Consultation response

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

Date: 21 July 2026

LCP's response to DWP's consultation on proposed amendments to the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 (the "2021 Regulations")

This document sets out LCP's response to the Department for Work and Pensions' consultation **"Protecting Pension Savers – Proposals to Amend the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021"**, published on 9 June 2026.

Who we are

LCP is a firm of financial, actuarial and business consultants, specialising in pensions, investment, insurance, energy, health and business analytics. We have over 1,000 people in the UK, including over 180 partners.

The provision of actuarial, investment, covenant, governance, pensions administration, benefits advice and directly related services is our core business. We also advise Small Self-Administered Schemes' (SSASs') trustees, although we do not act as trustee of SSASs ourselves. About 80% of our work is advising trustees and employers on all aspects of their pension arrangements, including the administration of member benefits and pension transfers. The remaining 20% relates to insurance consulting, energy, health and business analytics. LCP is regulated by the Financial Conduct Authority for some insurance mediation activities only and is licensed by the Institute and Faculty of Actuaries for a range of investment business activities.

Our pensions administration teams work directly with trustees and employers in assessing transfer requests and applying the transfer conditions regime in practice. We therefore have direct experience of how the 2021 Regulations operate for members, trustees and administrators, including the balance that must be struck between facilitating legitimate transfers and protecting members from scams.

Executive summary of our views

- **We support the policy objective behind the proposed new red flag in relation to the employment link test**, particularly in light of the concerns identified in relation to SSAS transfers. However, we are concerned that the proposed process and wording may not work as intended, particularly in relation to historic or non-standard employment arrangements. Clear guidance on the evidential standard will therefore be essential.

- **We support the removal of the overseas investment amber flag.** In our view, overseas investment is no longer a useful standalone indicator of scam risk, given the prevalence of legitimate overseas investments in mainstream pension arrangements. The remaining flags around high-risk, unregulated, unclear or unorthodox investments provide a more appropriate and targeted safeguard.
- **We agree that the incentives red flag should remain unchanged.** While incentives may arise in some legitimate commercial models, we agree that this continues to be a relevant and useful scam indicator and should be retained.
- **We understand the policy aim behind broadening the First Condition so that it may be met where trustees are satisfied, on the balance of probabilities, that a receiving scheme is "reputable".** However, we do not consider that the approach will work as intended unless DWP provides an official list of prescribed objective criteria by which trustees can assess a scheme's reputability, supported by detailed guidance.
- **If the "reputable scheme" approach is taken forward, objective criteria and detailed guidance will be essential.** A non-exhaustive list of factors may be helpful, but in our view will not, on its own, provide enough certainty. Trustees and administrators are not well placed to conduct open-ended assessments of "reputability", especially where the concern is not the receiving vehicle itself but the investments that may sit underneath it.
- **We have limited support for the proposal that members who have taken MaPS guidance within the last 12 months should not need to repeat it**, but only where the previous guidance related to the same benefits and the same receiving scheme, and where this can be verified. Otherwise, there is a real risk that the previous guidance will not have addressed the relevant circumstances or flags.
- **There will be practical implementation implications**, including updates to internal processes, member communications, staff training and governance frameworks. Clarity in the final regulations and supporting guidance will therefore be important.

Our response to the consultation questions

Question 1

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

We support the policy intent behind the proposed new red flag, namely to enable trustees or managers to prevent a transfer where evidence provided by a member does not demonstrate an employment link.

This is a sensible response to concerns identified in relation to SSASs and arrangements where the appearance of legitimacy may be used to mask scam activity.

We are aware that under the existing Regulations, trustees and managers may in some cases have concluded that a red flag applies because the member has failed to provide a substantive response to a request for evidence or information. As a result, this proposed change to the regulations may simplify the process for applying a red flag but it is not clear that it introduces new protections for savers.

We do foresee some potential issues with the wording and its practical application:

- The wording "the member has provided **all** the evidence required by regulation 10(1)(a) or (c)" suggests that the flag can only be applied in circumstances where a complete response has been provided by the member, and that the flag could not be applied if the member is unable to provide one or more of the evidence requirements specified under Regulation 11 and the response is not substantive. This creates a gap through which cases can slip through and which could be open to abuse, for instance if a member is not able to provide a letter from the employer evidencing employment, or if they are coached to respond to avoid a red flag scenario.
- Where only part of the evidence required is provided, it could still be argued that the member has provided a "substantive response", as they have provided "at least part of the evidence or information requested, so that the trustees or managers of the transferring scheme can either reach a decision that part of the employment link or residency link is demonstrated", potentially meaning a red flag cannot be applied, as the member has not "failed to provide a substantive response". A solution to this may therefore be to change "all" to "some of or all" within the new proposed red flag wording.
- The phrase **"does not demonstrate"** may be interpreted differently by different trustees, administrators and advisers. This creates a risk of inconsistency in decision-making and examples would be useful in guidance to accompany the new regulations.
- Clear guidance will be needed on the **standard of evidence** required and the circumstances in which trustees should conclude that the employment link has not been demonstrated.
- It would be helpful to clarify whether the test is intended to be an **objective evidential test**, which would be easier to demonstrate rather than a broader suspicion-based assessment.
- Consideration should also be given to how this new red flag interacts with the existing red flag in regulation 8(4)(a), where the member has failed to provide a substantive response to a request for evidence or information.

In practice, we think the new red flag can work, but only if the interaction with the definition of a "substantive response" is addressed and trustees and administrators are given sufficiently clear guidance and examples. Without that, there is a risk of either under-application or over-application, as well as complaints and cases being brought to the Pensions Ombudsman.

Question 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?

Yes. The concerns referenced in the consultation are consistent with the types of risk seen across transfer activity more generally. While some are not new in themselves, scam activity continues to evolve in ways designed to replicate the appearance of compliance with the Regulations and to exploit gaps between the respective remits of schemes, regulators and advisers.

In particular, we would highlight the following:

- Situations where documentation is provided but does not in substance evidence a genuine employment link, business activity or commercial rationale;
- Transfers to an overseas arrangement where an overseas adviser and a UK adviser may be collaborating whilst giving the appearance of being independent of each other. For example, there may be a pattern of cases of 'insistent members' where the same authorised UK adviser advises a member not to transfer, while an overseas adviser is involved in advising on the investment of the transferred funds. The position may not readily engage the unauthorised activity red flag, particularly where it is unclear whether regulated activity has been carried on in the UK. Although this type of risk may be difficult for ceding schemes to address through the transfer conditions alone, it highlights a need for proactive FCA supervision of the UK adviser's activity, and intervention where concerns have been identified;
- Social media influencers (sometimes called "finfluencers") who may be promoting high-risk investment opportunities, and also those who are giving inappropriate generic advice but are extremely successful in engaging with followers; and
- Impersonation fraud using clone firms to impersonate legitimate organisations and deceive individuals.

Question 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?

Yes, we consider that establishing the presence of a genuine employment link is appropriate and proportionate as part of the response to concerns around SSAS transfers.

A genuine employment link is an important safeguard in this context, and strengthening the ability of trustees and managers to refuse a transfer request where evidence does not demonstrate such a link is a reasonable step.

That said:

- we do not consider that the proposed employment-link red flag will, by itself, provide a complete or consistently effective response to the risks associated with SSAS transfers. In particular, legitimate SSAS members may not always be able to provide the full prescribed evidence, especially in the context of historic arrangements, small businesses, self-employment or non-standard employment structures;
- the effectiveness of the measure will depend heavily on the **clarity of guidance** provided to the industry and the **quality of evidence review undertaken by the industry**;

- as the proposed wording will apply more broadly than SSASs, it will also be important to ensure it does not create unintended consequences for other legitimate occupational pension transfers.

On balance, we support the policy objective behind the proposal, but do not consider that the new red flag will be effective in isolation. Its effectiveness will depend on amendments to address the interaction with the "substantive response" definition, clear practical guidance and examples.

Question 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.

We agree with the proposed **policy objective** behind this proposal. In particular, we recognise that the current formulation of the Second Condition can create unnecessary friction where there are no real scam concerns, and may require trustees to undertake additional due diligence in circumstances that are, in practice, low risk.

However, we have significant concerns about the proposed approach.

Our main concern: "reputable" is subjective

The concept of a "reputable" scheme, assessed on the balance of probabilities, introduces a degree of subjectivity that is likely to lead to inconsistent outcomes between schemes and administrators.

We believe that alternative terminology, such as "acceptable" or "legitimate", would more accurately reflect the nature of the assessment than "reputable".

Whatever terminology is used, trustees and managers will need clear, objective criteria, and detailed guidance to apply the test consistently. Alternatively, DWP could consider an official list maintained by an appropriate public body. It should not be based on an undefined concept of reputability.

That has a number of practical consequences:

- different ceding schemes may reach different conclusions on the same receiving scheme;
- although the removal of the 'overseas investments' flag and the concept of a 'reputable scheme' could enable schemes and administrators to develop their own 'clean list' of receiving schemes, those lists may diverge across the industry, creating confusion for members and advisers and leading to member complaints;
- it could create a false equivalence between Master Trusts that are subject to enhanced regulations (such as regulation 11A(2)(a) of the Occupational Pension Scheme (Charges and Governance) Regulations that broadly prohibits member-borne commission) and oversight by The Pensions Regulator and those arrangements that are not;
- decision-makers may be exposed to criticism either for being too cautious or for taking too much risk;

- members, receiving schemes or other parties involved could challenge a decision that an arrangement is not “reputable”, but a trustee’s decision as to whether a scheme is “acceptable” is not open for debate;
- reputations are based on perception and can change overnight, so it is impractical to expect trustees and managers to continuously monitor and undertake due diligence on every scheme they may have previously deemed reputable (or not) to reconfirm that this is the case at the point a transfer is paid.

This is particularly difficult because scam risk does not always sit within the receiving scheme. A different touch point in the member’s transaction may be where the risks lie. For example, a provider may appear established and transparent, while the underlying investments available through that vehicle may vary significantly over time. Trustees and administrators are not well placed to conduct ongoing monitoring of all possible investment options or products available through large receiving providers.

A non-exhaustive list of factors may help, but is unlikely to be enough on its own

We think a non-exhaustive list could be useful as part of the framework, but not as the sole safeguard. On its own, it will leave too much uncertainty.

If DWP proceeds with this approach, we suggest the Regulations and/or guidance should refer to factors such as:

- whether the receiving scheme is subject to **clear regulatory authorisation or supervision**;
- whether the ceding scheme has an **existing and established** uneventful transfer history with the receiving scheme, or where relevant, its provider or operator,
- the **transparency** of the scheme’s fees, charges and investment structures;
- whether there have been any **regulatory warnings, enforcement action or other adverse intelligence** relating to the receiving scheme, its provider or any adviser, introducer or promoter materially connected with the transfer;
- whether the receiving arrangement is offered by a **well-established market participant** with a demonstrable operating history;
- whether there are any features that would otherwise trigger concern under the existing amber or red flag framework.

Given the evolving nature of risks to savers and scam activity, there would be a risk that a non-exhaustive list of factors defined in the Regulations could become outdated. We believe it would be preferable for the Regulations to refer to guidance provided by a statutory body such as DWP or TPR, jointly with the FCA, as this would allow for the factors to be considered when assessing a transfer request to more accurately reflect the risks affecting the industry at the time the assessment is made.

Risk of reduced scrutiny of advisers and other parties involved in a transfer

By allowing trustees or managers to assess a receiving scheme as “reputable” (or “acceptable”) and therefore satisfying the First Condition, one potentially unintended outcome of the proposal is that insufficient focus may be paid to areas where due diligence might identify red and amber flags relating to financial advisers as the Second Condition does not need to be assessed.

Whilst transfer requests involving safeguarded rights in excess of £30,000 would still require trustees or managers to meet their obligations under the Pension Schemes Act 2015, ceding arrangements would not need to assess whether:

- fees or charges associated with the provision of advice or ongoing investment management were unclear or high,
- a sharp or unusual rise in the volume of requests to transfer were being received involving the same adviser or firm of advisers, or
- a person without the appropriate regulatory status has carried on a regulated activity for the member in respect of the transfer in breach of section 19 (the general prohibition) or section 20 (authorised persons acting without permission) of the 2000 Act.

Guidance to individuals from both the FCA (https://www.fca.org.uk/consumers/pension-scams) and Report Fraud (https://www.reportfraud.police.uk/pension-scams/) highlights "*arrangements where there are several parties involved (some of which may be based overseas) all taking a fee, which means that the total amount deducted from your pension is significant*" as an example of a pension scam. By assessing a receiving scheme as "reputable", ceding schemes could miss the opportunity to identify such activity by not assessing the request against the Second Condition.

Additional clarity would be very helpful

If DWP wishes this proposal to work in practice, we think it should consider one or more of the following:

- providing clearly defined categories of receiving scheme or arrangement that trustees and managers may treat as meeting the First Condition, reducing the reliance on the trustees making their own assessment of a scheme as being "reputable/acceptable";
- issuing detailed **statutory guidance** with worked examples;
- clarifying the extent to which trustees may rely on **previous due diligence** and for how long;
- being explicit that trustees are **not expected to monitor all underlying investment options on a continuing basis**.

Without this additional clarity, we are concerned that the proposal may not deliver the intended simplification and could instead create a new area of uncertainty, delays and inconsistency. Many trustees and administrators may err on the side of caution and decide that, given the ongoing requirements, they are uncomfortable operating a list of "reputable schemes".

Question 5

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

Yes, there are several practical implementation points that should be considered.

1. Changes to internal processes and governance

Trustees and administrators will need to review and update:

- transfer procedures;

- internal decision-making frameworks;
- member communications;
- operational guidance and training materials;
- governance documents, including any internal terms of reference used when assessing statutory transfer rights.

This is manageable, but it will require sufficient clarity and lead time.

2. Application of the “reputable scheme” test

As noted above, the proposal to broaden the First Condition could be difficult to implement consistently in the absence of clear guidance. In practice, this may support trustees and firms in creating their own “acceptable scheme” lists, but these will require careful governance and periodic review. Others may, however, decide that the risks in doing so are too great in the absence of prescribed objective criteria and so will not operate such a list.

A related practical concern is how DWP envisages complaints about trustees’ decisions being considered by The Pensions Ombudsman. In practice, a member may be seeking to consolidate several transfer values into a single receiving arrangement but encounter a different outcome from each ceding scheme. For example, one scheme may conclude that the receiving arrangement meets the First Condition and proceed with the transfer, while another may identify concerns requiring consideration of the Second Condition and ultimately conclude that a red flag is present. That creates real risk of member confusion and complaints, particularly where the member could see the inconsistency itself as evidence that one of the schemes must have acted unreasonably.

We would therefore welcome clarity from DWP on how it expects such cases to be viewed, and in particular whether it and the Pensions Ombudsman would accept that differing outcomes may legitimately arise where trustees are applying the Regulations to the facts and evidence available to them, even where the proposed receiving arrangement is the same. If DWP intends trustees to exercise judgment in this area, there also needs to be recognition that this may lead to divergence between schemes, and that such divergence should not, of itself, indicate maladministration.

3. Evidence of prior MaPS guidance

If members who have taken MaPS guidance within the last 12 months are exempt from repeating it, the Regulations and guidance should make clear:

- what evidence trustees may rely on;
- whether the exemption only applies where the earlier guidance related to the **same receiving scheme** and **category of benefits** being transferred;
- what should happen where the member asserts they have taken guidance, but the ceding scheme has no reliable record of that.

In our view, a simple member assertion should not be sufficient.

If the aim of the proposal is to reduce friction when consolidating pots into one arrangement, then it should only apply in cases where the ceding scheme is given evidence that an appointment discussing a transfer to the receiving scheme has taken place within the specified period, and that it involved a transfer of the same category of benefit.

To assist with the aims of the proposal, consideration should be given to the information provided in the email issued to an individual following attendance of a Pension Safeguarding guidance appointment, as it does not currently state the date the appointment was attended, or the receiving arrangement that was discussed. We also consider that the Pension Safeguarding guidance appointments delivered through MoneyHelper should be reviewed, including the information discussed with members. There may be scope to strengthen the messages provided to members and improve the effectiveness of these appointments in helping them identify and respond to potential scam risks. Based on our experience, we are not aware of cases in which a member has changed their decision following an appointment. While we recognise that the purpose of these appointments is not necessarily to prevent a transfer, this may indicate that the current approach does not always meet the expectations placed upon it as a safeguard. A review of the content, delivery and follow-up information provided to members would therefore be welcome.

As the proposal could encourage scammers to suggest individuals attend a Pension Safeguarding guidance appointment shortly after initial contact, before sufficient information is provided to the individual to allow for the appointment to be effective, it could remove the option for trustees to refer members to an appointment once concerns are identified. We therefore believe that consideration should also be given to requiring MaPS to identify the source of the referral and to provide confirmation of this following attendance of an appointment.

4. Training and consistency

Any revised Regulations will need to be supported by clear guidance and examples so that decision-makers apply them consistently. This is particularly important for the new employment link red flag and the proposed “reputable scheme” test.

Question 6

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

Yes, primarily in relation to clarity and consistency of interpretation.

In particular:

- the new employment link red flag would benefit from clearer explanation of what level of evidence is sufficient to **“demonstrate”** an employment link;
- as drafted, the reference to a member having provided “all” the evidence required may mean that the proposed new red flag applies only where a complete evidential response has been provided. This may leave a gap where a member provides some, but not all, of the required evidence. As explained in our response to Question 1, partial evidence may amount to a “substantive response” under the existing Regulations, but still be insufficient to establish a genuine employment link;
- the proposed “reputable scheme” test needs much greater precision, as that term is not clearly defined in this context and may be interpreted differently by different trustees and administrators, leading to inconsistent outcomes;

- we believe the drafting may create a circular reference between the new First Condition provision and the provision setting out the “reputable scheme” test. There also appears to be duplicate paragraph numbering within regulation 7(4). Clear and accurate cross-referencing will be important if trustees and administrators are to apply the provision consistently;
- the MaPS exemption would benefit from clearer wording on when prior guidance is considered relevant to a later transfer.

We therefore think the drafting should be supported simultaneously or as soon as possible by detailed guidance and, ideally, examples covering common scenarios.

Additional comments

In addition to the points above, we would welcome further clarity from DWP on a small number of practical issues that arise in transfer cases and can be difficult to assess consistently under the current framework.

Overseas advisers and the unauthorised activity red flag

One area where further guidance would be particularly helpful is the treatment of cases involving an overseas adviser.

In practice, we see cases where a member appears to have received input from an adviser or firm based overseas, but it is unclear whether that person has provided advice in the UK, or otherwise carried out an activity for which FCA authorisation would be required. This can create real uncertainty when considering whether the relevant red flag relating to unauthorised regulated activity applies, leading to delays and additional costs for legal advice.

For example, a member may be resident in the UK and seeking to transfer UK pension benefits after engaging with a firm located overseas. The available paperwork may show that the adviser is based and regulated abroad, but it may remain unclear whether the advice was in substance given to a UK-based member in relation to the transfer of UK pension rights. In those circumstances, trustees (who may seek legal advice that adds to their costs and prolongs the decision-making process) can be left in a difficult position when deciding whether the red flag applies.

Distinguishing advisers, introducers and other third parties

A related issue is the distinction between an adviser, an introducer, and other third parties involved in the transfer process. In some cases, members are supported by individuals or firms whose role is not clearly described, or whose involvement appears to go beyond simple administrative assistance but falls short of being openly presented as advice.

From an operational perspective, this can make it difficult to assess whether the activity gives rise to a red flag, particularly where the member's understanding of the third party's role is limited or where the documentation has been framed carefully to avoid describing the service as advice.

Further guidance on how trustees should assess third-party involvement of this kind would help improve consistency and support more robust decision-making.

Next steps

We welcome the opportunity to respond to this consultation and would be happy to discuss any of the points raised above in more detail.

Overall, we support the aim of refining the transfer conditions regime so that it continues to protect members from scams while avoiding unnecessary friction in low-risk cases. We support the policy objective behind strengthening employment-link protections in response to SSAS concerns, the removal of the overseas investment amber flag, and the retention of the incentives red flag. However, the employment-link amendment will require changes to address its interaction with the definition of a “substantive response”, alongside clear practical guidance and examples.

Our principal concern is the proposed expansion of the First Condition by reference to whether a receiving scheme is “reputable”. If this proposal is taken forward, we recommend that an alternative term is chosen and that much greater clarity is provided to ensure that trustees and administrators can apply the test consistently and with confidence.

We would be happy for LCP to be named as a respondent to the consultation and for our response to be made public.

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