

Consultation Response

Ref 0617

HM Treasury and Department for Work and Pensions pension scams consultation

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About this consultation

In December 2016, HM Treasury and the Department for Work and Pensions published a consultation on a package of measures aimed at tackling pension scams.¹

Introduction

Age UK is the country's largest charity dedicated to helping everyone make the most of later life. We help more than 5 million people every year, providing support, companionship and advice for older people who need it most.

Age UK is very concerned about pension scams and the devastating impacts they have on people's finances, health and independence. In our ageing society it is vital that people have security in later life. We welcome this consultation and are broadly supportive of the proposed measures. Below we set out our key points, and respond to selected questions from the consultation paper.

Key points

1. Loneliness is a big problem for many older people, and can lead to them being more willing to engage with cold callers. Fraudsters prey on this by 'grooming' victims.
2. We are concerned that the proposed scope of cold call types to be banned will leave room for fraudsters to find new topics and tactics that are still legal. We suggest that the scope be broadened to cover 'savings for retirement' rather than just 'pensions'.
3. Other scams employ impersonation, e.g. of a bank. Fraudsters might also impersonate pension providers to get victims to engage with them.
4. The Government should extend the cold call ban to all forms of electronic communication, to address the risk of an increase in 'cold texts' in particular.
5. The Government should raise awareness of the ban through a wider range of consumer-facing and offline channels, including Age UK.
6. To encourage more people to report scams, the Government needs to address the fact that many people are unaware of where to report, or feel that reporting is unlikely to result in adequate support or recovery of their money.
7. We support limiting the statutory right to transfer out of pension schemes. The suggested alternatives do not offer strong enough protections; however, there could be some merit to a cooling-off period combined with salient warnings or information to the consumer.
8. We agree that registration of new pension schemes should be required to be made through an active company.

Q2.1 Does the definition in 2.1 capture the key areas of consumer detriment caused by pension scam activity?

This is a broadly accurate definition of pension scams. However, we would also highlight the impact on a person's physical and mental health, and independence.

Research has identified a range of physical and psychological effects resulting from fraud, including depression, anxiety and damage to personal relationships. This results in some people needing support from health or social care services, where they have not previously required such help.² The Government should be fully aware of, and further investigate, these types of impact, given the extra pressures they put on public services.

Q2.2 Are there any other factors that should be considered as signs of a scam?

Another tactic commonly used by fraudsters is to ‘groom’ victims. Research for the Financial Conduct Authority (FCA) includes examples and paints a helpful picture of this process:

Fraudsters also employ a range of mechanisms in a process of grooming the victim, including building friendship and trust, flattering the victim and appealing to visceral feelings, making victims feel indebted to them, isolating victims from their financial [sic] social networks and manipulating the victim’s behaviour by giving and withholding their friendship.³

Q3.1 In your experience, how are consumers affected by cold calling about pensions? Do any consumers benefit from cold calling about pensions?

We consider that there are no benefits that outweigh the negative consequences of cold calling. Age UK has a long-standing policy position that there is no place for cold call selling.

However, beyond focusing on the negative financial impact of cold calls, the Government should be aware that some older people are more likely to want to engage with a cold caller due to loneliness.

Nearly one in eight people (12%) aged 65+ in England are persistently or chronically lonely⁴ and two in five people (40%) aged 65+ consider television to be their main form of company.⁵ Anecdotally, and from discussions with front-line agencies tackling fraud, Age UK is aware that some people, including those who live alone and/or are bereaved, are less likely to hang up on cold callers because they value the opportunity to interact with someone, whoever they are. Although pension scams commonly target people in the run-up to retirement, we are concerned that, in the context of pensions freedom and choice, in future fraudsters may start to target older pension savers with undrawn pensions, or with pensions in new forms of retirement income scheme.

FCA research also shows that, as part of the grooming process, fraudsters use this to their advantage.

Participants described fraudsters as not only being professional but also “friendly”, “charming” and “informal”, and said that the fraudsters showed an interest in their life beyond financial matters, which made them feel connected to them and for some people, that the fraudster was a friend.⁶

Further, given that decisions about pensions and investments are often complex, people who ordinarily do not have anyone to discuss investment offers with are more likely to want to talk it over with scammer who approaches them, making them very ‘easy prey’.

Q3.2 Do you agree that the scope of the ban should include the actions set out in paragraph 3.5? Are there any other activities that should fall within the scope of the proposed ban on pensions cold calling?

We do not consider the list of telephone conversation topics proposed to be caught by the ban is broad enough.

While we appreciate that the list is specific and it is difficult to be exhaustive, there is a risk that activities and topics falling ‘between the gaps’ could be deemed legal. Importantly, the list does not reference non-pension-based investments which are often an important element of pension scams. Would the scope as outlined cover scams where people are convinced to using pension savings to ‘invest’ in wine, art or holidays, for example? Would the scope cover calls which focus purely on the ‘investment’ but do not explicitly mention ‘pensions’? Unless conversations about more broadly-defined investments are also prohibited, it might provide a loophole for fraudsters to exploit.

We suggest a ban on all cold calls which involve:

- new offers of advice or guidance in relation to;
- transfers of or from;
- release of all or part of;
- investments, promotions, inducements and information relating to products or services to be purchased from

savings made for the purposes of retirement.

We use the term ‘savings made for the purposes of retirement’ to capture the likelihood of fraudsters targeting *any* form of retirement savings, and not just pensions. The proposed Lifetime ISA is an example of an alternative retirement savings source that could be targeted, or indeed ISAs in general.

On the specific point of ‘inducements to release funds from a pension and transfer them into a bank account’, again we suggest that a broader scope will be more effective, e.g. ‘inducements to release funds from retirement savings, including into bank accounts’.

We think the most effective message to consumers will be that no reputable firm will cold call you to talk about anything to do with your savings for retirement.

Scams evolve rapidly and by sophisticated means. We suggest that the Government considers enabling definitions in consumer protection provisions to be changed readily and frequently via secondary legislation, to allow these protections to keep pace with the fast-moving development of scams.

Q3.3 Do you agree that existing client relationships and express requests should be excluded from the proposed ban?

We currently have no strong view, but highlight the fact that some scams involve impersonation of a trusted institution.

For example, there are many reported cases where a fraudster calls a consumer pretending to be from their bank, saying there has been a security breach on their account and asking for their security details.⁷

The Government should assess whether fraudsters could do something similar in pension scams, impersonating a consumer’s pension provider or advisor. They might even claim to be from ‘a pension fund you have lost’, offering to ‘consolidate’ your pensions.

While we agree that existing client relationships should be excluded in principle, it will be important to ensure that the definition of ‘express requests’ can easily be amended to reflect new frauds that seek to avoid loopholes.

Q3.4 What would the costs and benefits be of extending the proposed ban to include all electronic communications?

The Government should assess the scale of pension scams currently communicated via these channels, and extend the ban to include all electronic communications.

One likely consequence of the cold call ban is that fraudsters redirect their efforts to increased use of mobile texts and emails (or even post). We know nuisance cold texts are currently a problem – the ICO receives over 50 reports per day.⁸ We also know that people receive pension-related texts. Citizens Advice give an example of John, 54, who ‘*received an unsolicited text message from a pensions provider based in Prague offering him the opportunity to maximise his pension.*’⁹

Even if it proves difficult to enforce a ban on cold texts and emails, awareness of the ban on these forms of communication may at least have a deterrent effect. Indeed, extending the ban could allow for more simplified messaging, saying something like ‘a reputable company will never contact you by any channel to offer you X’.

Q3.6 How else can the government best ensure consumers are aware of the ban?

We support co-ordinated efforts to raise awareness of fraud in general, and more specifically of this ban. However, we are concerned that awareness raising activity is unlikely to reach the target audience unless a sufficiently wide range of communication channels are used.

Many people are unaware of the existence of bodies like Action Fraud, the Pensions Ombudsman or the ICO. Further, many older people do not use the internet (including 67% of people aged 75+)¹⁰ and cannot be reached by online communications.

The channels listed under 3.9 are a good start; having a high-profile campaign on Pension Wise may be especially effective given its target audience of people aged 50+ making decisions on how to use their pensions. However, the Government should also raise awareness through consumer-facing organisations like Age UK and Citizens Advice, workplace pre-retirement courses, police and national media. It should consider liaising with financial institutions, possibly through the joint ‘Take Five’ anti-fraud campaign. The pensions dashboard could be an opportune place to raise awareness of the ban (e.g. at a log-in message) when it is introduced in 2019.

The limited impact of awareness raising activity also means that the cold call ban must be complemented by other measures to prevent pension scams (such as market monitoring by regulators).

Q3.7 Do you have any views on the enforcement mechanism set out in paragraph 3.10?

We agree it is important to encourage consumers to report pension cold calls. However, we know anecdotally that many people do not know where to report scams, and many have not heard of Action Fraud. Polling for Age UK suggests that only 34 per cent of

people targeted by a potential scam (of any type) reported it via an official channel.¹¹ The Government needs to continue to invest in raising awareness of Action Fraud.

Further, some people do not feel it is worth reporting that they have lost money, because they do not consider there is any chance of recovery. One person contacted Age UK's information and advice line fearing they had lost nearly £50,000 to an investment scam; they wondered if it was worth reporting it or whether they should just accept that it was lost.

We are also concerned that the support offered to victims by Action Fraud, the police or banks may be inadequate, or even detrimental. We have spoken to scam victims (of other scam types) who felt that reporting to Action Fraud, the police or their bank brought no benefit. In many cases they received no further information or support, and in some cases it even made things worse by leaving them feeling at fault and without further recourse.

It would be easier to encourage people to report if it is clearer that reports lead to action, and in some cases, to success.

Q3.9 Do you have any other views or information the government should consider in relation to the proposed ban on cold calling in relation to pensions?

While we are generally very supportive of the proposed ban, we are concerned that the message to consumers may be lost or become confused if cold calls relating to other financial services and types of investment remain legal.

In this case, fraudsters might change the words they use to describe the 'opportunity' – not mentioning pensions – to sound like they are talking about a legal offer/product but ultimately lead the consumer to a pension scam. If this is not addressed, it might create a loophole for fraudsters to exploit and may just shift the problem rather than tackle it.

Q4.1 Do you agree with the proposal to limit the statutory right to transfer in this way, or should this be further limited? If so, in what way and why?

Yes, we support the proposal as outlined. We believe that limiting the statutory right to transfer as proposed is proportionate to the risks of a person losing a large amount, or all, of their pension savings, which they need for a secure retirement.

Q4.5 Under the proposals, how would the process for 'non-statutory' transfers change for trustees or managers? What would they need to do differently from the current situation?

Where trustees or managers have discretion to permit a transfer at the member's insistence, it will be vital that all trustees and managers have sufficient training and knowledge to be able to spot a scam, including awareness of current scams and suspicious companies. The Government should ensure that the mechanisms are in place to regularly facilitate this sharing of knowledge, to ensure trustees and managers are alive to current scam risks.

Q4.6 What are the pros and cons of introducing a statutory discharge form for insistent clients? How effective would this be as a means of combating scams?

We support the main proposal to limit the statutory right to transfer, and think there are problems with the alternatives outlined. It is not clear to us that a discharge letter provides improved protection to consumers. Given the clear evidence that consumers often cannot identify fraudulent schemes,¹² we believe there is a need for ‘harder’ protections that remove the possibility of people transferring to such schemes.

Q4.8 What are your views on a ‘cooling-off period’ for pension transfers? Do you have any evidence of how this could help to combat pension scams?

We believe a cooling-off period would provide less protection to consumers than would limiting the statutory right to transfer, which is our preferred option.

However, as an alternative, we think a cooling-off period would, in the right form, at least be more effective than discharge forms. Any window of opportunity for a consumer to row back from making a disastrous transfer or payment must be a positive thing. However, the utility of cooling-off periods is limited and they should be used with caution.

The limitation of a cooling off period is that it requires consumers to overcome significant cognitive biases that make it hard to rethink a decision once made. Behavioural research by the Consumer Action Law Centre in Australia says:

In the context of cooling-off periods (and thus changing our minds), research shows it takes a significant amount of cognitive resources to admit we made a mistake. Again, this is not a conscious use of resources, but happens regardless of how rational we think we are. The role of our ego is to protect us, so out of our conscious reach, our ego creates defences, including apathy, that restrict us from changing our mind after we have become endowed with something.¹³

In order to make cooling-off periods effective and counter this bias, a consumer would need to receive significant additional, salient information or warnings during the cooling-off period.

By way of example, Age UK’s report on Age Friendly Banking¹⁴ highlights a case in which a building society spotted a suspicious payment which it thought would result in a customer, ‘Mr Johnson’, being scammed. The building society phoned Mr Johnson to check he had authorised the payment and not been prompted by a third party; he confirmed the transfer should go ahead. However, before the call ended, the building society warned Mr Johnson of a scam in circulation at that time, including detail about what the scammers might say and ask him to do. The next day, Mr Johnson phoned the building society in distress, having realised he had engaged with a scam. The building society was able to stop the transfer of funds to the fraudster’s account.

This case illustrates the benefit of a cooling-off period, where the consumer has a chance to reconsider. If the payment had been immediately processed, Mr Johnson would have lost his life savings. However, it also illustrates the need for consumers to be actively prompted to reconsider in order for a cooling-off period to be genuinely effective. Had the building society not given Mr Johnson a specific and detailed warning during the intervening period, it seems unlikely he would have reconsidered his decision. Indeed, Mr Johnson was not prompted to reconsider even when the bank telephoned specifically to check whether the payment should proceed, and whether a third party prompt was

involved. As such, a 'passive' cooling-off period in which no new information or prompt is presented is unlikely to have much protective effect. There can be value in cooling-off periods, but only if they come with sufficient warning in that intervening period to prompt a consumer to reconsider.

One possible way to strengthen the effectiveness of a cooling-off period could be to include an *opt-in* clause, requiring positive action on the consumer's part to confirm their decision after they've had (for example) two weeks to consider it, as well as having been sent *specific* risk warnings from their scheme trustee or manager. This would need to be in combination with the efforts suggested earlier to ensure trustees and managers have up-to-date scams knowledge and training.

To make this more workable, a cooling-off period could be applied not to *all* transfers, but rather only those deemed suspicious or to certain categories of receiving scheme.

Q5.1 Do you agree that new pension scheme registrations should be required to be made through an active company? If no, what are the legitimate circumstances in which a dormant company might want to register a new pension scheme?

Yes, we agree. This seems like a sensible reform that will reduce the risk of consumers being defrauded.

Other comments

While we welcome these proposals we are concerned that fraudsters will find ways around them. The Government should continue to test them to ensure there are strong enough controls.

As with other fraud types, one of the challenges is that fraudsters are often based overseas, out of the legal reach of UK agencies. We ask what the Government and regulators are doing to find ways around this, to work with overseas partners. Is the Government working to foster stronger international action, such as by sharing intelligence? Can the Government develop reciprocal agreements whereby both countries tackle the (international) fraudsters within their own jurisdictions?

Lastly, the Government should take into account the fact that there are a growing number of older people lacking mental capacity – there could be 1.14 million people living with dementia by 2025¹⁵ – who may be tricked into a scam. One caller to our information and advice line described how their mother, in her late 80s, has received calls 'selling time shares', on which she had spent over £5,000. Their mother continued to lose money in this way, despite the caller warning her; they said she was susceptible to being manipulated because she lacks mental capacity. People in similar situations may not be aware of, or able to retain an understanding, of a cold call ban. There is no easy solution, but we highlight the growing incidence of mental incapacity in the older population as another reason to bolster efforts for additional protections and interventions, such as the provision of call blocking technology.

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- ¹ <https://www.gov.uk/government/consultations/pension-scams>
 - ² <http://www.ageuk.org.uk/documents/en-gb/for-professionals/consumer-issues/age%20uk%20only%20the%20tip%20of%20the%20iceberg%20april%202015.pdf?dtrk=true>
 - ³ <https://www.fca.org.uk/publication/research/qual-study-understanding-victims-investment-fraud.pdf>
 - ⁴ http://www.ageuk.org.uk/Documents/EN-GB/Factsheets/Later_Life_UK_factsheet.pdf?dtrk=true
 - ⁵ Age UK poll, 2014
 - ⁶ <https://www.fca.org.uk/publication/research/qual-study-understanding-victims-investment-fraud.pdf>
 - ⁷ <http://www.financial-ombudsman.org.uk/assets/pdf/vishing-insight-report2015.pdf>
 - ⁸ <https://ico.org.uk/action-weve-taken/nuisance-calls-and-messages/>
 - ⁹ <https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/Too%20good%20to%20be%20true%20-%20Understanding%20consumer%20experience%20of%20pension%20scams%20a%20year%20on%20from%20pension%20freedom%20s.pdf>
 - ¹⁰ Ofcom, 2015, http://www.ageuk.org.uk/Documents/EN-GB/For-professionals/Policy/housing/Ref_3615_Age_UK_%20response_%20to_BIS_switching_consultation.pdf?dtrk=true
 - ¹¹ Populus polling for Age UK, March 2015
 - ¹² <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/pensions-policy-research-surveys-and-consultation-responses/pensions-policy-research/too-good-to-be-true-understanding-consumer-experience-of-pension-scams-a-year-on-from-pension-freedom/>
 - ¹³ <http://consumeraction.org.au/cooling-off-periods-consumers-dont-work-study/>
 - ¹⁴ http://www.ageuk.org.uk/Documents/EN-GB/For-professionals/Policy/money-matters/report_age_friendly_banking.pdf?dtrk=true
 - ¹⁵ http://www.ageuk.org.uk/Documents/EN-GB/Factsheets/Later_Life_UK_factsheet.pdf?dtrk=true