

Protecting pension savers - five years on from the pension freedoms: Pension scams

Summary

1. Which? welcomes the opportunity to submit written evidence to this inquiry into pension scams. This submission identifies three key themes: the prevalence and trends of pension scams amongst consumers; the different types of pension scams and how to mitigate them using lessons from the broader scams landscape; and what more industry and government can do to prevent pension scams.
 2. Pension scams cause considerable detriment to victims, many of whom are vulnerable. They can cost people their life savings, and leave people facing retirement with limited income, and little or no opportunity to build their pension savings back up.
 3. Pension scams are often too narrowly defined by industry and policymakers, which can further reduce our understanding of the issues involved in pension scams. With more than half of pension pots that are accessed being withdrawn fully into cash, often then keeping their savings in a current account or savings account, this can leave people vulnerable to losing large sums of money to a whole range of scams such as romance scams and impersonation scams. Better reporting of data on pension scams could lead to a better understanding of its causes, and could also lead to an improvement in how the industry treats victims of these scams.
 4. Regarding the prevention of scams, we understand that scammers often cold call people via phone, email or text. They also often advertise online and can have websites that look official or government-backed. There are different enablers involved in the scam depending on which contact route the scammer chooses to take. We believe that it is critical that the different enablers of scams take steps to protect consumers, because it is not reasonable to expect consumers to be able to protect themselves from such sophisticated scams. We supported the Government's decision to introduce a cold-calling ban on pensions, however more needs to be done to ensure that consumers are protected from scams that result from cold calls, texts and online advertising.
 5. Which? believes that the pensions industry, regulators, government agencies and law enforcement can and should do more to detect potential scams and to work together to prevent them. There is also a significant need to increase the take-up of advice and guidance to ensure that people are better informed in their decision making. We propose that the pensions industry should be required, and enabled, to take on greater responsibility for vetting pension transfers and pension liberation requests, and alerting law enforcement and regulators. In cases where pension schemes identify a significant risk of a scam, the member should be required to take regulated advice with regards to the transfer. To help ensure individuals can access this advice, for these limited circumstances the advice could be funded by a levy on industry. HMRC, the FCA and TPR should also work together to develop a stronger regime of authorisation and monitoring of pension schemes and providers.
-

Introduction

6. Which? supports giving people greater choice and freedom in retirement, and the pension freedom reforms have been well received by many people. In February 2020, nearly eight in 10 Which? members said that they think that giving people more control over their retirement planning has been a positive development.
 7. However, insufficient regulatory protections have been put in place to safeguard consumers from poor outcomes. While the government and regulators are seeking to address some of the harm, especially for consumers opting for income drawdown investment products, there are wider issues that remain, including pension scams.
 8. Which? welcomes the Committee's decision to focus initially on pension scams via its three-part inquiry. As a result of the pension freedom reforms five years ago, millions of people now have more freedom over what to do with their pension pot. Pension scams are not a new problem, but their prevalence and the harm they cause is increased when people have more options available to them and scammers will naturally look to take advantage of a situation where billions of pounds are now more readily accessible.
-

Prevalence and reporting

9. The harm caused by pension scams is often considerable, and on average victims lose between £80,000 and £90,000 according to Action Fraud. Pension scams can cost people their life savings, and leave people facing retirement with limited income, and little or no opportunity to build their pension savings back up. Which? recognises that those nearing retirement are particularly at risk because fraudsters know they could get their hands on a lifetime of savings.
10. The FCA and The Pensions Regulator (TPR) have jointly stated that it is likely that 'only a minority of pension scams are ever reported', and many official estimates appear much lower than the likely actual level. The FCA's and TPR's research suggests that 42% of pension savers, which would equate over 5 million people across the UK, could be at risk of falling for at least one of six common tactics used by pension scammers. TPR has also concluded that the full scale of current pension scamming problems 'may not be fully realised until people come to retirement, which could be over 20 years' time'.
11. We also believe that pension scams are often defined too narrowly by industry and policymakers, which can further reduce our understanding of the issues involved in pension scams. The Government's current definition is limited to victims being convinced to release funds early from a pension scheme, transferring to inappropriate investments or access their pension savings flexibly in order to invest in inappropriate investments. However, flexible access can lead to more than just inappropriate investments. With more than half of pension pots that are accessed being withdrawn fully into cash, often then keeping their savings in a current account or savings account, this can leave people vulnerable to losing large sums of money to a whole range of scams such as romance scams and impersonation scams. While a broader definition would overlap with other types of fraud, such as authorised push payment scams, we believe it is crucially important that we understand the full customer journey and that we explore the responsibilities of all relevant industries to prevent scams. We also believe that a culture of better reporting of scams involving pension savings, working with other sectors such as the banking industry, could lead to a better understanding of its causes, and could also lead to an improvement in how the industry treats victims of these scams.

Trends

12. In July 2016, Which? found significant numbers of paid-for adverts on search engines such as Google that were aimed at attracting consumers seeking to find out how to withdraw money from their pension, following the pension freedom reforms. Many adverts appeared to offer pension advice, but were in fact linked to unregulated lead generation websites, while other companies overstated the ease, speed and benefits of pension transfers, or pitched the potential benefits of releasing cash from a pension without mentioning the risks.
 13. More recently, in June 2020, Which? warned that fraudsters might be using the coronavirus pandemic to target people. Due to the pandemic, 11% of over-55s with a pension have either already accessed or plan to access their retirement pot earlier than anticipated, according to a survey by AJ Bell. With savings rates at rock bottom, company dividends suspended and share prices changing rapidly, pension savers might also be looking for a better return, making them susceptible to fraudsters offering 'high guaranteed returns'.
 14. We also found that under-55s are also at risk, particularly from pension liberation scams. These claim to give people early access to their pot, but usually result in the loss of their savings and even a large tax bill from HMRC. Other fraudsters will attempt to attract people with a 'free pension review', which will invariably encourage them to move cash to somewhere inappropriate.
-

Preventing pension scams

15. Scammers often cold call people via phone, email or text. They also often advertise online and can have websites that look official or government-backed. There are different enablers involved in the scam depending on which contact route the scammer chooses to take. We believe that it is critical that the different enablers of scams take steps to protect consumers, because it is not reasonable to expect consumers to be able to protect themselves from such sophisticated scams.
16. While there are issues that are specific to the pensions industry, Which? believes it is important to target solutions across the whole scams ecosystem and across the chain of events in a scam. It is not enough to focus solely on consumer awareness so consumers can protect themselves, because our findings show that scams have become so sophisticated that this is not a always reasonable expectation to have of consumers. We also know that focusing on catching and stopping the scammers is not effective enough to be the only approach taken. Therefore, it is important to consider the enablers along the chain of events in a scam, as efforts to prevent scams are likely to be more effective by targeting these. This section focuses on each enabler, and includes our perspective on how each one can be remedied.

Emails, calls and texts

The problem

17. Consumers should be able to trust that the communications they receive over phone and SMS are legitimate and come from where they say they come from. However we know that fraudsters use a variety of means to hide their identity from potential victims, and there are a number of ways they can do this. For example, when scammers try to reach victims over phone and SMS, spoofing enables scammers to change what appears on the caller ID display or the SMS name text field of the receiving phone. This means that people may believe they are receiving a call from a local number, their bank or another trusted organisation, rather than from a fraudster who could even be calling from abroad.

Remedies and preventative measures

18. Which? welcomed the introduction of the cold-calling ban on pensions. This has meant that consumers can be given much clearer communications about what to avoid. However since the ban came into force The Pensions Regulator conducted a survey which found that 23% of 2,000 respondents said they would engage in a cold call from a company asking about their pension plans. In October 2019 one vulnerable consumer also spoke to us about a scam that took place in March 2019. This individual lost a £20k pension lump sum to a cloned investment firm, having been cold-called after doing some searching online. Unfortunately, it took place before the FCA put a warning up about this particular cloned firm.
19. Furthermore, the FCA also found that a third (32%) of pension savers aged between 45 and 65 would not know how to check whether they are speaking with a legitimate pensions adviser or provider.
20. For the pensions cold-calling ban to be effective, consumers need to both be aware of the ban and to think that it is relevant when they are approached about their pension savings. Fraudsters are extremely sophisticated and can groom victims over days or even weeks into believing that they are legitimate. So even among those who are aware of the ban, this would not always prevent people from losing their pension savings to fraudsters as they could be convinced that the ban does not apply. We therefore repeatedly advise consumers that if any company calls them unexpectedly, they should hang up and call it back on the number it advertises publicly.
21. It is also important to look at how illegitimate phone number spoofing can be reduced, and hopefully eventually eradicated, as a way to protect consumers from these scams. There are currently limitations to what can be done to prevent spoofing but the upcoming public switched telephone network (PSTN) switch off is an opportunity to introduce authentication standards to prevent illegitimate phone number spoofing. The industry must consider how it can use the move to using phone systems that use voice over Internet Protocol (VoIP) as a way to protect consumers from scams involving spoofing.
22. Scammers may not need to mimic a well-known or well-recognised number to convince their victims of the story they are telling. Therefore, it is important to look beyond spoofing and to consider more generally what is needed to enable consumers to trust the source of the communications they receive. This could take the form of businesses having a reliable and trusted way of proving "they are who they say they are" when they contact consumers and/or clear guidance of what legitimate businesses will never do.

Online advertising

The problem

23. Pension scams also occur as a result of advertising on online platforms. It is paramount that online platforms take stringent steps to prevent fake and fraudulent ads from being listed. In December 2019, an individual told us they had invested their pension into cryptocurrency after seeing an advert online on social media. As well as this, they also invested via credit cards and a personal loan. The individual told us that the police were looking into it, but they did not indicate how much they lost other than £5k on each credit card.
24. Furthermore, our most recent research into Facebook scams has found that consumers are consistently unable to spot the difference between scams and legitimate content on social media, whether or not they consider themselves to be confident at spotting scams online. Research participants' responses to two sets of tasks suggest that Facebook users believe themselves to be scam aware but that they may in fact only have a partial understanding of the types of scams they may be exposed to on the site.

Remedies and possible solutions

25. In order to prevent scams, including pension scams, online platforms should:

- Have clear site conduct policies that block bad actors from accessing services.
- Have easily accessible and easy to use systems that allow users to report ads that may expose consumers to illegal activities, including fraud, safety issues and disinformation.
- Take down reported ads that enable illegal activities, including fraud, safety issues and disinformation, within a defined time period.
- Where content or ads have been identified as fraudulent and been removed, alert those users who have engaged with the content about why it has been removed and notify of their options for redress.
- Prevent ads from being relisted where they have been taken down.
- Report illegal activities including fraud, safety issues and disinformation to the appropriate regulatory and law enforcement bodies.

The role of government and industry

26. There is a wider need to increase the take-up of advice and guidance, including from Pension Wise, to help individuals to make decisions about their pension savings. Which? conducted a survey on retiree income and spending habits in April 2020, which found that 34% of respondents had not taken financial advice about their retirement. Furthermore, only 12% of respondents had spoken to an adviser from a pension or investments company, and only 6% took a free 'Pension Wise' guidance session before they retired. Advice and guidance can also help to prevent scams from taking place, by helping individuals to pause and to consider the circumstances surrounding any requests or offers to transfer or access their pension savings. This can be especially important given that a survey by the FCA found that more than half (53%) of people aged over 55 believe that it is important to act quickly in order to get a good investment deal. Advice from a regulated advisor can also protect an individual against the risk of scams, by potentially providing recourse to the Financial Ombudsman Service or the Financial Services Compensation Scheme.
27. However given the complexities of the pensions industry and the sophistication of fraudsters, there are significant limitations to relying on individuals to prevent scams, even with the support of advisers or guidance professionals. Which? believes that the pensions industry, regulators, government agencies and law enforcement can and should do more to detect potential scams and to work together to prevent them. In particular, we propose that:
- The pensions industry should be required, and enabled, to take on greater responsibility for vetting pension transfers and pension liberation requests, and alerting law enforcement and regulators.
 - In cases where pension schemes identify a significant risk of a scam, the member should be required to take regulated advice with regards to the transfer. To help ensure individuals can access this advice, for these limited circumstances the advice could be funded by a levy on industry.
 - HMRC, the FCA and TPR should work together to develop a stronger regime of authorisation and monitoring of pension schemes and providers.
28. As well as helping to prevent scams, by setting a higher standard for the pensions industry to meet and by requiring advice in cases that schemes assess to be of significant risk, this would better allocate the liability for scams to where it can best be mitigated. Victims would continue to be able to take their complaints to The Pensions Ombudsman, but they would have a fairer chance of securing redress in cases where their pension scheme did not conduct sufficient checks. Where individuals received advice recommending the transfer, then they would have recourse to the Financial Ombudsman Service or the Financial Services Compensation Scheme if they proceeded with the transfer and they were subsequently the victim of a pension scam. With a stronger authorisation and monitoring regime, pension schemes could also have more

confidence in the vast majority of transfers to authorised pension schemes, freeing up resources to focus on higher risk categories of transfers.

29. More widely, as the Work and Pensions Committee noted in its 2018 report on the pensions freedoms, there is a 'philosophical difference' between the Government's approach to the accumulation and decumulation phases of a pension. Which? believes that while there are considerable differences between these two phases, the current gulf in the expectations of savers before and after they access their pensions needs to be addressed. While it is right that people are given the freedom to choose how and when they access their pensions savings, given the significant risk of poor outcomes including pensions scams, there is also the need to ensure people are provided with appropriate protections and the advice and/or guidance they need.
30. In particular, we propose that pension schemes should take on greater responsibility for making some of the most challenging decisions for their savers. For example, pension schemes could determine what a sustainable income to withdraw would be for their members, rather than relying on individuals to make calculations they might not be best placed to make. Those individuals who feel comfortable with making those decisions could opt out.
31. The Government should also reconsider whether individuals should have the right to access their tax-free lump-sum without having to leave their pension scheme. The FCA proposed in its Retirement Outcomes Review that the Government consider the merits of 'decoupling' tax-free cash from other pension decisions, but the Government has not made any such changes. While there are potential unintended consequences that need to be considered, in principle such a reform would preserve people's ability to access some of their savings flexibly, while not forcing them to make complex decisions about what they do with the rest of their savings.
32. We also welcome the Government's commitment for providing a pensions dashboard to be a regulated activity. This would mean the FCA would set standards and monitor compliance, and ensure providers are subject to the FCA's complaints handling rules. We are concerned that, without this regulation, some dashboard providers could present information on certain pension schemes more favourably or potentially advertise unregulated investments alongside information about an individual's pension, which could increase the risk of poor outcomes including pension scams.

September 2020