Written evidence from A J Bell [PPS0045]

AJ Bell

AJ Bell is an investment platform, pension provider and investment manager for retail investors. We provide administration services for our customers in relation to a range of tax-incentivised wrappers including Self Invested Personal Pensions, Small Self-Administered Schemes, Individual Savings Accounts (ISAs, LISAs and JISAs) as well as General Investment Accounts. Our platform and investment services are available to direct customers, as well as through FCA registered financial advisers.

AJ Bell currently provides services to more than 280,000 customers representing assets under administration of over £54.3 billion.

1. What is the prevalence of pension scams?

There are various sources of public data available showing the level of pension scams. For example, Action Fraud recently reported a total of £30.9m has been lost to pension scammers since 2017, according to complaints filed with them[1].

However, when considering the scale of pension scams, it's worth bearing in mind that a significant proportion of scams are never reported. Many people are unaware who to report it to, or the need to report it at all, or through embarrassment of having fallen for the scam in the first place. Some may not report a scam has occurred as they may incur an unauthorised payments tax charge from HMRC.

It's also worth recognising the different timing nature of reporting of pension scams compared to other types of scams. Someone subject to, say, a banking scam will usually be immediately aware their bank funds are gone. However, it often takes a person some time before they realise their pension investment has disappeared and that they have been scammed. They may have been warned that they are 'not allowed to' access their pension investment for several months or even years. Therefore, there is a period where they may think their pension is safe, when in fact it has been scammed.

This time lag means the pension scams reported in, say, the current year may relate to scams that took place a few years ago. This can give a false and incomplete picture of current pension scam activity.

In addition, Action Fraud will only investigate and record scams when a number of similar scams have taken place. This time lag may mean that once Action Fraud launches an investigation the scammers could well have disappeared.

2. What are the current trends in pension scams?

Historically, many scams took the form of 'traditional pension liberation' (where benefits are transferred to a new arrangement before being taken out of the arrangement prior to the normal minimum pension age).

This has been reduced partly through improved administrator and trustee due diligence, but also, because the improved HMRC registration process means far fewer schemes are now registered. This means far fewer 'fake SSASs' are being registered. In the tax year 2019/20 HMRC received 1,818 applications to register new pension schemes (a 6% reduction compared to the previous year). Since

[1] Action Fraud newsroom 26 August 2020 https://www.actionfraud.police.uk/news/pension-savers-claim-over-30-million-lost-to-scams-as-regulators-urge-footie-fans-to-show-scammers-the-red-card

2012/13 – when it received 15,714 applications – HMRC has seen an 88% decrease overall in the number of applications to register pension schemes.[2]

Since the introduction of pension freedoms in 2015, scams are now more likely to involve accessing fraudulent investment schemes through transfers to SIPPs, SSASs and QROPS. The SIPPs are often operating as a legitimate registered pension schemes and are FCA registered. However, the investment is often unregulated and overseas, with excessive fees and charges. Sometimes the fund doesn't exist, and the investment is lost altogether.

Following the introduction of the QROPS BCE charge of 25% in March 2017, there has also been an increase in the number of transfers to 'international' SIPPs – UK-registered schemes aimed at overseas residents.

AJ Bell, as a pension scheme administrator, is also seeing different types of scam emerging. For example, scams where the pension investments are administered by a discretionary fund manager (DFM) or broker who is the scammer.

We have also noted an increase in scams where people are encouraged to invest in 'listed' corporate bonds (which are under the control of scammers). However, there's no liquidity if investors wish to sell after initially buying the investment. The bonds may be listed on a recognised overseas exchange as a 'way in' to allow them to be invested in via SIPPs, rather than any genuine or practical benefit towards making them a genuine or better investment.

We expect to see an increase in the number of scams in the aftermath of coronavirus and the emerging economic crisis.

3. What are the common outcomes of pension scams for perpetrators and victims?

We believe it's sometimes difficult to see a 'harsh' effect on the perpetrator. Our previous experience has shown that the police appear to only to take action when wider criminal activity is also evident. For example, we have seen evidence of action in cases where the pension scam took place alongside money laundering.

When we examine more closely the companies behind the scams, the same names appear time and again as key within the scam organisations. It appears that often no, or little, action is being taken to stop these individuals from trying new scams.

In contrast, the victim of the scam will lose their pension, which will have a devastating impact on their personal and household lifestyles. This will impact their financial lives, often meaning a complete change in lifestyle and expectations, but also have far-reaching effect on their mental health. In addition, victims may also face the 'double whammy' of facing HMRC tax charges for unauthorised payments. Please see question 8 below.

4. How are existing enforcement tools being used?

Over recent years, there has been a marked increase in enforcement tools:

- The Government implemented a ban on pensions cold calling in January 2019. This was a welcome step in the right direction, but it was widely acknowledged it was unable to eliminate retirement fraud together. The parameters of the ban were limited, including only applying to UK companies not including overseas scams, and only applying to telephone scams and therefore not to on-line scams.
- As stated in the answer to question 2, there has been a dramatic reduction in the number of new scheme registrations HMRC is approving. This has led to far fewer 'fake SSASs' being set up.
- Since the introduction of a potential 25% charge on many QROPS transfers in March 2017, there has been a significant fall in the number of transfers to QROPS. The number of transfers to

[2] HMRC Pension Scheme Newsletter 119 April 2020

QROPS has fallen from a high of 20,100 in 2014/15 with a value of £1,760m to 4,400 in 2019/20 with a value of £550m.[3]

- The FCA work on introducing new guidance and regulations for advice on defined benefit transfers has reduced the number of transfers, and therefore potential scams. The ban on contingent charging, due to be introduced from October, will also help reduce the number of unsuitable transfers and potential scams.
- The work by the Pension Scams Industry Group (PSIG), which is formed on industry collaboration, has helped reduce the number of scams through its sharing information group and code of good practice for scheme administrators. PSIG encourages scheme administrators to give clear and prominent warnings to individuals.
- The action by the TPR and FCA to lead the campaign ScamSmart has helped to bring the issue of pension scams more to the forefront of the public's mind. This is an important element – one of the best ways to prevent scams is to increase the public's education and awareness. The media plays an incredibly useful role here as well.

5. What more can be done to prevent pension scammers operating?

6. What more can be done to prevent individuals becoming victims of pension scams?

AJ Bell has **nine recommendations to help prevent more scams:**

1. It is vital policymakers and the wider pensions industry continue to monitor scam activity and act where possible to protect savers.

Our experience has shown that preventing pension scams is not a one-off piece of work. We are continually witnessing the type and style of pension scams change and evolve. It's important policymakers and the wider pensions industry recognise this and can change their detection and prevention tactics accordingly. Regulators and police authorities need to continue regular reviews with the industry.

2. The Government should extend the cold-calling ban.

The cold-calling ban could be extended to include 'factory gating' where lead generators meet prospective clients in person and make the introductions to unscrupulous financial advisers. The ban could also be extended to include social media, emails and text. Finally, it could be extended to include all investments, rather than just pensions. This could prevent scammers from getting around the rules by offering an 'investment performance review'.

3. Better guidance for pension scheme administrators on what to report to Action Fraud and how.

Action Fraud identifies whether to investigate a scam based on a scoring system, and therefore will only investigate once a scam has been reported by several different sources or is of a large enough size. Therefore, no action will be taken for a single scam of a different model (unless the value is large). We would like more guidance from Action Fraud on what scams to report and how to report them. We believe there is the risk that several different sources are reporting scams in slightly different ways or referring to slightly different models, with the result that no action is being taken on investigating these scams. But if taken collectively then these individual scams represent a wide-spread type of scam where collectively large sums of money have been lost. Better reporting would enable us to treat these scams correctly.

4. We believe better reporting to the FCA would help.

Financial services companies – including advisers and planners – may report to the FCA cases where they believe an advert or action represents a scam. However – and quite rightly – the FCA does not respond back on individual cases to show they have taken any action or what that action is. This has the inadvertent consequence that these firms are surmise (incorrectly) there is no point in them reporting potential scams. The FCA needs to change this perception and to encourage all financial

[3] HMRC Transfers to Qualifying Recognised Overseas Pension Schemes 31 July 2020

services to report scams to them on the basis that it is always worthwhile and that every report counts.

5. **We believe improved information sharing between financial services companies would help.**

Often scammers try the same scam or tactic at several different companies. If these companies can share knowledge effectively – on individuals or investments or schemes – then it would help to close or prevent a scam. That information sharing could take the form of a database. The industry already has sharing mechanisms – informally, as well as on a more formal basis. For example, AJ Bell is a member of PSIG. But often the focus of this group is on scams originating from pension liberation transfers. The focus needs to be wider to include investment scams – for example investment in listed corporate bonds. One solution could be to form another group like PSIG but just for scams involving different types of investment.

6. **The industry, action groups, police and regulators need to widen out the area of focus on pension scams.**

There is a concern the regulatory focus is focused on a narrow range of models of pension scams. For example, recent actual and potential scams AJ Bell has encountered relate to investments into corporate bonds listed on stock exchanges. This is a scam model that would have received very little attention as a pension fraud (though mini-bonds does have wider attention).

7. **Continue the approach HMRC has adopted with respect to new scheme registration. (See above.)**

8. **New transfer regulations in the Pension Schemes Bill.**

Future regulations arising from the Pension Schemes Bill are expected to require trustees to determine whether there is a statutory right to transfer and whether the transfer can go ahead. They will achieve this by checking whether a receiving scheme:

- is regulated by the FCA;
- is an authorised master trust;
- has a genuine employment link between the member and the scheme; or
- meets the requirements of a transfer to a QROPS in certain circumstances.

In drafting these regulations, Parliament needs to ensure that they do not impact on people's ability to genuinely transfer to SIPPs or family SSASs. The Government previously stated this should not mean transfers outside of the statutory right should be blocked without good reason.

9. **Continue the ScamSmart campaign**

Given fraudsters usually, by definition, operate outside of regulatory boundaries, the most effective way to protect people is to arm them with the information they need to avoid falling victim in the first place.

7. What role should the pensions industry have in preventing scams?

The industry already takes an active role in helping to prevent scams.

Many schemes already participate in the PSIG and follow the published code of practice. However, many scams are perpetrated on savings after they have been legitimately cashed in from pension schemes, and therefore go beyond the scope of the Code.

TPR expects trustees and providers to carry out a reasonable level of due diligence on pension transfers, and not solely rely on HMRC registration.

Pension schemes encourage communication with scheme members before they take a transfer to ensure they are aware of the risks.

The FCA's work on helping financial service firms develop policies to help identify vulnerable and potentially vulnerable customers, and to adapt communications and the approach they take, has also helped prevent scams.

However, the industry and trustees should not be made the police. The pension scheme member also has a responsibility to refuse such investments and transfers where they believe there may be even a minor element of fraudulent activity. But the industry should be given more ability to stop transfers where we believe there is harm for the individual.

8. Is HMRC's position on the tax treatment of pension scam victims correct?

It seems unfair that true victims suffer additional HMRC unauthorised payment charges. This could leave them in situation where not only have they lost their pension savings and future life income, but they are also unable to pay these additional charges.

However, there is a spectrum of guilt. Some people have made an active choice to access pensions before the age of 55, despite being told repeatedly that this is not possible.

If HMRC was able to waive its unauthorised payment charges it would have to be able to ascertain how 'guilty' the person is, and how much 'warning' the person had before taking action. This feels like a subjective test and could lead to more people being encouraged to take money from pensions before 55 if the charge was not automatic. This might be a step too far.

The tax charge is the *quid pro quo* for locking the money away in a pension tax free and watering it down to reduce the effects of fraud may well cause a leakage of savings and tax that was not intended.

9. Are public bodies co-ordinating the response to pension scams?

Pension Scams are a topic of national debate, and there are many public bodies concerned and involved in the prevention of pension scams.

An All-Party Parliamentary Group on Pension Scams was formed in March to find ways of protecting and warning the public about the ongoing risks they face.

Education is critical, and everyone from the Police and regulators to providers and charities has a role to play in tackling pension scams.

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