Merseyside
PENSION FUND

Department for Work & Pensions
and HM Treasury

c/o **PensionScamsConsultation@HMTreasury.gsi.gov.uk**

Direct Line: 0151 242 1390

Please ask for: Yvonne Caddock

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Dear Sirs

Pension Scams: Consultation Response

I refer to the above mentioned consultation document and I am responding to the invitation for comments on behalf of Wirral Council in its capacity as the Administering Authority for Merseyside Pension Fund (MPF).

The Fund is part of the Local Government Pension Scheme (LGPS) and the 4th largest of the 89 funds in England and Wales, with assets of £7bn. MPF undertakes the LGPS pension administration and investments on behalf of the five Merseyside district authorities, over 170 other employers on Merseyside and elsewhere throughout the UK. The Fund has over 130,000 active, deferred and pensioner members.

1/ What is a pension scam?

MPF supports further actions proposed to prevent pension scams and currently utilises measures such as the Pension Regulator's (TPR) scorpion leaflets, appropriate warnings within correspondence and dealing exclusively with members rather than external bodies. In our experience the majority of funding enquiries do not result in the transfer of pension rights, however, MPF would welcome clearer and more transparent guidance to ensure payments are being made to legitimate companies.

It has proved near impossible to obtain any guarantee that a suspect company is valid both here and overseas. For example, on the Recognised Overseas Pension Schemes notification list, HMRC states that it cannot guarantee the list as ROPs or that any transfers to them will be free of UK tax. It's the ceding scheme's responsibility to find out if you have to pay tax on any transfer of pension savings. Due diligence checks of PSTR numbers, ROPs listed, an active status on Companies House and FCA checks for financial advisors do not adequately provide confidence when a Fund is concerned with the validity of a company.

2/ Banning cold calling in relation to pensions

MPF has been sending out liberation questionnaire forms since 2013, to ascertain if members have been receiving cold calls – the feedback from the forms appears to show that this is not the case, although members may prefer to deny this was the incentive for the transfer. Many members of the public may be tempted to accept free advice given the complex nature of pensions

In respect of consumers benefitting from cold calling about pensions, it is possible that there are a number of deferred members who have overlooked pensions accrued historically and have lost contact with their provider following house moves – this could highlight a need to review their pension arrangements.

In addition, the advice being offered may be in-line with the members own appetite for risk taking and current situation. A member who has no dependants may prefer to take the whole of the fund value without making such provisions which are automatically factored into many public sector pensions.

We agree that existing client relationships and express requests should be excluded from the proposed ban, allowing providers and advisers to continue to offer much needed support. However, companies may comply with Privacy and Electronic Communications Regulations (PECR) which would establish a “relationship” and permit them to call consumers in connection with pensions – effectively allowing a loophole in banned pension cold calls.

Using preventive measures such as banning cold calls would be more effective and cost efficient than pursuing fraudulent companies after the loss of pension. It is a serious concern, however, that the proposals are less definitive on measures for dealing with other types of electronic communication, including e-mails and text messages. Attempted fraud through these methods will certainly increase under any tightening of the restrictions on cold calling. E-mails and text messages from scammers may appear perfectly genuine and therefore controls need to be strengthened to prevent the fraudsters employing other means of ensnaring their victims and a more comprehensive solution must be found to block as many opportunities as possible.

Legitimate firms should remain largely unaffected as a result of banning cold calling if they are using normal marketing methods to advertise their services.

3/ Limiting the statutory right to transfer

By adopting a non-statutory transfers approach, Funds would be under less pressure to pay transfers where they were dissatisfied with the receiving scheme; although if the member was determined to transfer their pension rights this would be difficult to enforce. Additionally, sufficient measures to justify refusal would be necessary and relevant due diligence checks would be required regardless.

Alternatively adopting additional statutory measures to limit the right and ultimately protect individual savings would be welcomed. In circumstances where a member has transferred pension rights to an unauthorised pension arrangement resulting in scheme sanction charges, the member has subsequently questioned the robustness of the due diligence checks made by the ceding scheme. The proposals to provide statutory provisions to limit unauthorised transfers and to introduce additional checks to ensure the receiving scheme is authorised with the FCA, together with the requirement to demonstrate a genuine employment and earnings link would be helpful.

In addition, a 14 day ‘cooling off’ period followed by a signed disclaimer by the individual declaring the intention to proceed with a transfer (despite risks) would be useful, in addition to all the other due diligence checks in place to avoid comeback from consumers.

4/ Making it harder to open fraudulent schemes

Furthermore, as it is permissible for cold–calling companies to wind up and establish another company for the purpose of targeting unethical/unauthorised transfers, a stronger enforcement framework is clearly necessary. This should incorporate provisions to ensure that directors are personally liable if the company breaches the law, including the introduction of straightforward and effective measures permitting personal assets to be targeted for enforcement purposes.

MPF supports the enforcement of measures to not allow dormant companies to register for occupational pension schemes.

5/ Conclusion

As industry evidence indicates that pension scams have multiplied in number since the introduction of pension freedoms, a robust approach is vital to counteract the threat pension scams pose to the credibility and integrity of the pension system as a whole.

MPF is mindful that primary legislation will be needed for much of these measures and will therefore take some time to come into law, thus presenting a window of opportunity for scammers before any change to the law is brought into effect. It would be sagacious for the government to introduce interim measures to prevent an upsurge of activity whilst the current law remains extant.

Yours sincerely

Y Caddock

Yvonne Caddock

Principal Pensions Officer