCA warning list should constitute a red flag. If this is not possible, then the red flags developed by DWP should be defined in such a way that any firm or individual appearing on the FCA warning list would trigger a red flag.

Government response: The powers in the Pension Schemes Act 2021 allow the Secretary of State to set conditions, but it does not give powers to use a third parties list or determination. The Financial Conduct Authority's (FCA) warning list can only be used to demonstrate where caution should be applied by the consumer and not as a way to say a transfer cannot go ahead. Furthermore, the FCA list does not include just "scams" specifically, but also instances of unregulated actors suspected of carrying out regulated activity.

The Department for Work and Pensions (DWP) has made sure its system of red flags reflects similar circumstances to those used by the FCA warning list, and they will help prevent transfers from proceeding if there are indications of a significant risk of a scam or fraud around the transfer. For example, a red flag may prevent a transfer going ahead if the advice has been provided by firms or individuals without appropriate regulatory permissions, or if there is evidence or a reasonable belief the member was offered early access to some, or all, of their pension savings before the age of 55.

The red flags will be supported by a system of 'amber flags' which may only allow a transfer to proceed when the member is able to provide evidence to the trustee or scheme manager that they have taken specific guidance via the Money and Pensions Service. The amber flags might be used, for example, in circumstances where the fees being charged are unclear or high or the member shows limited or no understanding of the charges. The DWP has discussed this system of flags extensively with stakeholders, including the FCA and the Pension Scams Industry Group.

Recommendation 14: We recommend that, in order to create parity between traditional media, such as TV and newspapers, and new media, including search engines and social networks, paid-for advertising on online platforms should be covered by the regulatory framework for financial promotions. This would require online publishers to ensure that any financial promotion which they communicate has been approved by an authorised person or is exempted from the financial promotions regime.

Government response: The Government believes that it is important that online platform operators take responsibility for the financial promotions they pass on. As part of our departure from the European Union (EU), the Government removed an exemption to the financial promotions regime available to online platforms for incoming electronic communications from the EU.

As a result, the Financial Conduct Authority (FCA) is looking at the operations of the major online platforms to determine whether their communication of financial promotions is subject to the financial promotion restriction and, if so, whether they are compliant. Where they are not, the FCA will take action to ensure consumers are protected. HM Treasury will support the FCA in these conversations going forward, as part of the Government's ongoing efforts to protect consumers from fraud online.

As noted on page 2, the Government is engaging with the tech industry to agree next steps for developing a more effective cross-sector response to online fraud.

Recommendation 15: We recommend that the forthcoming Online Safety Bill should legislate against online investment fraud.

Government response: The Government has recently announced that, following close engagement with a broad range of stakeholders, online fraud will be included in scope of the Online Safety Bill. This means that companies in scope of regulation will need to take action to tackle fraud, where it is facilitated through user-generated content. It will increase people's protection from the devastating impact of illegal activity like romance scams and fraudulent social media posts about investment opportunities. The Bill will be subject to pre-legislative scrutiny in this session.

However, the Online Safety Bill will not tackle fraud facilitated through paid-for advertising, such as adverts on search engines. The Department for Digital, Culture, Media and Sport (DCMS) is considering how online advertising is regulated through its Online Advertising Programme. This work will look at ensuring that standards about the placement and content of advertising are effectively applied and enforced online to reduce consumers' exposure to harmful or misleading advertising. This work will look at the role advertising can play in enabling online fraud and help inform our future efforts to tackle it. DCMS will be consulting on this issue later this year.

Recommendation 16: In the period between now and any legislation coming into force, we recommend that voluntary codes of conduct should be developed by search engines and social networks which make it clear that a request from a UK-based regulator is sufficient to remove a scam advertisement.

Government response: The Home Office and the Department for Digital, Culture, Media and Sport (DCMS) continue to work with the tech sector to explore voluntary approaches to reducing fraud together, including a public-private technology sector charter. Such a charter might include actions aimed at tackling fraudulent adverts on search engines and social networks. We believe these actions are best situated within the context of a wider set of actions, rather than through standalone codes. Progress on the charter has been made (see p,2 of this response).

Recommendation 17: We recommend that The Pensions Regulator and FCA should continue to run the ScamSmart campaign, while regularly evaluating whether it is reaching the right groups and whether it has the necessary resource to do so effectively.

Government response: We believe that education will always be one of the most effective weapons against scammers. It would be far tougher for scammers to succeed if individuals can spot a scam and do not hand over their hard-earned retirement savings in the first place.

For the past three years, The Pensions Regulator (TPR) and the Financial Conduct Authority (FCA) have jointly run the high-profile multi-million ScamSmart advertising campaign across television, radio, online and digital media. It has reached four out of five pension savers between 45–64, the group most at risk, with 77% reporting they recognise the TV campaign.

Over the three years of running the consumer-facing ScamSmart campaign, TPR has evolved its proposition and shifted its focus to its 'Pledge to Combat Pension Scams' campaign as this centres on their regulated audience (trustees, providers etc), focusing its resources to impact the behaviours of this group in areas such as member communication, reporting suspected scams, and carrying out due diligence on transfer requests.

TPR and the FCA will continue to have a close working relationship and, together with other Bloom partners, support the promotion of both the consumer-facing and industry-facing campaigns. TPR is actively working with the industry to support them to make the pledge and continues to meet regularly with those wanting to improve their anti-scams processes.

The pledge includes the ambition that industry evolves their practices, including on member warnings, as scammers methods alter. TPR is also emphasising the need for increased industry reporting to Action Fraud via the Pledge campaign, the Pension Scams Industry Group code and City of London Police industry communications.

Recommendation 18: When the pension freedoms were introduced, a guidance guarantee was presented as a key pillar of the reforms supporting people making use of the new range of choices available to them. Everyone with a defined contribution pension is entitled to free impartial guidance from Pension Wise when they come to access their pension. The Minister for Pensions and Financial Inclusion has agreed that having a Pension Wise appointment should be the norm. We recommend that DWP should set out a plan for how this will be achieved and a timetable for getting there. Pension Wise is an important tool to prevent scams and we will look further at its role, within the new MoneyHelper brand, in the next part of our inquiry on accessing pension savings.

Government response: Pension Wise appointments are used to help people understand their options when accessing a Defined Contribution pension. While the appointment does have a section on identifying scams, its primary aim is about retirement options, and it is only available to people who are over 50 with a Defined Contribution pot. It is not available to many people who may have Defined Benefit pensions.

Many people transfer their pensions before they reach 50 and scam activity only comes to light when they try and do something with their pension. These people will not be covered by Pension Wise. The Money and Pensions Service (MaPS) welcome initiatives that increase take up of Pension Wise.

MaPS provides pensions guidance to everybody, irrespective of age and type of pension. Anyone who is worried about a scam can pick up the phone and get support, and can be directed to the right service for their guidance needs (including Pension Wise, but also help with debt, money guidance, etc.). Evidence shows that the sooner someone gets help / intervention occurs, the more effective it will be at preventing detriment. This service is soon to be rebranded as 'MoneyHelper Pensions'.

The Committee is looking at the roles of Pension Wise and MoneyHelper Pensions in the next stage of their inquiry, and the Government will respond at that point to any further recommendations that may result from their next report.

Recommendation 19: We recommend that the Department for Work and Pensions should consider the options available for the Money and Pensions Service to offer enhanced guidance or limited advice, including through technological solutions. Regulated advice comes at a cost to savers, which can be a barrier for many, whereas the guidance currently provided may not be enough for some people to avoid them becoming a victim of a scam. We have asked for views on this in the call for evidence for the second part of our inquiry which will look at how people access pension savings.

Government response: Under the Financial Guidance and Claims Act 2018, the Money and Pensions Service (MaPS) was established as a corporate body with functions relating to financial guidance. The legislation clearly sets out the separate functions of the Service. It is not within its remit to deliver regulated financial advice and for the Service to do so would require a significant change in scope as well as a change to primary legislation.

The Government's key priorities remain to enable a financial advice market that works well for firms and consumers, as well as make free-to-access financial guidance available to everyone who needs it. We are keen to explore how MaPS can work together with the regulators, Government and industry to ensure there are no gaps in consumers' understanding of financial matters and that they can access the right support and guidance at the right life stages. The Financial Conduct Authority's perimeter guidance sets out detailed examples to give firms clarity about the financial advice and guidance boundary.

Recommendation 20: We recommend that the overall cap of £1,500 should be reviewed and the annual cap of £500 on the amount which can be withdrawn in any one year under the pensions advice allowance should be removed.

Government response: The Government's consultation in February 2017 on the Pension Advice Allowance[2] explains the rationale for introducing limits to the amount that pension scheme members can withdraw under the allowance.

2 https://www.gov.uk/government/consultations/introducing-a-pensions-advice-allowance/introducing-a-pensions- advice-allowance-consultation

It explains that the £500 annual cap was introduced for two main reasons. First, the 2016 Financial Advice Market Review (FAMR) had concluded that automated advice services could significantly increase provision of affordable financial advice to the mass market, and several such services cost around £500 when the consultation was drafted. Second, there was an expectation that, where the annual cost of advice would exceed £500, the allowance would be used as a partial but significant contribution towards this cost. This was based on a calculation that face-to-face advice cost on average £150 per hour, and that advice on pensions could take up to 9 hours. The consultation also explains that the overall cap of three times per person was introduced to reflect a trade-off between financial resilience and consumer protection.

In December 2020, HM Treasury and the Financial Conduct Authority (FCA) published an evaluation of the FAMR. This showed that the financial advice market is moving in the right direction, with more people accessing financial advice. However, there are still some remaining policy challenges to help the market work better for consumers, for example how we help consumers make better investment decisions. Building on this evaluation, HM Treasury and the FCA are doing further work to address these policy challenges and are continuing to monitor the take-up and effectiveness of the Pension Advice Allowance.

Enforcement

Recommendation 21: We recommend that, as the taskforce responsible for coordinating the response to pension scams, Project Bloom should publish an accessible and publicly available document outlining the roles and responsibilities of all bodies involved in tackling pension scams. It should also report annually on the amount lost by, and reimbursed to, pension savers.

Government response: The Government and Project Bloom members agree that a publicly available description of its members and their respective roles and responsibilities would be a beneficial next step, and this is an action from its recently completed review – this will be taken forward by the Project Bloom strategy group.

A public report on scams measures needs to be considered alongside wider developments on increased industry reporting, as set out in the response to recommendation 2.

Recommendation 22: We recommend that the FCA publish a costed plan to raise its game in tackling scams. It should also publish proactively data about its enforcement action, rather than waiting for Freedom of Information requests.

Government response: The Financial Conduct Authority seeks to reduce the incidence of fraud through a framework of prepare, prevent, protect and pursue. They collaborate extensively with other agencies, including as one of the seven core National Economic Crime Centre partners. They have proactively published information on their actions to tackle scams in their Investment Harms report,[3] and will publish more data of this kind in the future.

Recommendation 23: HMRC should make clear that a tax reference is not any endorsement of a given scheme.

3 https://www.fca.org.uk/data/consumer-investments-data-review-2020#lf-chapter-id-stop-and-disrupt-acting-against-firms-and-individuals-who-cause-consumers-harm

Government response: Pension schemes that wish to benefit from pension tax relief are required to register. Her Majesty's Revenue & Customs (HMRC) has responsibility for registering pension schemes to protect the exchequer in respect of the significant value this relief represents. In 2014, legislation was changed to introduce a "fit and proper test" for scheme administrators. This has had a significant impact with over 700 schemes being deregistered and an 88% reduction in the number of new applications compared to 2012/13. As a result, it would appear that the primary focus now is on pension investment scams. In those circumstances, there is no tax charge as there is not typically an unauthorised payment, funds are simply transferred from one pension scheme to another. HMRC does not publish a list of registered pension schemes.

HMRC does not authorise pension transfers and makes this clear to consumers and the industry in its guidance and through stakeholders. Pension schemes are responsible for carrying out due diligence on transfers to other pensions schemes and ensuring they comply with the legislation. HMRC guidance encourages individuals to seek professional advice before transferring their pensions.

HMRC is continuously looking for ways to improve its communications and published guidance, and will explore how to make it clearer to the public that being registered should not be taken as an endorsement of a pension scheme.

Recommendation 24: We recommend that the Government review the recourse available to pension scam victims when the actions of a regulator have been beneficial to the scammer.

Government response: The Financial Conduct Authority (FCA) is taking action to increase consumer awareness of investment scams and the common tactics fraudsters use. It has stressed the importance of rejecting unsolicited offers, getting impartial advice and checking the FCA Warning List before making an investment. The FCA's 'Warning List' can be checked in order to establish whether an investment or pension opportunity is known by the FCA to be a scam and if a firm is known by the FCA to be operating without permission or running scams.

More broadly, the financial services regulators, the FCA and the Financial Ombudsman Service (FOS), are governed by the framework of duties set out in legislation by Parliament. It would be unlawful for them to act outside of this framework in order to further vested interests. The decisions of both organisations can be subject to judicial review and both organisations must maintain arrangements for the investigation of complaints.

The Pensions Regulator (TPR) has a two-stage formal complaints process, the details of which can be found on their website. Victims can also ask the Parliamentary Ombudsman to investigate complaints further after the TPR complaints procedure has finished. TPR also upholds the standards laid out in the Code of Practice for Victims of Crime, under which those who have suffered a loss through a pension-related crime can complain if they believe their rights have not been met.

HM Treasury has no statutory role in considering complaints about the level of service provided by the regulators. If a consumer wishes to make a complaint about the regulators, they should contact the regulators directly in the first instance.

The Financial Services Act 2012 also requires that the regulators must appoint an Independent Complaints Commissioner, on terms and conditions reasonably designed to ensure independence from the regulators, to consider complaints about the way the regulators have carried out, or failed to carry out, their role. The Commissioner has powers to recommend the payment of compensation and to require the regulators to publish their response to any recommendation, for example where it decides not to pay compensation.

For complaints about the way in which the FOS has carried out or failed to carry out their role, consumers are able to contact the Independent Assessor. If the Independent Assessor judges that the service provided by the Ombudsman has not met the appropriate standards, they can recommend that the Ombudsman Service apologise, or should pay compensation for any damage, distress or inconvenience caused.

The regulators have statutory immunity from liability for damages, but this does not extend to acts or omissions shown to be in bad faith, nor does it extend to damages awarded in respect of a breach of the Human Rights Act. The Financial Services and Markets Act 2000 contains express channels to appeal to the Upper Tribunal against disciplinary and supervisory decisions made by the regulators and the regulators are also subject to judicial review in respect of their general functions, such as making rules. In all these cases costs can be awarded against the regulators.

The Government's position is that the current arrangements for the investigation of complaints against the regulators are appropriate.

Recommendation 25: To avoid the risks of creating yet another regulatory body in an already crowded field, we recommend that the new Pension Scams Centre should have a board made up of representatives of Project Bloom's current member organisations, with oversight of a pension scams hub. The hub's responsibilities would include facilitating intelligence-sharing within the pensions industry and between regulatory bodies. The funding for both bodies should be ring fenced from existing budgets. The new organisation should consult on a public strategy with clear targets for reducing the incidence of pension scams and publish data demonstrating its success—or otherwise—in achieving these targets.

Government response: Project Bloom operates on the basis of partnership working and has no statutory footing. We agree that it could benefit from being placed on a more formal footing within the existing partnership.

Central coordination of intelligence is essential. We are considering options as to which organisation could lead that function, as well as any resource and funding considerations any change may entail.

Project Bloom is a recognised project name across the relevant agencies, and ScamSmart is well established as the consumer facing brand. Careful consideration would also need to be given to any rebranding exercise.

Supporting pension scam victims

Recommendation 26: We recommend that, where someone is seeking to transfer or access their pension before the age of 55, pension schemes should be required to inform them, in a clear and accessible format, about the unavoidable tax charges they would

face if they access their pension early. For people who access their pensions after this requirement has been introduced, it would be reasonable for HMRC to collect the tax due—unless it can be proved that the requirement was not adhered to.

Government response: Her Majesty's Revenue & Customs is happy to work with pension schemes to improve the clarity and accessibility of guidance on the potential consequences and tax charges involved, when accessing their pension before the normal minimum pension age.

Recommendation 27: We recommend that HMRC should make greater use of its current discretion to support pension scam victims left owing large tax bills and that it should do its upmost to provide them certainty where possible. HM Treasury should recognise that, in some clearly defined circumstances, where the saver has been the victim of a crime and made no financial gain from the early access, it may not be in the public interest to demand payment of tax due. Where someone seeks to access their pension before the age of 55 without being eligible for one of the exemptions, we recommend that the pension schemes be required to withhold the Income Tax and surcharge and pay this to HMRC. In the event that the tax is not due, the individual could reclaim it from HMRC. This would ensure that victims of scams would not be subject to a tax bill on top of their pension loss. If a person has made a financial gain from early access, but can demonstrate that they have been the victim of a crime, they should be given the option to return the gains to an approved scheme within three years of the point at which they ought to have realised they have been scammed. If HMRC is unable to make greater use of its current discretion to waive the tax due by pension scam victims, then the Government should consider whether legislation is required to give HMRC the option not to pursue the tax penalties of pension scam victims.

Government response: Her Majesty's Revenue & Customs (HMRC) aims to treat all of its customers with empathy and respect. This includes tailoring its approach to individual customer needs where additional support is required. In circumstances where tax is due, HMRC may refer customers to a free independent Debt Adviser.

Where customers access their tax privileged pension savings before they are 55, HMRC has to collect the unauthorised payment charge that is due under the law. However, customers are only taxed on funds they, their family members or other connected persons receive, either directly or indirectly. Where HMRC accepts that a pension scheme member is defrauded of their tax-privileged pension savings as part of a pension scam, they are not taxed on the money they have lost as a result of the fraud.

Legislation already requires pension schemes to report to HMRC all unauthorised payments, including when someone accesses their pension before the age of 55 without being eligible for one of the exemptions. HMRC recognises that withholding tax can be an effective mechanism to minimise the reporting and payment burdens on individuals. Whilst pension schemes are required to withhold tax on payments made to scheme members after the age of 55 under pension flexibility rules, it is not clear how this approach could be used to address the concerns raised for those looking to access their pension scheme before the age of 55, particularly if it impacted all transfers or was reliant on schemes involved in pension scams.

HMRC will explore with stakeholders whether there are proportionate solutions to the practical issues with this approach.

MRC’s discretionary powers are limited. The Commissioners consider exercising these powers when they apply, and the Department has a Pensions Governance Group that advises the Commissioners on this.

Recommendation 28: We recommend that HMRC should re-join the pension scams taskforce Project Bloom. It was a founding member when Project Bloom was set up in 2012 but has since left. The Minister for Pensions and Financial Inclusion told us that he “100%” supports HMRC re-joining Project Bloom. We agree.

Government response: Her Majesty’s Revenue & Customs (HMRC) is currently a member of the Project Bloom Communications Group and works alongside the other members to help promote the warning signs of scams. HMRC has always co-operated with the other members of Project Bloom, exchanging information via legal gateways to help tackle those taking advantage of pension scheme members. HMRC’s formal membership of the Strategy Group ceased in 2020, after which it was represented by HM Treasury. HMRC has now formally requested to re-join the Project Bloom Strategy Group.

Recommendation 29: We recommend that The Pensions Regulator should review the value for money that scam victims get from trustees appointed to scam schemes within a year.

Government response: The Pensions Regulator (TPR) is working to ensure its processes thoroughly assess the value for money that independent trustees (ITs) provide. This includes comparing the amount recovered with the costs of doing so and the impact upon members’ pensions pots. While likely to be specific to each appointment, this work will help ensure savers are not only protected but get good value. However, determining what represents value for money in the context of pensions scams is challenging.

TPR appoints ITs to take control of the administration of a scam scheme, stopping more people from becoming victims and having their pension stolen and to preserve assets. It disrupts the scammers and the IT’s work assists in gathering evidence that could help to prosecute perpetrators. The IT plays a vital role in shutting down a scam and they are skilled professionals. Often, by the time an IT has been appointed, most of a scam scheme’s funds have already been lost and are unrecoverable, which is why so much emphasis is put on communications to prevent savers from becoming victims in the first place.

The costs in dealing with scam schemes are significant. Typically, such schemes have no meaningful administration or financial records. Often scheme documentation is deficient and requires legal input and, sometimes, court direction. The work is often time-consuming and complex involving pursuing money across multiple jurisdictions. Where schemes have been used as a vehicle for pension liberation, there can also be complex tax issues to deal with.

Legislation means the costs of this work have to come from members’ residual funds. While TPR can order trustee costs to fall as a debt on the employer, scam schemes are usually linked to an employer that is not trading and has no assets.

TPR runs a competitive tender process to select the trustees that can provide the best value for money. They have increased the number of firms they invite to tender for each appointment type. This used to be around three for scams cases, but they are encouraging a minimum of five and expect this number to increase.

They are holding annual meetings with trustees on the trustee register to encourage cooperation with them and build relationships, which they hope will increase the volume of tenders. Trustees on their register agree to have their costs and fees scrutinised by an independent adjudicator and to be bound by that adjudicator as to fees and costs. Once appointed, trustees update the Regulator regularly on their progress, including costs and fees incurred. This information is considered and compared to the trustee's tender for the work. Any significant variance will be open to challenge from TPR.

However, feedback from firms is that these appointments are not generally seen as desirable or profitable often making little to no profit, and often a loss on them. Not all firms are interested in receiving invitations to tender. This is challenging work, requiring a certain skillset, level of experience and business model. There is often a slim profit margin, and even an uncertainty of receiving full payment at all as assets may prove difficult or impossible to recover. Therefore, only a certain number of independent trustees appear to be interested in the work and only a certain number have the staff with the relevant skills and experience often required at short notice.

Recommendation 30: We recommend that The Pensions Regulator should explore the case and make a recommendation to DWP for allowing members to more easily transfer out of a scheme where a professional trustee has been appointed before all of the assets are recovered, if this would be in the member's interest.

Government response: It is unlikely to be in a member's best interest to transfer out of a scheme before attempts to recover assets have been concluded. Savers who left the scheme early would potentially miss out on an independent trustees (IT) work to recover stolen funds. ITs can also minimise the impact of tax liabilities, which could potentially further reduce the money returned to those transferring out.

In many cases, the majority of a scam scheme's funds are gone before an IT is appointed – meaning there would be little value for an individual member to transfer.

We know being the victim of a pension scam is devastating. Equally, we understand how disappointing it must be for savers to find that IT charges have reduced the amount that can be returned to them further. An IT's investigation is crucial in recovering as much value as possible for victims, but the cost and complexity of these are high.

Scam schemes typically have no meaningful administration or financial records. Documentation is often deficient or needs legal input and, sometimes, court direction. Where schemes have been used as a vehicle for pension liberation, there can also be complex tax issues to deal with.

Without an IT investigation, it is unclear how stolen funds could be recovered and returned to victims due to the difficulty in matching members with their funds thanks to typically poor recordkeeping present in scam schemes.

Recommendation 31: We recommend that DWP should lead in the creation of a strategy to ensure that all pension scam victims are offered, and encouraged to take, support for both the financial harm and psychological distress caused by pension scams. Support for financial harms could be delivered through the Money and Pensions Service's new consumer facing brand MoneyHelper when it launches in June 2021. Support for psychological distress could be delivered jointly with other Government departments to signpost relevant services.

Government response: We agree there is certainly scope for further action in this area and ensuring a more joined up approach.

The Money and Pensions Service (MaPS) helpline or webchat is often the first point of contact for customers who have concerns about being scammed either in the past or have current concerns. They provide information about the steps people can take if they think they have been a victim of a scam, and signpost them to Action Fraud so they can report the scam.

MaPS already provide a 'Pension Loss' service. These one-to-one appointments are delivered by technical specialists where they try to understand the background to the loss, the key dates and the firms involved. In these appointments customers are sensitively explained possibly routes of redress via the various jurisdictions – the Financial Ombudsman Service, the Financial Services Compensation Scheme, the Pensions Ombudsman - transferring schemes and how to go about claiming where appropriate. To ensure scam visits are supported, MaPS are developing the 'Pension Loss tool' to equip their specialists with the information they need, and this tool is also due to be built into the MoneyHelper website for people to access online. The tool will also connect up the regulatory partners to improve the customer journey and provide better support for scam victims.

Following a loss of money, customers can be referred for a Pensions Rebuilding Appointment where they are provided guidance to explain the pensions options available to help them rebuild their retirement savings for the future. MaPS also regularly share information with the regulatory authorities where they believe there to be customer detriment.

The Action Fraud Economic Crime Victim Care Unit (ECVCU) is designed to deliver services to victims of fraud and cybercrime to help them recover from their crime and prevent them from being victims in the future. It targets individuals who report a fraud or cybercrime to Action Fraud, but who do not receive any focused service as their cases are not disseminated for investigation. The ECVCU is currently supporting 20 forces in the North West, West Midlands, South West, East Midlands, Central London and Eastern Region (Kent), which accounts for 52% of all fraud reported to Action Fraud. This service is being rolled out further and will cover the majority of the population of England and Wales by the end of 2021.

Appendix 2: Financial Conduct Authority Response

I am writing to you in response to the publication of the Committee's report on *Protecting pension savers – five years on from the pension freedoms: Pension scams* on 28 March 2021. We welcome the Committee's report and share your aim of reducing the impact of pension scams. I will address in turn the report's recommendations that concern the Financial Conduct Authority (FCA).

Recording and reporting

We recommend that the Pensions Regulator and the Financial Conduct Authority should use their scams awareness campaign, ScamSmart, to warn of the risk of secondary scammers.

We support this recommendation. The Pensions Regulator (TPR) and the FCA will review data and adjust messaging accordingly about the risk of secondary scammers (also known as recovery fraud) throughout the course of the next financial year and beyond. Messaging will be prioritised by reviewing the reporting data figures from Action Fraud and the FCA and TPR's contact centres. Further details on FCA's ScamSmart campaign and TPR's Pledge campaign can be found in response to recommendation 17 below.

Prevention

We recommend that inclusion on the FCA warning list should constitute a red flag. If this is not possible, then the red flags developed by DWP should be defined in such a way that any firm or individual appearing on the FCA warning list would trigger a red flag.

We support this recommendation and will work with DWP to consider it. The alerts issued on our warning list do not necessarily relate to scams. They reflect unauthorised conduct which may include scams but will also capture conduct which we judge may pose a risk of harm to consumers but may not necessarily be a scam. It is also worth noting that at the point when an alert is issued, we do not necessarily have evidence to prove fraud even if we suspect this to be the case. The warning list is also constantly evolving, with new alerts being issued, but also previous alerts being updated or adapted. We update the warning list on a daily basis and continue to urge consumers and financial services firms to avoid dealing with firms on the list. We have also developed a Really Simple Syndication ('RSS') feed to enable third parties to receive information about our alerts at the point when an alert is issued or updated. In cases where firms are able to demonstrate that they are no longer engaging in unregulated conduct, alerts are sometimes taken down. Given that the list relates to conduct wider than scam activity, and due to the constantly changing content, inclusion on the warning list may be more appropriate as being viewed as an amber rather than red flag.

We recommend that, in order to create parity between traditional media, such as TV and newspapers, and new media, including search engines and social networks, paid-for advertising on online platforms should be covered by the regulatory framework for financial promotions. This would require online publishers to ensure that any financial promotion which they communicate has been approved by an authorised person or is exempted from the financial promotions regime.

As outlined in our Perimeter Report 2019/20, we think it is important that online platform operators bear clear legal liability for the financial promotions they pass on – at least to the same extent as traditional publishers. We therefore agree that online publishers should ensure that any promotion which they communicate has been approved by an authorised person or is otherwise exempt. Since the UK's departure from the EU an exemption to the financial promotions regime which may have been available to online platforms has fallen away. As a result, we are looking at the operations of the major online platforms to determine whether they are now subject to the financial promotion restriction and, if so, whether they are compliant. We will take action where we consider major platforms are non-compliant.

We recommend that the forthcoming Online Safety Bill should legislate against online investment fraud.

We support this recommendation. We have consistently been of the view that financial harms should be included in the Online Safety Bill to ensure that online platform operators take responsibility for the material which they disseminate which could cause consumers financial harm.

We welcomed the Government's confirmation that certain types of user-generated online fraud will be brought within scope of the Bill. We very much hope, however, that it can be amended to cover paid-for advertising as well as it is online advertising that is the major source of the problems leading to very significant consumer harms. The outcome we want to see is that platforms have an obligation to identify and remove fraudulent content – regardless of its format.

We do not agree with the arguments made by some platforms that such a measure would undermine competitiveness of the UK technology sector as we do not consider a business model which acts as a gateway to large scale fraud against consumers constitutes a sustainable business model. We recognise that ultimately this is a matter for Government and Parliament to decide on.

In the period between now and any legislation coming into force, we recommend that voluntary codes of conduct should be developed by search engines and social networks which make it clear that a request from a UK-based regulator is sufficient to remove a scam advertisement.

For the reasons set out above, we do not consider that voluntary approaches such as a charter will be sufficient to deal with the significance and urgency of this issue, particularly with respect to online advertising. Nevertheless we support this recommendation, and would encourage online platforms to make public very clearly their commitment to complying with the terms of the Financial Promotions Order (which is now required upon the UK's exit from the transition period) and the detailed steps they are taking to ensure timely compliance. For example, only allowing ads relating to financial services or products that have been approved by an authorised person or which are otherwise exempt.

We recommend that Pensions Regulator and FCA should continue to run the ScamSmart campaign, while regularly evaluating whether it is reaching the right groups and whether it has the necessary resource to do so effectively.

We support this recommendation. For the past three years, TPR and the FCA have jointly run the high-profile multi-million pound ScamSmart advertising campaign across television, radio, online and digital media, reaching four out of five pension savers between 45–64, the group most at risk from pension scams.

However, as there is no ongoing funding for TPR to continue to support the ScamSmart campaign, it falls to FCA to progress through their own website and social media channels only, with support from Project Bloom, a government-led multi-agency task force, set up to tackle pension fraud. For TPR to continue to support ScamSmart as it has over the past few years, more resource and – more importantly – more funding is needed.

Over the three years of running the consumer facing ScamSmart campaign, TPR has evolved its proposition and shifted its focus to its Pledge to Combat Pension Scams campaign as it centres on TPR's regulated audience (such as trustees and providers).

Consideration is needed as to whether TPR remains the most appropriate partner to support the ScamSmart campaign, which is consumer-facing.

TPR and FCA will continue to have a close working relationship with Project Bloom partners, including TPR, to support the promotion of both the consumer-facing and industry-facing pension scams campaigns.

Enforcement

We recommend that the FCA publish a costed plan to raise its game in tackling scams. It should also publish proactively data about its enforcement action, rather than waiting for Freedom of Information requests.

The FCA seeks to reduce the incidence of fraud through a framework of prepare, prevent, protect and pursue. We collaborate extensively with other agencies, including as one of the seven core NECC partners. We are carrying out ongoing action, for example, increasing our proactive monitoring of the internet with a dragnet approach aiming to capture suspicious advertising on the same day it first appears. We have proactively published information on our actions to tackle scams in our Investment Harms report[4] and we will continue to publish more data of this kind in future.

We also publish details of all enforcement proceedings we take, including issuing media statements in respect of all criminal prosecutions when commenced and concluded. All of these statements have been and remain publicly available on our website.

Publishing a costed plan would be complicated, as much of our activity as a regulator has an indirect contribution to tackling scams but is nominally attributed to other areas of our activity, such as our financial crime supervision work. In January 2020, we published the Investment Harms report, and we intend to continue to publish this on a regular basis. The FCA also publishes an annual Business Plan which includes detailed information about how the FCA plans to carry out its regulatory functions and exercise its powers over the forthcoming year.

4 https://www.fca.org.uk/data/consumer-investments-data-review-2020#lf-chapter-id-stop-and-disrupt-acting-against-firms-and-individuals-who-cause-consumers-harm

Finally, we also note that such a recommendation would be relevant to a range of regulators and law enforcement agencies with a remit to take action against pension scams and frauds. To the best of our knowledge, no other body with law enforcement responsibilities publishes such a plan.

To avoid the risks of creating yet another regulatory body in an already crowded field, we recommend that the new Pension Scams Centre should have a board made up of representatives of Project Bloom's current member organisations, with oversight of a pension scams hub. The hub's responsibilities would include facilitating intelligence sharing within the pensions industry and between regulatory bodies. The funding for both bodies should be ringfenced from existing budgets. The new organisation should consult on a public strategy with clear targets for reducing the incidence of pension scams and publish data demonstrating its success—or otherwise—in achieving these targets.

We support this recommendation. Project Bloom continues to have a significant role to play. However, the establishment of the NECC has placed inter-agency cooperation on a more formal footing than previously, and the NECC has been successful in coordinating law enforcement efforts and action, including among Project Bloom members. The NECC applies significant focus to investment fraud, of which pension scams are a sub-set. However, alongside other Bloom members, we are considering how enhancements might be made to the current model.

I hope that you find this response helpful. If you need anything further on any of the points covered, please do let me know.

Mark Steward
Executive Director
Enforcement and Market Oversight

Appendix 3: The Pensions Regulator Response

We welcome the findings of The Work and Pensions Committee’s report on Protecting pension savers - five years on from the pension freedoms: Pension scams. In this response we have outlined our response to the conclusions and recommendations relevant to The Pensions Regulator (TPR). The responses to the recommendations relating specifically to Project Bloom have been addressed through a response on behalf of Project Bloom partners, which was fed into the DWP’s overall reply to the committee’s report.

We recommend that the Pensions Regulator and the Financial Conduct Authority should use their scams awareness campaign, ScamSmart, to warn of the risk of secondary scammers.

We appreciate the Committee’s comments recognising the effective work the ScamSmart campaign has done in combating the risk posed by scammers.

It’s a sad fact that if you have already been a victim of a pensions scam you could then be targeted in a secondary scam (also called a recovery room scam). All savers should be on their guard against secondary scammers. These scams see fraudsters approach those already scammed and offer to help them get their money back in return for a fee.

Anyone who receives an unexpected contact about their pension should report it to Action Fraud or by calling 101 in Scotland. We recommend savers consider getting impartial information and advice before making any decision about their money and visit the ScamSmart site[5] for more tips on how to protect themselves from scammers. In the autumn, we have planned for a further burst

of campaign activity, which focuses on the pensions industry signing up to our Pledge campaign to combat pension scams, under which trustees, providers and administrators agree to take steps to prevent savers falling victim to pension scams, including agreeing to observe the Pension Scams Industry Group (PSIG) Code of Good Practice.[6]

In order to raise the awareness of secondary scams over the next 12 months, TPR and the FCA are considering further communications about the risk of secondary scams and recovery fraud to help protect pension savers.

We recommend that Project Bloom should actively encourage the pensions industry to sign up to the pledge. The Pensions Regulator should monitor and report twice annually to this Committee on the effectiveness of its pledge to combat pension scams.

TPR launched the industry-focused Pledge campaign, working closely with the PSIG in November 2020. The Pledge now covers more than 285 organisations, including 14 Master Trusts which represents over 6 million savers’ pensions pots. To fight the scourge of pension scams and keep up with scammers’ ever-changing tactics, we need a clear understanding

5 https://www.fca.org.uk/scamsmart/recovery-room-scams
6 https://www.plsa.co.uk/Portals/0/Documents/Policy-Documents/2021/Combating-Pension-Scams-A-Code-of-Best- Practice-0421.pdf

of the size of the problem and good-quality intelligence. The Pledge is designed in part to encourage better reporting, which is why we made reporting one of the six principles[7] in our Pledge to Combat Pension Scams campaign.

Although voluntary, the Pledge campaign offers the industry the opportunity to show they are taking active steps to help protect savers against the unwanted attentions of scammers. We would support the PSIG's Code of Good Practice becoming a statutory requirement, resulting in even stronger protection for savers.

We will continue to promote the Pledge with every available tool at our disposal. For instance, on 31 March 2021 we hosted a webinar for trustees, providers and administrators highlighting:

- the devastating impact of scams
- the vital role of the industry
- more detail about the campaign and how they can support it

More than 500 attendees joined the webinar and had the opportunity to ask questions of our expert panel. A recording of the webinar is available on our website and will be promoted through our regular industry communications.[8]

More recently, we supported the City of London Police in hosting an industry engagement webinar on 27 April to highlight the vital role of the industry and encourage reporting of pension scams and suspicious transfers.

We have worked to support the industry in making the Pledge and continue to meet regularly with those wanting to improve their anti-scams processes. A key aim of the Pledge is that it asks those on the frontline to play their part in combating scammers. It is still too early to fully assess the effectiveness of the campaign, but we will provide twice-yearly updates to the Committee as the campaign develops.

Towards the end of the year we will update the Committee on the:

- Total number of organisations who pledge or self-certified.
- Number of members of Pension Scams Industry Forum who have pledged or self-certified that they are following the pledge principles.
- Number of master trusts who have pledged or self-certified that they are following the pledge principles.
- Number of pensions administrators who have pledged or self-certified that they are following the pledge principles.

We recommend that the Pensions Regulator and FCA should continue to run the ScamSmart campaign, while regularly evaluating whether it is reaching the right groups and whether it has the necessary resource to do so effectively.

7 https://www.thepensionsregulator.gov.uk/en/pension-scams/pledge-to-combat-pension-scams
8 https://www.thepensionsregulator.gov.uk/en/media-hub/speeches-and-speakers/pledge-to-combat-pension-scams- webinar

Education will always be our most effective weapon against scammers. We seek to raise public awareness of the warning signs of scams through the ScamSmart campaign so that people can recognise and avoid pension scams in the first place.

The total spend between 2018–2020 on the ScamSmart campaign was £5.2m.

However, TPR did not have budget to co-fund the campaign during 2020. We are in the same position in the current financial year, and it falls to FCA to progress, with support from TPR and Project Bloom partners through our no-cost communication channels only. For TPR to continue to support ScamSmart as it has over the past few years, more resource and, more importantly, funding is needed.

As mentioned above, TPR has changed its approach and shifted our focus to the Pledge to Combat Pension Scams campaign as it centres on TPR's regulated audience, where we see opportunities to positively influence the behaviours of trustees, providers and administrators in order to protect the interests of their savers. As part of the Pledge, TPR is emphasising the need for trustees, and others working in the pensions sector, to increase reporting of suspected scams to Action Fraud. One of the principles of the Pledge commits trustees to report concerns about a scam[9] to the authorities and communicate this to the scheme member.

TPR has a close working relationship with the FCA and, together with other Bloom partners, support the promotion of both the consumer-facing and industry-facing campaigns.

We recommend that the Pensions Regulator should review the value for money that scam victims get from trustees appointed to scam schemes within a year.

We are already in the process of ensuring we thoroughly assess the value for money (VfM) provided by the independent trustees (IT) we appoint. This would include comparing how much the IT is able to recover with the costs of them doing so and what impact this will have on members' pension pots. These amounts are likely to vary from appointment to appointment, but our decisions on making trustee appointments are always driven by our objectives to protect savers, with VfM taken into consideration.

We run a competitive tender process to select the trustees that can provide the best value for money. We have already increased the number of firms we invite to tender for each appointment type. At one time three firms were invited to tender for scams cases, but we now invite a minimum of five, and we expect this number to increase on the conclusion of this year's annual reviews of the firms on the trustee register. Annual meetings with trustees on the trustee registers are already being held to encourage greater co-operation and build relationships. We hope that this will increase the volume of tenders.

Independent trustees are skilled professionals and play an important role in combating scams. When TPR makes an appointment for IT to take control of a scam scheme's administration it helps:

- prevent more people becoming victims and losing their pension pot
- preserve any remaining scheme assets

9 https://www.thepensionsregulator.gov.uk/en/pension-scams#613797f9a0f7453cb065dc55406ea315

- disrupts scammers
- gather evidence to prosecute perpetrators

Often, by the time IT are appointed, most of a scam scheme's funds have already been lost and are unrecoverable, which also underscores the importance of communication campaigns to prevent savers from becoming victims in the first place.

Being appointed to a scam schemes can be time-consuming, complex - involve pursuing money across multiple jurisdictions or tax issues – and costly. Often the schemes lack basic administration or financial records. Scheme documentation can be deficient – which can require legal input and court direction to remedy.

Legislation dictates the cost of work done by the IT must come from members' residual funds. We do have the power to order trustee costs to fall as a debt to the employer. However, in most cases the employer linked to scam schemes is not trading and has no assets.

Once appointed, trustees update us regularly on their progress, including costs and fees incurred and this information is considered in relation to a trustee's tender for the work and we challenge any significant variance. All trustees on our register have agreed to have their costs and fees scrutinised by an independent adjudicator and to be bound by that adjudicator6 as to fees and costs.

Feedback from some firms suggests these appointments are not generally seen as desirable or profitable often making little to no profit, and often a loss. Not all firms are interested in receiving invitations to tender. This is challenging work, requiring a certain skillset, level of experience and business model.

Finally, it is worth noting that there is often a slim profit margin, and even an uncertainty of receiving full payment at all as assets may prove difficult or impossible to recover. Therefore, only a certain number of independent trustees appear to be interested in the work and only a certain number have the staff with the relevant skills and experience often required at short notice.

We recommend that the Pensions Regulator should explore the case and make a recommendation to DWP for allowing members to more easily transfer out of a scheme where a professional trustee has been appointed before all of the assets are recovered, if this would be in the member's interest.

Pension scams are devastating, and we understand how disappointing it must be for victims to find independent trustee charges have reduced the amount that can be returned to them further.

However, in most cases, by the time an IT has been appointed, the majority of a scam scheme's funds have already been dissipated. This means, while a member may have paperwork showing what their pension investment is worth, it cannot be transferred out if there are no funds and in those limited cases where an individual victim may have recently transferred funds which remain in the scheme bank account, trust law would require these funds to be treated as part of the overall scheme assets, and not earmarked in a way which would allow them to be returned intact to that victim.

It may not be in a member's best interest to transfer out of the scheme before attempts to recover assets have been allowed to conclude. Savers who leave the scheme early might miss out on the benefit of work to recover stolen funds or attempts to minimise the impact of tax liabilities on those transferring out. Without knowing the final recovery amount, it would be impossible for the IT to make a reasonable judgement about what is in a member's interest.

The IT could be put in the impossible position of being forced to weigh the benefit of allowing a member to leave a scheme early versus the impact that would have on the schemes' remaining members.

As such, this recommendation would be very difficult to put into practice. An IT's investigation is crucial in recovering as much value as possible for victims, but the cost and complexity of the work is high.

TPR welcomes the feedback with the Committee and will continue our hard work with organisations and trustees to help educate the public against pension scams and bring the perpetrators of scams to justice where it is possible to do so.

Yours sincerely
Nicola Parish
Executive Director of Frontline Regulation.