

**REPORT OF SERVICE DIRECTOR – CUSTOMERS, GOVERNANCE, AND EMPLOYEES.**

**LOCAL GOVERNMENT PENSION SCHEME – PENSION SCAMS**

**Purpose of the Report**

1. To update Pension Board on Pension Scam activities and the requirements of the Pension Regulator and Pension Scheme Act 2021 on the Nottinghamshire Pension Administration Service.
2. To seek support from Pension Board to the Nottinghamshire Pension Fund commitment to the Pension Regulators pledge to combat pension scams and the Nottinghamshire Pension Fund pension scam action plan as shown in Appendix 1 as approved by Pension Committee on 29 July 2021.
3. To update Pension Board on Pension Committee and Personnel Committee approval to the funding and establishment of an additional Technical and Regulations resource required to undertake pension scams due diligence checks.

**Information**

**Background**

4. Since April 2017, pension scam losses totalling £30,857,329 have been reported according to complaints filed with Action Fraud, says the Financial Conduct Authority (FCA) and The Pensions Regulator (tPR).
5. Scammers target pension pots big and small, with reported losses ranging from under £1,000 to as much as £500,000. However, the true number of victims is likely to be much higher as savers fail to spot the signs of a scam and don't know how much is in their pension pots. A 2019 survey by Action Fraud reported that individual loss is about £82,000. The Pension Regulator reports this figure being higher at £91,000.
6. Pension scams are on the increase in the UK. Every day fraudsters are using sophisticated ways to part savers from their money and the internet and advances in digital communications mean these kinds of scams are getting more common and harder to identify. A lifetime's savings can be lost in moments.

7. Scammers design attractive offers to persuade people to transfer their pension pot to them, often setting “time-limited” offers or deadlines to pressure individual’s into releasing their money.
8. During the pandemic the Pension Regulator, the Financial Conduct Authority and the Money and Pension Service worked together and issued help and guidance to protect pensions savers from becoming the victims of scams.
9. At the start of the Pandemic, Charles Counsell, tPR’s Chief Executive said  
*“Pensions remain a safe long term investment for your retirement and it’s important to avoid hasty decisions about cash that’s taken a lifetime to build. We urge you not to transfer your pension into another arrangement now and regret the decision later. If you’re worried about your pension savings, take the time to understand what options you have available. There is no need to rush.*

*“For those who have a final salary pension, staying in your existing scheme is still likely to be the best long-term arrangement. All savers should be very cautious about making changes at this time.*

*“More than ever before, you should visit The Pension Advisory Service website for impartial guidance before making any decision about your retirement or get financial advice from a Financial Conduct Authority authorised financial adviser.”...*

### **What is a pension scam**

10. Since April 2015 members of pension schemes have had more choices about how they can access their pension pot than in the past. Scammers know this and will try to lure people with promises of upfront cash and one-off “deals” with guaranteed high returns.
11. Pension scammers have changed their modus operandi over time. A few years ago, it was about setting up a sham pension scheme and encouraging people to move from their bona fide scheme into a sham. More recently, it is about just encouraging people to come out of their pension scheme into a vehicle that is being used for investment fraud.

### **How to spot a pension scam**

12. The importance of educating people so that they can spot the signs of a scam and they do not hand over their money in the first place is paramount.
13. There are some common tell-tale signs that mean it could be a scam, for example
  - a. Unsolicited approaches by telephone, text message, email or in person. Since January 2019, there has been a ban on cold calling about pensions. This means individuals should not be contacted by any company about their pension unless they’ve asked them to contact them.
  - b. When a firm does not allow you to call it back.

- c. Where individuals are forced to make a quick decision, are pressured into doing so, or are encouraged to transfer their pension quickly and send documents by courier.
- d. Where contact details provided or published on a website are only mobile numbers or a PO box address.
- e. When the company claim they can help you or a relative unlock a pension before the age of 55, sometimes known as pension liberation or pension loans. Only in very specific cases, such as ill health, is this possible.
- f. When a company claims to know of tax loopholes or promise extra tax savings.

**Pension Regulator – Pledge to Combat Pension Scams**

- 14. Before transferring an individual’s pension to another arrangement, the Pension Regulator expects Schemes to: *“Identity unusual or concerning patterns, such as spikes in CETV requests or the same adviser across a multitude of requests”.*
- 15. As we know the freedom and choice reforms have exacerbated scams. Prior to 2015, pension liberation scams were prevalent, where savers were encouraged to access their pension prior to age 55. Since this time, freedom and choice has opened up new opportunities for scammers, in particular investment scams, typically using both defined benefit transfers and people accessing their defined contribution pension under the pension freedom rules, to convince people to pay a lump sum into a fraudulent fund or bank account.
- 16. Not every pension scam can be prevented. The Pension Regulator is asking trustees, providers, and administrators to pledge to do what they can to protect scheme members and follow the principles of the Pension Scams industry Group (PSIG) Code of Good Practice.
- 17. The Pension Regulator states ***“Pledging to combat pension scams shows your intent to protect your members. It tells your members and the pensions industry that you are committed to stopping scammers in their tracks. Once you have taken the pledge it’s up to you and your scheme or organisation to take action.”***
- 18. At Pension Committee on 29 July 2021, Members approved the Nottinghamshire Pension Fund’s commitment to sign up to the Pension Regulators Pledge to combat pension scams, thereby demonstrating its intent to protect its members.
- 19. Signing up to the Pledge means that the Nottinghamshire Pension Fund is now committed to undertake the 3 Steps of the Pledge laid down by the Pension Regulator, as detailed below-
  - a. **Step 1** – Details the requirements of the Pledge and the action required by Nottinghamshire Pension Fund -

Requirement of the Pledge	Action required by Nottinghamshire Pension Fund
Regularly warn members about pension scams	Develop and deliver an annual pension scam communication plan to include -

	<ul style="list-style-type: none"> <li>• <b>Annual Benefit Statements-</b> All Members to receive the ScamSmart leaflet with their Annual Benefit Statement</li> <li>• <b>Transfer Requests</b> – review due diligence checks</li> </ul>
Website messaging	Nottinghamshire Pension Fund website – as part of the website review refresh pension scam section.
ScamSmart campaign	Support the TPR and FCA campaigns – through social media, emailing members and adding fresh content to website.
Encourage members asking for cash drawdown to get impartial guidance from Money Helper	Not available to the LGPS
Get to know the warning signs of a scam and best practice for transfers by completing the scams module in the Pension Regulator Trustee Toolkit.	All Nottinghamshire Pension Administration staff, Pension Committee and Pension Board members to complete the scams module
Studying and using the resources on the Financial Conduct Authority (FCA), ScamSmart website, tPR Scams information.	Review and use content to update website and member communications.
Considering becoming a member of the Pension Scams Industry Forum	Investigate the benefits to becoming a member.
Take appropriate due diligence measures by carrying out checks on pension transfers and documenting pension transfer procedures	See Appendix 1 – Action Plan
Clearly warning members if they insist on high risk transfers being paid	Ensure transfer process includes required “concerns” communication and audit trail for high risk transfers.
Report concerns about a scam to the authorities and communicate this to the scheme member	Agree and document the process for reporting scams to Action Fraud and other appropriate authorities. Update website with details

b. **Step 2** - Once the Fund is able to demonstrate that it meets the requirements of Step 1 it can complete the “Self-Certify you meet the pledge to combat pension scams” form on the Pension Regulator website stating “**I self -certify that we raise awareness, educate ourselves and protect savers**”.

c. **Step 3** - Once the self-certification has been submitted the Fund will receive confirmation from the Pension Regulator together with details outlining next steps.

### **Pension Scheme Act 2021 – combat pension scams**

20. The Pension Scheme Act 2021 received Royal Assent in February 2021. The Act is primarily aimed at strengthening the powers of the Pension Regulator in order to protect scheme members. The implementation of the Act will come via regulation in due course. There are a number of provisions within the Act. The provision relevant to this report is “Transfer scam prevention”. The details of the Act will be the subject of a further report to Pension Committee and Pension Board in due course.

21. The Scam prevention regulations are expected to be in place in early Autumn 2021 and will remove the statutory right of a scheme member to transfer their pension out where there is no genuine employment link between the member and the occupational pension scheme the transfer would be destined for.
22. The proposal is for there to be additional requirements which administrators must work through:
- a. If the transfer is to a type of receiving scheme which presents a low scams risk (public service schemes, authorised Master Trusts, and personal pensions), then the transfer may proceed.
  - b. If not, then the transfer may proceed if certain evidence is provided, e.g. an employment link between the member and the occupational pension scheme, or residency in the same financial jurisdiction as the scheme for QROPS.
  - c. If neither of the above apply, the presence of any "red flags" will allow the transfer to be prevented, while if there are any "amber flags" the transfer may be paused whilst the member takes guidance about the possibility of scams.
23. The Work and Pensions Committee (WPC) published its report on the first part of their inquiry, Protecting pension savers — five years on from the pension freedoms: Pension scams. The WPC calls on the Government and regulators "to act quickly and decisively to protect pension savers". It warns that commonly cited figures of the scale of pension scamming are likely to substantially underestimate the problem, and says that the move online by pension scammers has been a recurring theme of its inquiry. It makes over 30 individual recommendations, under four main headings
- a. Recording and reporting
  - b. Prevention,
  - c. Enforcement
  - d. Supporting pension scam victims.
24. The Pension Scams Industry Group (PSIG) has produced an update to their voluntary code of good practice on combating pension scams. The code is based around three principles:
- a. They should raise awareness of pension scams for members and beneficiaries.
  - b. They should have robust, proportionate, and compliant processes for assessing whether a receiving scheme may be operating as part of a pension scam, and for responding to that risk.
  - c. They should generally be aware of the known current strategies of the perpetrators of pension scams in order to inform the due diligence they need to undertake and should refer to the warning flags set out in TPR guidance, FCA alerts and by Action Fraud. The code now comprises a framework document, practitioner guide (setting out the due diligence steps when schemes assess the scam risk of a requested transfer), resources pack and technical guide, plus a summary of the changes since the last version. The changes reflect developments from the Pensions Regulator (including its letter for members considering transferring from DB to DC schemes, and its guidance for trustees to highlight Pension Wise and encourage members to take regulated advice) and recent

initiatives from the Financial Conduct Authority, along with Pensions Ombudsman determinations and court rulings. The code suggests that scheme administrators consider using the phone to better engage with the member during the due diligence process and reminds them to maintain appropriate records and management information. PSIG expects to produce a further update later in the year when the new regulations are published.

## **Review of Resource Requirements**

25. The transfer scam prevention provision within the Pension Scheme Act 2021 builds on the already existing requirement for Pension Funds to carry out due diligence in relation to a transfer request.
26. An additional set of due diligence checks will be required to be undertaken by Pension Administration with transfers to be divided into four categories based on risk. For transfer to occupational pension schemes, Funds will need to confirm the members has demonstrated an employment link with the scheme before the transfer takes place.
27. Those wishing to transfer to a qualifying recognised overseas pension scheme (QROPS) will need to prove an employment link or demonstrate residency in the same financial jurisdiction as that of the scheme to which they wish to transfer.
28. All other schemes will be subject to a flag regime. Members will have to show they have taken guidance over the transfer in amber flag circumstances.
29. In order for the Nottinghamshire Pension Fund to ensure that it is able to implement the Regulations changes in respect of “Transfer Scam Prevention” in accordance with the Pensions Scheme Act 2021 and its obligations to protect its members from pension scams as detailed within the report, together with the delivery of the pension scam action plan at appendix 1 additional Technical and Regulations Office will be required.
30. This additional capacity within the Pension Technical and Regulations Team will ensure that the Nottinghamshire Pension Administration Team has sufficient resource
  - a. To fulfil its requirements to the Pension Regulators pledge to combat pension scams
  - b. Ensure that all due diligence checks are completed for all transfers. Enabling the production of transfer quotes and estimates to be undertaken by Pension Administration Team and all due diligence checks to be undertaken by the Technical and Regulations Team.
31. Funding for an additional 1 FTE Technical and Regulation Officer post at a Grade 5 up to £36,169 per annum including oncosts was approved by Pension Committee on 29 July 2021 and the establishment of this post was approved at Personnel Committee at their meeting on 15 September 2021.

## **Other Options Considered**

32. Do nothing. This is not considered to be a viable option and may potentially expose the Nottinghamshire Pension Fund and its members to undue risk, reputational damage, and action by the Pension Regulator.
33. Absorb the work required to “pledge to combat pension scams”, pension scam action plan and additional due diligence transfer checks resulting from the Pension Scheme Act 2021 into the Pension Administration Office. However, this is not considered to be a feasible option as it would have very significant implications for the time taken to complete a transfer.

### **Reason/s for Recommendation/s**

34. Pension scams are an increasing issue and becoming ever more sophisticated.
35. The Nottinghamshire Pension Fund has a duty to protect its members and the reputation of the Fund

### **Statutory and Policy Implications**

36. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public-sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Data Protection and Information Governance**

37. A Data Privacy Impact Assessment is not required.

### **Financial Implications**

38. The financial implications for the additional Technical and Regulations Officer is covered in paragraph 31.

### **Human Resources Implications**

39. Appointment to the additional Technical and Regulations Office post will be through the Council’s agreed recruitment and selection procedures.

## **RECOMMENDATION/S**

It is recommended:

- 1) That the Nottinghamshire Pension Board consider if there are any further actions it requires to be taken to support the Fund to combat pension scams.
- 2) That Pensions Board also support the Nottinghamshire Pension Fund committing to the Pension Regulators pledge to combat pension scams.

- 3) That Pensions Board also support the Nottinghamshire Pension Fund pension scam action plan shown in Appendix 1.

**Marjorie Toward**

**Service Director – Customers, Governance and Employees**

**For any enquiries about this report please contact:**

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**Constitutional Comments (KK 22/09/21)**

40. The proposals in this report are within the remit of the Nottinghamshire Local Pension Board.

**Financial Comments (KRP 20/07/2021)**

41. The financial implications are set out in the report. The additional costs are a valid charge to the Fund.

**HR Comments (JP 20/07/2021)**

42. The HR implications are set out in the body of the report including the establishment of an additional post identified at paragraph 33. Recruitment to the post will be undertaken in line with the Councils HR procedures including recruitment and redeployment policies

**Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- 'None' or start list here

**Electoral Division(s) and Member(s) Affected**

'All'



## Appendix 1 – Nottinghamshire Pension Fund – Pension Scam Action Plan

	Action	Timeframe	Owner
1.	<p><b>End to end review of the current pension transfer process</b> including review of all due diligence measures and <b>develop a checklist process</b> for completion for each transfer.</p> <p>Note: an initial review was undertaken at the start of the pandemic (March 2020). A further review is intended to ensure the process and procedures are in line with the “pledge to combat pension scams” and the scam provision within the Pension Scheme Act 2021.</p>	By the end of 2021	Pension Administration Office
2.	<p><b>Commit to the Pension Regulator Pledge to Combat Scams</b></p> <p>Step 1 - Complete all the required actions            Step 2 – Submit Self Certification to Pension Regulator            Step 3 – Confirmed by the Pension Regulator once self-certification has been submitted.</p>	Timeframe to be determined once additional Technical and Regulations Officer recruited.	Group Manager, Business Services Centre in conjunction with the BSC Pension Team Manager
3.	<p><b>Utilise the “Our Pledge to Combat Pension Scam” logo</b></p>	Linked to Action 2	Technical and Regulations Team supported by Pension Systems Team
3.	<p><b>Pension Scam online training module</b> via the Pension Regulator Trustee Toolkit is completed by</p> <ul style="list-style-type: none"> <li>• Pension Administration Staff</li> <li>• Pension Committee Members</li> <li>• Pension Board Members</li> </ul>	By the end of October 2021	BSC Pension Team Manager in conjunction with Demonstrate Services for Pension Committee and Pension Board Members.
5.	<p>Review and develop on going <b>Pension Scam communication plan</b></p>	Ongoing – links to action 1,2 and 3.	Technical and Regulations Team
6.	<p>Pension Scam section to be added to the <b>Pension Administration Annual Performance Report</b></p>	Next Report Due June 2022	BSC Pension Team Manager

