Local Government Association

DWP
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DWP Protecting Pension Savers – Proposals to Amend the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021

I respond on behalf of the Local Government Association (LGA) and the Local Government Pensions Committee (LGPC).

The LGA is a politically led, cross-party membership organisation that works on behalf of councils to ensure local government has a strong, credible voice with national government. 316 of the 317 councils in England are members of the LGA. These include district, county, metropolitan and unitary authorities along with London boroughs and the City of London corporation. The 22 Welsh unitary authorities are also in membership via the Welsh Local Government Association (WLGA).

The LGPC is a committee of councillors constituted by the LGA. The LGPC considers policy and technical matters affecting the Local Government Pension Scheme (LGPS).

This response is submitted in the context of the LGPS in England and Wales, and Scotland. The LGPS is one of the largest defined benefit (DB) schemes in the world. In England and Wales there are 22,102 employers, 6.9 million members and assets valued at £402 billion. The scheme is administered locally by 86 administering authorities in England and Wales, and 11 in Scotland.

Yours faithfully

L. Bennett

Lorraine Bennett
LGPC Secretary

Consultation questions

1. **Do you foresee any issues with the planned wording of the flag in regulation 8 of Annex A?**

We support replacing the current amber flag with a new red flag that allows trustees and scheme managers of the transferring scheme to stop a transfer where, although the evidence is substantive, it does not adequately demonstrate the employment link between the member and the receiving scheme.

We believe this approach will remove the existing ambiguity and make clear that the evidence must be substantive and satisfy all the requirements of regulation 11(1), otherwise the transfer will be stopped.

However, we would welcome additional guidance and practical examples from DWP on the types of circumstances where evidence may be considered substantive but nevertheless insufficient to demonstrate an employment link. This would support a more consistent approach across schemes and assist trustees and scheme managers in exercising their judgement when assessing transfer requests.

2. **Are you aware of any emerging concerns, risks or scam activity, such as those arising in SSASs or other pension arrangements, where existing consumer protections or regulatory safeguards may not be sufficient?**

No.

3. **Do you consider the focus on the employment link to be an appropriate and effective measure for addressing the concerns relating to SSAS transfers?**

We agree that focusing on the employment link is an appropriate and effective measure for addressing concerns relating to SSAS transfers.

Trustees and scheme managers of the transferring scheme are already required to assess whether an amber flag is present where the receiving scheme includes high-risk or unregulated investments, unclear charges or disproportionately high fees, or operates investment structures that are complex, unclear or unorthodox.

A key feature of a SSAS is the level of control and flexibility members have over investment decisions, subject to statutory restrictions. However, SSASs also benefit from a number of exemptions from pension legislation that applies to other types occupational pension schemes. For example, they can invest in a wider range of assets, including commercial property that may be leased back to the sponsoring employer, and can make loans to the sponsoring business within legislative limits. In addition, fee structures are often not linked to fund size and administrative requirements are generally less extensive.

While these features can be legitimate and valuable, they can also introduce additional complexity and risk. In practice, trustees and managers of the transferring scheme may find it difficult to fully understand the investment arrangements and potential risks involved. As a result, they may conclude that an amber flag is present and direct the member to MoneyHelper guidance.

4. **Do you agree with this proposed approach, including the use of a non-exhaustive list of factors? If so, we would welcome your views on what those factors should be. We also welcome your input, including any evidence-based views, on its effectiveness and practical workability.**

Yes, we are generally supportive of the proposed broadening of the first condition to include transfers where trustees or scheme managers are satisfied, on the balance of probabilities, that the transfer is being made to a reputable pension scheme.

We support this amendment as a proportionate and pragmatic change which should reduce unnecessary due diligence and administrative delays in cases where there are no genuine scam concerns, whilst maintaining appropriate protections for members.

However, the concept of a 'reputable' scheme will require clear and objective criteria to ensure it is applied consistently across the pensions industry. Without this, there is a risk of differing interpretations and inconsistent outcomes for members.

We support the inclusion of a non-exhaustive list of factors to assist trustees and scheme managers in determining whether a receiving scheme is reputable. However, to promote consistency and reduce the risk of differing interpretations across the industry, we believe trustees and scheme managers should be required to have regard to the factors prescribed in the regulations, whilst retaining the discretion to consider additional factors where appropriate.

This would provide a common minimum standard for assessments while allowing the framework to adapt to emerging risks and market developments.

In our view, factors that trustees and managers should consider when assessing whether a scheme is reputable could include:

- whether the receiving scheme is registered with HMRC and complies with relevant

pension legislation
- whether the scheme, its trustees or administrators are subject to regulation, supervision, or authorisation by the Financial Conduct Authority or the Pensions Regulator
- the scheme's history of regulatory intervention, enforcement action, or evidence of non-compliance
- whether the scheme has established administration processes, appropriate record keeping, and a demonstrable operating history
- the transparency of the scheme's investment strategy, charges, and fees
- whether there are any known scam indicators, pension liberation concerns, or links to individuals or entities previously associated with pension fraud
- the extent to which the receiving scheme's structure and operation are consistent with its stated purpose and the member's circumstances
- evidence of genuine ongoing pension activity and membership, rather than indications that the scheme has been established primarily to facilitate transfers.

We believe this approach would be effective and practical because it provides trustees and managers with a clear framework for decision-making whilst recognising that no prescribed list can anticipate every circumstance. A non-exhaustive list, combined with a requirement to consider the prescribed factors, would support greater consistency across schemes, enhance member protection, and reduce the likelihood of legitimate transfers being delayed unnecessarily. It would also enable trustees and managers to apply their professional judgement where emerging risks or novel scam methodologies arise, ensuring the transfer framework remains robust and adaptable over time.

5. Do you foresee any issues in the practical implementation of the amended regulations?

Yes.

The main practical issue is the interaction between the proposed ‘reputable’ scheme assessment under the First Condition and the existing low-risk scheme provisions in regulation 10(2).

Regulation 10(2) currently allows trustees and managers to maintain lists of personal pension schemes that have been assessed as presenting a low risk of scams. As the proposals do not appear to amend or remove this provision, there is a risk that two parallel assessment frameworks could operate in practice. This may create uncertainty regarding when each framework should be applied and could result in duplication of due diligence, inconsistent decision-making and increased administrative complexity.

In addition, implementation will require amendments to processes, decision-making frameworks, member communications and staff training. Sufficient lead-in time will be needed to ensure these changes can be implemented consistently across the industry.

Overall, we support the policy intent of reducing unnecessary friction in legitimate transfers. However, successful implementation will depend on clear guidance, adequate implementation time and clarity on the interaction between the new provisions and existing regulation 10(2) processes.

6. **Do you foresee any issues with the proposed wording of the amendments to the regulations, as detailed in Annex A?**

Yes.

We believe the regulations would benefit from greater clarity regarding the relationship between the revised First Condition and the existing provisions in regulation 10(2). As drafted, it appears possible for a receiving personal pension scheme to be regarded as both a ‘reputable’ scheme under the First Condition and a low-risk scheme under regulation 10(2). It is therefore unclear which assessment framework trustees and managers should apply in practice and whether regulation 10(2) is intended to continue operating alongside the new provisions.

We also have concerns about the proposed 12-month exemption from repeat MoneyHelper guidance appointments.

Under the proposal, a member who has attended a MoneyHelper guidance appointment within the previous 12 months would not be required to attend a further appointment before making another transfer. We are not convinced that a previous guidance session will always remain relevant, particularly where the subsequent transfer involves a different receiving scheme, investment arrangement or set of potential scam indicators, or where the member's circumstances have changed.

We therefore suggest that DWP consider whether the exemption should be restricted to subsequent transfer requests involving the same receiving scheme. This would help ensure that the guidance received remains relevant to the transfer being undertaken.