NORTHUMBERLAND COUNTY COUNCIL PENSION FUND
Pension Fund Panel Meeting 10 September 2018

Article from Professional Pensions re Northumbria Police ruling

Combating pension scams – It's good to talk

By **Ben Fisher** | August 16, 2018

From the blog: In perhaps an ironic twist last month, Northumbria Police was found guilty of not doing enough to protect one of its officers from the risk of becoming the victim of a pension scam.

As a result, they were forced to reinstate the claimant's accrued benefits in their scheme. This could turn out to be a landmark event in what is fast becoming a landmark year in the fight against pension scams.

Telephoning the member to ask about their transfer makes it more likely that the scammer is bypassed

Many schemes will look at this case and ask themselves if they could be doing more for their members. So, what more could they do?

June saw the publication of the Pension Scams Industry Group's revised Code of Good Practice on Combating Pension Scams.

A simple call works wonders

The original 2015 code is recognised as industry best practice and was the catalyst for many trustees to review their procedures for protecting members from scams.

One of the key changes to the revised code is a recommendation that all transfers include a telephone call with the member to discuss the circumstances around the transfer.

Administrators already carry out checks on the transfer paperwork for signs of scams, so why the need for a telephone call as well?

It is increasingly being recognised that the traditional checks of transfer paperwork for scam 'red flags' have significant limitations. Scammers are fully aware of the process and so will often offer to fill in the paperwork on behalf of members, ensuring that it is red-flag-free.

Of course, many members are daunted by lengthy pensions paperwork and are only too keen to hand it over to an 'expert' to fill out on their behalf.

Telephoning the member to ask about their transfer makes it more likely that the scammer is bypassed. The call allows the administrator to have a conversation with the member about why they want to transfer, where the money is going and who is supporting them with the process.

Spot the red flags

Based on our experience of introducing calls into the transfer process over the past three years, the impact has been telling: over 10 per cent of calls made by our specialist scams team have identified red flags. These were cases where the transfer had been signed off as scam-free based on the information in the standard paperwork.

Given the recent surge in transfer activity, with the Pensions Regulator estimating that transfer values of £14.3bn were paid out of defined benefit schemes over the year to March 31 2018, our analysis suggests that each year more than £1bn of members' savings could be at risk of being stolen through pension scams.

Examples of red flags that can be identified through this telephone call are adviser related issues (a common occurrence is the adviser on the paperwork being different to the adviser name given by the member on the call), suspicious courier activity, the promise of high guaranteed investment returns and worrying details of secondary transfers to foreign arrangements, which would typically not be mentioned on the transfer paperwork.

The code is only voluntary, not compulsory, but members should be pushing for their trustees to adopt its recommendations without delay. In the Northumbria Police case, a 15-minute telephone call could have made all the difference.

Ben Fisher is a senior consultant and member of the pension scams identification team at XPS Pensions Group

Article from Professional Pensions

Was the Ombudsman wrong over landmark Northumbria Police Authority scam ruling?

By **Edward Brown** | August 9, 2018

Brown: One can conclude the authority is not to blame without needing to believe Mr N is the author of his own misfortune

Edward Brown says the Pensions Ombudsman's maladministration ruling against the Northumbria Police Authority for its handling of a transfer out of the Police Pension Scheme is an 'uncomfortable' decision.

Northumbria Police Authority has paid a high price for not passing on warnings about pension liberation fraud following the **Pensions Ombudsman's decision regarding 'Mr N'**, who transferred-out from the Police Pension Scheme to the London Quantum Scheme in 2014. London Quantum is now being investigated for pension liberation fraud, and Mr N may have lost some/all of his savings.

The ombudsman concluded it was maladministration for the authority not to have conducted proper investigations into London Quantum and for not having sent Mr N any warnings (including the scorpion leaflet). He held Mr N would not have transferred had he been warned appropriately, and ordered the Authority to provide Mr N with benefits equal to the £124,000 he lost (less whatever Mr N ultimately recovers from London Quantum).

I find this an uncomfortable decision for a number of reasons:

- The authority had (at an earlier date) put a copy of the scorpion leaflet on an employees' intranet feed, even if not sent in person to Mr N.

- The ombudsman set the bar too high when assessing what investigation the authority should have done. For example he felt the authority should have been suspicious that as Mr N was employed as a police officer in Northumbria, he appeared to be transferring to an occupational pension scheme sponsored by an undertaking with ‘London' in its name.

- The authority was criticised by the ombudsman for not contacting Mr N directly - but Mr N had an independent financial adviser (IFA) and, believing the IFA was providing FCA-regulated advice, signed a form allowing the authority to deal with the IFA.

- Mr N admits that he trusted his IFA entirely, and never read the documents he signed (or noticed the scorpion notification on the employees' intranet). It is perhaps surprising therefore that the ombudsman felt able to conclude - even with the benefit of an oral hearing - that Mr N (i) would have read the scorpion leaflet if sent to him in hard copy at the time of his transfer; and (ii) would not have transferred out as a result.

- Finally, the authority argued that having paid the transfer they had a statutory discharge under the legislation. The ombudsman disagreed - noting the discharge in the legislation applied when "the trustees…have done what is needed to carry out what the member requires". As the authority did not do all the checks he felt they should have, the ombudsman held there was no statutory discharge. But to my mind the language about "what is needed" is just shorthand to avoid repeating half a page's worth of text in earlier parts of the legislation, and if parliament had intended to incorporate pension liberation fraud good practice into the legislation it would have been included in 2015 when the section was re-written.

It is easy to feel sympathy for Mr N - who has potentially lost all of his benefits in a scam. But it is a regrettable feature of 21st century life to conclude that if something bad happens to someone then someone else - with the means to pay - must be at fault. One can conclude that the authority is not to blame without needing to believe that Mr N is the author of his own misfortune.

The case also raises a wider point. I am unconvinced the ombudsman's jurisdiction to impose orders for maladministration was intended to go beyond relatively nominal penalties. There is no suggestion Mr N could have successfully sued the authority for negligence/breach of trust - and I am uncomfortable the nebulous concept of maladministration allows him to order reinstatement of benefits worth £124,000.

Edward Brown *is a pensions partner at Hogan Lovells*