Pension Scams : Consultation

Department for Work & Pensions
HM Treasury

Chartered Trading Standards Institute response

13th February 2017

About The Chartered Trading Standards Institute

The Chartered Trading Standards Institute (CTSI) is a professional membership association founded in 1881. It represents trading standards officers and associated personnel working in the UK and also overseas – in the business and consumer sectors as well as in local and central government.

The Institute aims to promote and protect the success of a modern vibrant economy and to safeguard the health, safety and wellbeing of citizens by empowering consumers, encouraging honest business, and targeting rogue traders.

We provide information, evidence, and policy advice to support local and national stakeholders.

We have also, as part of our recently revised remit, taken over responsibility for business advice and education concerning trading standards and consumer protection legislation. To this end, we have developed the Business Companion website (www.businesscompanion.info)

The CTSI Consumer Codes Approval Scheme was launched in 2013, superseding the OFT scheme
(www.tradingstandards.uk/advice/ConsumerCodes.cfm).

CTSI is a member of the Consumer Protection Partnership, set up by central government to bring about better coordination, intelligence sharing and identification of future consumer issues within the consumer protection arena.

We run events for both the trading standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement.

A key concern for CTSI is that of resources. UK local authority trading standards services enforce over 250 pieces of legislation in a wide variety of areas. They have suffered an average reduction of 46% in their budgets since 2010 and staff numbers have fallen by 53% in the same period.

This response has been composed by CTSI Lead Officer for **SCAMS**, **John Peerless**. Should you have any queries or wish to discuss the response please do not hesitate to contact **John Peerless** at loscams@tsi.org.uk

Chartered Trading Standards Institute
1 Sylvan Court, Sylvan Way
Southfields Business Park
Basildon, Essex, SS15 6TH
Tel: 01268 582200
www.tradingstandards.uk

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Introduction

CTSI welcomes the opportunity to respond to this consultation paper on pension scams. The author, as CTSI's Lead Officer in this area, has professional experience investigating scams involving long term investments such as land banking and fine wine. He is also very familiar with the consumer detriment caused by the 'nuisance calls' sector and is able to draw on the knowledge and experiences of trading standards colleagues from across the UK.

Any scam is to be abhorred but especially 'pension scams' as they represent a pernicious attempt to cause detriment where the scammer attempts to make as much money as possible for the least amount of effort. Their target audience is considered vulnerable in light of personal and economic circumstances (i.e. elderly and the recipient of significant funds). In some circumstances the victims may be perceived as greedy (wishing to make as much money for themselves) but they are acting with the best intentions, i.e. they want to grow the funds so that they can -

- *enjoy a financially secure retirement, and/or*
- *pass on an inheritance.*

The skills and expertise of the scammer should never be under-estimated. They devise and implement comprehensive business models that use deception and misinformation to target a sector or groups of individuals, always seeking to maximise their income from these ventures. Trading standards' experience shows that scammers demonstrate an amazing capacity to adapt those business models to thwart interventions designed to regulate their activities.

So whilst CTSI welcomes the introduction of any activity designed to protect consumers, we suggest the protections should be written in such a way that enforcement activities are 'future proofed' in anticipation of the pension scammers adapting their tactics.

Purpose of Consultation

CTSI welcomes the proposal to introduce the following package of measures aimed at tackling three different areas of pensions scams:

- *a ban on cold calling in relation to pensions to help stop fraudsters contacting individuals*
- *limiting the statutory right to transfer to some occupational pension schemes*
- *making it harder for fraudsters to open small pension schemes*

It is clear that in producing the consultation consideration has been given to all the issues and if these packages are implemented CTSI believe they will go a long way to protecting individuals against pension scams.

CTSI are not as familiar with the latter two areas of the consultation and therefore intend to concentrate mainly on the suggested ban on cold calling in relation to pensions.

What is a pension scam?

CTSI support the revised view of a pension scam and endorse the wider set of activity defined by Project Bloom. It is hoped, though, that the term 'inappropriate investments' includes other investment schemes such as 'land banking', 'fine wine' etc.

Question 2.1

Does the definition in 2.1 above capture the key areas of consumer detriment caused by pension scam activity?

CTSI believe that the key areas of consumer detriment have been identified with the caveat regarding the term 'inappropriate investments'.

Question 2.2

Are there any other factors that should be considered as signs of a scam?

CTSI suggest that the scammer will quickly adapt their business model to reflect any enforcement activity. Experience shows that cold calls offering a 'lifestyle survey' are being used as a mechanism to entice consumers to receive a personal call or home visit.

Banning cold calling in relation to pensions

Question 3.2

Do you agree that the scope of the ban should include the actions set out in paragraph 3.5 above?

CTSI strongly supports the proposed ban on pensions cold calling by phone - but urges caution that this may not be a comprehensive solution to the illicit marketing techniques of scammers who may attempt to find a means around the ban.

Are there any other activities that should fall within the scope of the proposed ban on pensions' cold calling?

Consideration should be given to 'future proofing' any legislation with the inclusion of a ban on the use of other unsolicited marketing techniques such as text messages, emails and doorstep visits.

Excluding legitimate interactions

Question 3.3

Do you agree that existing client relationships and express requests should be excluded from the proposed ban?

CTSI can support the view that existing client relationships and express requests should be excluded from the ban, only insofar that the express request has not been engineered via a 'lifestyle survey' or similar marketing exercise.

Electronic communications

Question 3.4

What would the costs and benefits be of extending the proposed ban to include all electronic communications?

CTSI does not have the expertise to comment on this issue.

Interaction with the Privacy and Electronic Communications Regulations (PECR)
Question 3.5

How can the government best maintain the clarity of existing PECR concepts in light of the proposed ban on pensions' cold calling?

CTSI believe that the Information Commissioners Office is better able to respond to this question.

Raising awareness
Question 3.6

How else can the government best ensure consumers are aware of the ban?

CTSI recognise that raising awareness of the ban is essential to its success. The extensive range of the partners should enable the reinforcement of the education message at appropriate stages, providing there is coordinated approach.

Enforcement

Question 3.7

Do you have any views on enforcement mechanism set out in paragraphs 3.10 above?

Consideration could be given to including 'cold calling in relation to pensions' as a banned practice under the Consumer Protection from Unfair Trading Regulations 2008. This would enable Trading standards to take criminal or civil enforcement action at a local level. The only caveat is that as the legislation is derived from a maximum harmonisation EU Directive (the Unfair Commercial Practices Directive) the suggestion means that the legislation would be 'gold plated'.

Limiting the statutory right to transfer
Making it harder to open fraudulent schemes

CTSI believe that the Financial Conduct Authority and The Pensions Regulator are best placed to respond to the questions posed under the above issues. CTSI will however comment on the question relating to 'cooling off periods'.

Question 4.8

What are your views on a ‘cooling-off period’ for pension transfers? Do you have any evidence of how this could help to combat pension scams?

Trading standards services have extensive experience of the effectiveness of contractual cooling off periods in high risk consumer areas such as credit, doorstep sales, distance contracts and timeshare.

The opportunity for a consumer to reflect and withdraw from a high risk contractual decision is of vital importance. This is particularly the case where the potential detriment is considerable and a consumer may have been subjected high pressure face to face sales with misleading information or omissions. A cooling off period allows a consumer to research their decision and take independent advice before proceeding or cancelling.

CTSI would support the introduction of a cancellation period that strikes the balance between the interests of traders concluding their business, yet affords consumers as much time and ability to research (and if possible withdraw from) prejudicial or scam pension contracts.

Conclusion

In summary CTSI –

- agrees that the consultation captures the definition of pensions scams correctly,
- supports the ban on cold calling for pensions,
- expresses concern that the ban should be 'future proofed' to include other forms of unsolicited pension marketing,
- agrees with the definition of 'legitimate existing client relationships' and supports their exclusion from the ban,
- would like to see the practice of 'cold calling or unsolicited contact' (beyond existing client relationships) in relation to pensions transfer made a criminal offence, perhaps under existing consumer protection legislation,
- supports the introduction of a suitable 'cooling off' period that balances business interests with the need for consumer protection.

CTSI welcome the proposal to ban cold calling in relation to pensions. However we feel that restricting the ban may have hidden consequences as it introduces an inconsistency that is difficult to explain to a vulnerable person.

Local trading standards services, the police and the National Trading Standards Scams Team work in partnership to protect vulnerable consumers and support them in their own home. As mentioned vulnerability comes in many guises and CTSI is concerned at the ease with which scammers and legitimate ‘call centres’ are able to obtain large numbers of personal data for the purposes of targeting vulnerable consumers.

There are legitimate websites offering data that can be matched to a business' customer profile. For example during a recent visit to a call centre information was received indicating that their profile was ‘female, aged between 50 and 75, owning their own home and living alone. In this case the call centre was selling call blocking devices and the irony of the operation was not lost on the owner.

In the circumstances, consideration should be given to expanding the proposal to the cold calling of all vulnerable consumers, particularly the elderly and infirm.

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