PSIG
Combating Pension Fraud

From victims to debtors

Pension liberation schemes: the injustice of tax charges

A Cross-Body Report



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EXECUTIVE SUMMARY

This cross-body report brings together perspectives from across the pensions industry on the unresolved tax burden facing victims of historic pension liberation scams. The executive summary outlines the case for action, with supporting evidence and proposals set out in the sections that follow.

1. Pension liberation schemes were a scourge upon the pensions industry between about 2010 and 2015 with about 1,000 scheme members falling victim to such scams, transferring out from secure pension schemes into badly run ones, and withdrawing sums from their pensions without understanding the tax implications.

2. For scheme members who have fallen victim to these scams HM Revenue and Customs ("HMRC") has applied the rules strictly and levied substantial tax charges against the members (as well as their schemes), resulting in members losing a significant part of the value of the payments they might have received as part of the arrangement they entered into. This is in addition to the losses suffered through missing out on investment returns on their savings over the years.

3. Members have been recognised as victims of fraud, with the Fraud Compensation Fund ("FCF") recently compensating affected schemes for losses suffered (by the schemes) due to the dishonesty of the managers, including the tax charges levied on the schemes themselves. Critically though, there is no compensation to the individual members of those schemes for the tax charges levied against them.

4. It is unjust and irrational to leave members facing these tax charges because:

a. They have been recognised as victims of fraud and compensated by one statutory body yet penalised by another.
b. Treatment of members of liberation schemes has been inconsistent – some individuals have been taxed and others have not.
c. The scams exploited significant weaknesses and failures in the pension registration and regulatory framework of the time. In the case of the Ark Schemes, opportunities for earlier intervention were also missed. Many of those weaknesses have since been recognised and substantially addressed, yet it is the victims who continue to bear the financial consequences.
d. Many changes have been made to make the prospect of further large-scale liberation schemes emerging and proliferating extremely unlikely.
e. This means that any tax concessions granted now to those early victims will not set a precedent for future claims, a concern that Treasury has raised with us over the years.
f. We also need to stress victims will not have benefitted from the scams. They are considerably worse off as a result of transferring their pensions into liberation schemes given the limits of the compensation available.

[1] This is our estimate based on our experience and knowledge of relevant schemes. The precise number should be fixed and should be capable of identification by HMRC.

g. Another statutory body has recognised the victim's position in liberation schemes. In one case[2] involving a regulated adviser, the Financial Ombudsman Service upheld a member's complaint about unsuitable advice to transfer into an Ark scheme. It required the adviser to cover the resulting tax liabilities, including applicable charges and interest, when payable. However, most introducers involved in these arrangements were unregulated, leaving many members with limited practical scope to recover these costs from those who persuaded them to transfer.

5. The remedy we propose would be the introduction of a simple change to legislation exempting members of the 20 or so affected schemes from the tax charges. Those schemes are known to HMRC and can be identified easily. If there is no appetite in government to change legislation even in a limited way to relieve the burden on fraud victims, we would be willing to help the parties find an alternative non-legislative but equally effective and targeted solution.

[2] Wealthmasters Financial Management Limited - Mr J DRN8210137
https://www.financial-ombudsman.org.uk/decision/DRN8210137.pdf

Introduction

What is this report about?

This report examines the tax consequences faced by victims of pension liberation scams in the early 2010s, when public awareness of the risks and techniques used by promoters and advisers was limited and the safeguards now in place had not yet been introduced. It has been written by experts in the pensions industry involved first-hand in managing the far-reaching consequences of some of those pension liberation schemes. It sets out the facts, including failures in the system, and offers fair and practical solutions to help those caught up in the long dispute, as well as to protect the public purse.

Who is this report for?

This report is aimed first and foremost at HM Treasury and the Department for Work and Pensions ("DWP"), who have the power to make the changes proposed.

It is hoped though that others, whether in the pensions industry or members of the public or journalists, reading it will appreciate the injustice facing victims of pension liberation scams currently and that they will provide vocal support for the report's objectives.

We have produced a separate, shorter, summarised version of this report, and this is available on the PSIG website here.

The issue – and our objective

Victims of pension liberation scams, and particularly members of the Ark Schemes, unwittingly became liable for huge tax bills as a result of withdrawing money from their pensions. In most cases, the monies were withdrawn because promoters and advisers assured them that the arrangements were legal and advantageous. Crucially, these did not necessarily look like obvious scams. The arrangements involved pension schemes that had been registered with HMRC and were presented through apparently legitimate and professional intermediaries. For an ordinary pension saver, there was little reason to understand that entering such an arrangement could ultimately result in a devastating tax liability.

It should also be noted that these events took place in the early 2010s, a time of vulnerability when the impact of the 2008 financial crash was still being felt. It must also be stressed that public and industry awareness of pension scams and liberation was

limited, and the safeguards and statutory protections now in place had not yet been introduced. We would also point out that the Minimum Pension Age of 55, relevant to pension liberation, was only increased from age 50 on 6 April 2010, and so knowledge of this would have been fairly limited at the time of the cases covered by this report.

For reasons set out below, although this tax treatment is in line with the rules at the time, it is deeply unjust and damaging to pension savers. It also brings very little discernible benefit for Treasury.

Repeated attempts have been made over the years to have these tax charges removed or reduced for scam victims. These have been met with some sympathy from successive pensions ministers and also the Work and Pensions Select Committee, but without anyone taking the bold and decisive step of driving through positive change.

There is a perception by some authorities that victims of pension liberation must have known what they were doing and did it to avoid tax. This perception does not reflect the circumstances of the early 2010s and how ordinary people were cleverly deceived by trusted advisers. It also reflects an institutional culture of victim blaming which is damaging.

With the final pieces of the 'pension scams jigsaw' coming together now, after 15 years of uncertainty – with the full extent of available compensation to the schemes known and the scale of victims' losses clearer - never has there been a stronger argument for a resolution of this specific anomaly and injustice.

To aid understanding of the issue and the many reasons why it makes sense now to remove tax charges for scam victims, we have set out at some length below the history of pension liberation scams, the current position for victims, and suggested ways in which a legislative change could be made.

How the tax charge works

Members of registered pension schemes receive tax relief on their contributions. "Unauthorised payments" arise when payments are made outside of tax rules, including a situation where a member accesses a cash sum (even if described as a loan) before the minimum retirement age, currently 55.

Under the Finance Act 2004, this incurs a tax penalty of up to 55% of the money received. This consists of an unauthorised member payment charge of 40% of the individual payment received plus an unauthorised payment surcharge of 15% where the member received a payment of more than 25% of his/her total 'pot' value. (An

additional wrinkle arises because a tax tribunal in 2023[3] ruled that members of the Ark Schemes where loans were received *and* paid should be taxed on both elements separately.)

In addition, the scheme making the unauthorised payment might receive a scheme sanction charge of between 15% and 40% of the unauthorised payment amount. The precise amount depends on how much (if any) of the individual member payment charge is paid, so the scheme sanction charge could reduce down to 15% if the full 40% charge levied against the individual is paid by the individual.

Through the tax, an individual has scope to end up losing a large part of the value of the payment received. So, what might have been promoted as an attractive proposition, is, in fact, hugely detrimental to the member.

In principle, the severity of the tax implications for members taking money from their pensions too early is understandable and pitched as a deterrent. But where the withdrawal is the result of fraud against an individual, the tax becomes a cruel and unusual punishment.

> **Key Point:**
>
> *Unauthorised payment tax charges are intended to discourage early access to pension savings. The purpose of these tax charges is to allow HMRC to recover the tax relief granted on contributions paid into the scheme.*

[3] https://www.dalriadatrustees.co.uk/wp-content/uploads/2018/10/Ark-Tax-Tribunal-Decision.pdf

A BRIEF HISTORY OF PENSION LIBERATION SCAMS

Pension liberation might sound enticing, especially where individuals are facing financial hardship, but it isn't. It has caused untold misery for members of pension schemes scammed into thinking it was a lawful way to access pension savings early.

It has been around for a long time, but largely below the public radar.

Back in 2002, the Inland Revenue's Savings, Pensions and Share Schemes Department was producing pensions updates about 'trust busting' affecting a 'small minority' of schemes and individuals. This flagged the need for vigilance from transferring schemes and the risk of tax charges for members extracting funds from their pensions.

Similarly, OPRA, the predecessor to the Pensions Regulator (the "Regulator"), was writing to trustees of occupational pension schemes in 2002 warning about such schemes and providing a leaflet that could be given to members to notify them of the risks. The shark featured in the leaflet appeared long before the scorpion we all associate with the Regulator's more recent pension liberation warnings. However, the warnings were not well-publicised until much later.

Despite this regulator awareness and warnings, the early 2010s saw an explosion of pension liberation activity, aided by a number of purported (but unregulated) financial advisers, enablers, promoters and other so-called trusted professionals.

Fundamental to these schemes was the 'hook' of offering scheme members the chance to 'liberate' at least part of their pensions – often around 50%. In fact, this would give rise immediately to the risk of tax charges. Those tax charges alone would render pension liberation a bad idea, but the schemes additionally usually involved:

- high fees/commission being paid from remaining (non-liberated) pension funds either to the trustees (who would be, at best, inexperienced and without any appropriate training or, at worst, fraudulent), or other parties involved in setting up the scheme, often deliberately not stepping into the trustee role to avoid exposure to claims;
- inappropriate and frequently fraudulent investments such that any balance left of the members' funds would stand little to no chance of generating any return, or, more likely, disappearing altogether; and
- poor governance and record-keeping, rendering the overall mess created by the scam more difficult to investigate and clean up.

This sounds – and was – terrible. However, these scams – and the consequences that would be suffered by the members transferring their pensions into them – were far from obvious. Despite the awareness of the regulators and HMRC in the early 2000s of the risk of liberation scams, publicity around that risk was much more limited than eventually became the case by 2013/2014. In short, the public were unaware of the risk of scams.

In addition to low levels of public awareness of the risks, the authorities failed to stop some scams reaching the public.

The first contributory failure was an efficiency change to pension scheme registration by HMRC in 2006. This change weakened the registration process by introducing on-line applications with little due diligence on the applicants. It allowed over 100 schemes of concern to be registered and appear reputable before the process changed to improved scrutiny in 2013, by which point many transfers had already taken place and the 'liberation horse' had bolted. HMRC state that people should not rely on scheme registration status, but the reality is that people do.

A second opportunity to intervene was lost in February 2011 when HMRC interviewed the architects of the scam Ark Schemes but failed to curtail their promotional activities. They were only stopped in May 2011 when the Regulator appointed Dalriada Trustees Limited ("Dalriada") to take over the running of the schemes. In the months prior to this intervention, individuals were enticed into transferring into the schemes (and losing) several more millions of pounds. It also appears that HMRC incorrectly informed ceding schemes that enquired that the receiving schemes showed no concerns.

Between 2010 and 2015, we estimate that roughly 1,000 members of perfectly legitimate, orthodox pension schemes transferred their pensions into occupational pension schemes that were, unbeknownst to them, set up to facilitate pension liberation. The backdrop was perfect for taking advantage of unsophisticated savers – economic hard times and opportunities rife to incentivise people to access, until then, untouchable pensions. This was coupled with a lax registration process, mentioned above, making it all too easy to set up occupational pension schemes that could receive multiple member transfers without any great degree of regulatory or HMRC oversight, a point we address further below.

With hindsight and based on extensive discussions with members of those schemes over the years since, it is clear that the majority did not appreciate the risks, particularly the likelihood that HMRC would levy tax charges against them as individuals as well as against the rump of pension money left in the scam scheme.

Indeed, members were often expressly reassured that the approach being taken was above board and would not expose them to any tax risks.

Key Point:

Pension liberation has been around for many years but exploded between 2010 and 2015 when members of legitimate schemes were enticed to transfer to schemes prepared to liberate often around 50% of members' pensions.

How did the liberation occur?

Various methods were used by those who set up the liberation schemes.

Transparent models

Some of the early models between 2010 and 2012 were relatively transparent about how cash would be generated for members. One such example is the Ark Schemes, which are considered in more detail below. The Pennines and Mendip schemes were other relatively early examples.[4]

Those setting up the schemes presented a model that purported to have identified a legitimate, tax-efficient means of enabling monies to be released from members' pensions, not directly, but by using a convoluted structure and the suggestion of a loan that would be repaid out of future growth in the funds.

In the case of the Ark Schemes, the arrangement was called the Pensions Reciprocation Plan whereby two schemes were set up alongside one another, and a member (Member A) of the first scheme (Scheme Y) would take a loan from a member (Member B) of a second scheme (Scheme Z). Member B, in turn, would receive an equivalent loan from Member A in Scheme Y. (This is a simplified version of how it was supposed to work in principle, but the reality was more complex and imperfect, as explained below).

In the case of the Pennines and Mendip schemes, the promoters responsible for setting up the schemes designed an arrangement whereby all of the transferred pension monies were invested in a company that, in turn, passed the majority of funds to a separate company that made a series of illiquid investments including a substantial loan to a third company. The third company was separate from a corporate perspective, although its director was also one of the trustees of the pension schemes. That company proceeded to make personal loans to individuals who just so happened to be members of the two schemes.

[4] In fact, as we have been finalising this report, we have learned that HMRC have dropped pursuit of tax charges in relation to the majority of members of the Pennines and Mendip schemes due to a 'technical issue' affecting 'enforceability of certain tax liabilities'. It appears that HMRC will continue to pursue recovery of scheme sanction charges. We await clarification as to precise implications for the schemes and the members.

Neither of these models escaped the attention of HMRC or the Regulator. They were identified as means of liberating members' pensions, carrying the risks of high fees and high risk or fraudulent investments, alongside the tax pitfalls.

In both cases, the Regulator used its powers to appoint a professional trustee to step in and take control of the schemes, investigating what had happened and, as far as possible, recovering assets for the schemes. Unfortunately, this intervention came only after hundreds of members had already transferred their pension savings into the scam schemes.

Concealed liberation models

Subsequent to the setting up of these more transparent models, scammers latched on to the need to be more discreet about their intentions. By now they were alert to the risk of intervention by HMRC and the Regulator, and yet the scope to take advantage of unsuspecting scheme members desperate for cash very much remained.

In 2013, it became apparent that an increasing number of pension schemes were being set up where the attempts at liberation were concealed.

On the face of it, members were transferring their pensions to newly set up schemes and having their funds invested in unusual and high risk, illiquid opportunities, normally involving movement of monies overseas. The reality often appears to have been that the purported investment for the scheme was a smokescreen for further liberation activity. The money might have travelled through a few different bank accounts before eventually making payments back to members, thereby achieving the pension liberation by the backdoor.

The difference with these types of schemes is that the evidence of liberation activity is anecdotal because, by its very nature, it was concealed by the scammers, which is different from what happened with the Ark and Pennines/Mendip schemes.

That difference is critical as we will come on to explain further below.

The concealment of liberation activity makes it difficult to estimate how many pension schemes were affected. Our best indication comes from schemes to which the Regulator has appointed professional trustees over the years and also the number of those that have applied to the FCF (see further information below). In addition, we are aware that a significant number of schemes leading to Regulator appointments of trustees (and for which compensation claims have been made) did not, in all likelihood, involve pension liberation at all. Instead, some schemes have simply involved very poor or fraudulent investments and therefore required intervention for other reasons. Despite incomplete records and attempts at concealment, appointed professional trustees have generally

been able to establish whether liberation occurred. This report focuses on schemes involving liberation and the resulting tax charges faced by members. Those schemes that have not involved liberation should not logically have given rise to any tax charges – and we are not concerned with those here.

The Regulator and HMRC will have a better idea of the number of affected schemes, but we estimate there were around 30 set up between 2010 and 2015 that allowed liberation of pensions in some form. Given there were six Ark schemes to go with the Pennines and Mendip schemes exhibiting the more transparent model, we would suggest the majority of schemes where liberation has occurred have involved concealment by the scammers to some degree.

Key Point:

Different models have been used to liberate pensions, some transparently allowing payments but based on a purported gap in tax legislation, but the majority with the liberation carefully concealed by the scammers in the hope of avoiding detection by HMRC. Whichever method was adopted, the beneficiary of the scheme has been the scammer, while the member victims have lost significant amounts of their pension savings.

THE ARK SCHEMES: A CASE STUDY

Appendix A features a case study concerning the Ark Pension Schemes. This is necessarily detailed and merits close consideration. We have summarised the main points below:

Background/the tax outcome

- Six occupational pension schemes were set up and registered with HMRC between 2010 and 2011
- 490 individuals transferred their pensions (from good, legitimate schemes)
- 351 received payments, described as 'loans' and totalling nearly £10m
- Payments were not made from the individual member's scheme but from one of the other six, a model devised purportedly to not attract tax charges
- The 'loans' were ultimately due to be repaid through significant anticipated returns on investments made with the remainder of members' pensions
- HMRC investigated the Ark Schemes, and the Regulator appointed Dalriada as trustee on 31 May 2011
- Dalriada established through Court proceedings that the 'loans' were invalid and took steps to recover monies from the illiquid and inappropriate investments made by the original trustees
- HMRC raised unauthorised member payment charges against the members as well as scheme sanction charges against the schemes
- The Tax Tribunal in its judgment from March 2023 relied heavily on a spreadsheet operated by the architect of the Ark Schemes
- The architect of the schemes maintained the spreadsheet was not perfect and was not a good way of determining how members had been matched with other members, which was a critical element of HMRC's basis for raising tax charges
- However, the Tribunal found him to be 'evasive' and 'hostile' in the proceedings and accorded almost no weight to his evidence
- Members were left facing tax charges of 55% of the sums they were notionally said to have loaned to other members, with an additional tax charge for all members who received a payment
- The schemes were faced with scheme sanction charges of up to 40% of the sums loaned

Flaws with data/recovery of compensation

- The data relied upon by the Tribunal (and HMRC) was flawed. Appendix A draws out the perverse consequences resulting from that including members being taxed who did not even receive payments
- There has been a long, drawn-out process since the Tribunal decision with HMRC struggling to determine (using this flawed data) the correct amount to tax members
- The schemes have at least ultimately taken the benefit of compensation from the FCF (on which see further below)
- In 2023, the FCF recognised the Ark schemes as involving offences of dishonesty at the outset when members were lured into transferring their pensions
- The compensation is scheme-focused rather than member-focused so has extended to covering the scheme sanction charges but not the individual unauthorised payment tax charges

This case study underscores the injustice we are looking at:

- Recognition by one statutory body (the FCF) that members have been scammed – and that there is actual evidence of offences of dishonesty behind this
- Yet pursuit by another body (HMRC) for tax charges arising from exactly the same set of facts

OTHER PENSION LIBERATION SCHEMES – PURSUIT OF TAX

The tax position for the Ark Schemes has stood out, given it formed the subject of proceedings and resulted in a substantial judgment. The position for other pension liberation schemes is less clear.

We are aware of other pension liberation schemes where HMRC has levied scheme sanction charges, in some cases against former scheme administrators. The position for individual members is less clear. Our understanding is that HMRC has pursued member tax charges in a small number of other schemes. However, professional trustees have also identified schemes involving apparent liberation activity where they are not aware of action against either the scheme or its members, despite the history and circumstances of these schemes having been brought to HMRC's attention.

We have been unable to establish the number of affected schemes and members. In February 2026, the Pension Scams Industry Group ("PSIG") submitted a Freedom of Information request seeking details of assessments relating to pension liberation for the tax years 2009–10 to 2014–15, together with the number of affected schemes and the amount of tax paid. HMRC declined the request in March because providing the information would exceed the statutory cost limit. The request and response are included at Appendix B.

Without comprehensive data, we cannot prove how consistently tax charges have been applied. However, the experience of professional trustees strongly suggests to us that members of some schemes involving concealed liberation may not have faced charges from HMRC. We highlight this as it reinforces the sense of inconsistency – and injustice – in the way pension liberation scam victims have been treated.

We acknowledge that there are many instances in life when easier 'targets' will be pursued notwithstanding the fact that others might avoid the same fate where evidence is less certain. It will not normally be appropriate to let someone 'off the hook' purely because others involved in the same activity cannot be pursued. However, this is not a normal situation, and there are several other reasons why pursuit of scam victims for tax does not make sense. The fact that doing so selectively and based, frankly, on
picking off those scheme members whose liberation was never anything less than fully transparent (even if falling foul of tax legislation), rendering them easy to identify (along with the sums involved), leads to this inequitable outcome.

> **Key Point:**
>
> *HMRC has not made the data available to show the extent to which members of other liberation schemes have been pursued for tax. However, we do not believe that there has been consistency in treatment and members of schemes where liberation activity was concealed by the scammers will not have received tax charges. This adds to the sense of injustice for scam victims.*

THE FCF: A RAY OF HOPE FOR LIBERATION SCHEMES – BUT WITH A STING IN THE TAIL

As mentioned above, the FCF accepted the Ark Schemes were eligible for compensation – and they have accepted many other schemes are similarly eligible for compensation, including those where there is suspicion of liberation activity but a lack of concrete evidence.

The FCF plays a key role in the context of the problem we are trying to address, and it is important to say more about it, as well as the caveats that come with the compensation it can offer.

The FCF was established under the Pensions Act 2004 and is administered by the Board of the Pension Protection Fund. It is funded by a levy on all eligible occupational pension schemes. Subject to statutory eligibility requirements, it compensates schemes where the scheme employer is insolvent and there are reasonable grounds for believing that scheme assets have been reduced by an offence (or offences) involving dishonesty. Discussions between Dalriada and the FCF about compensation for schemes under Dalriada's trusteeship, including the Ark Schemes, led to High Court proceedings in 2020. The Court confirmed that occupational pension schemes used to facilitate scams could, in principle, qualify for FCF compensation. This included schemes into which members had been persuaded to transfer through offers of cash payments or investment opportunities.[5] Each application remained subject to its own facts and the statutory eligibility requirements, but the judgment opened a route to compensation for affected schemes.

The FCF has either paid compensation or confirmed it will be due in relation to about 125 different occupational pension schemes, with a handful rejected (albeit not necessarily because evidence of dishonesty has not been established).

The FCF's compensation decisions show that a statutory body recognises that losses suffered by eligible schemes arose from offences involving dishonesty. These schemes include both pension liberation arrangements and other forms of pension scam. The decisions reinforce a central point of this report: members were deceived into transferring their pension savings into these arrangements that caused them financial loss through dishonesty.

[5] *The Board of the Pension Protection Fund -v- Dalriada Trustees Limited [2020] EWHC 2960 (Ch)*

The situation could not be clearer – these were frauds perpetrated against unsuspecting pension scheme members.

The FCF is processing substantial compensation payments to the affected schemes, enabling members' substantially restored pension savings to be transferred to an authorised master trust, where they can be invested for the future. Compensation broadly restores the original sums transferred, subject to applicable deductions, but does not cover the investment growth members may otherwise have achieved over many years. Bearing in mind that after 15 years many of the victims are now over retirement age, the opportunity for future investment growth is somewhat limited. Compensation can extend to monies paid to third parties and in respect of misconceived investments (to the extent recovery is not made by other means). It can also extend to covering the scheme sanction charges levied against the schemes. This reflects the FCF's recognition that those losses (i.e. the tax charges caused by members receiving liberated payments) arose from an offence of dishonesty.

Costs incurred by the incoming professional trustee are also potentially recoverable if brought about by the nature of the schemes and dishonesty that caused members to transfer their pensions.

Excluded from compensation would be any 'business as usual' costs (including winding up costs) incurred by the trustee in running the schemes (and to the extent such costs would have been incurred in any event in operating more orthodox schemes). The 'business as usual' costs have generally proved to be relatively small, albeit the time taken to resolve the myriad issues arising from liberation schemes including the processing of FCF applications means there is delay and, year on year, additional costs simply in continuing to run these schemes on before they can be wound up.

Also excluded are any lost investment returns. With schemes like the Ark Schemes, where the timeframe for resolving matters has been at its most extreme, the loss of many years of potential investment growth has a significant impact on scheme members.

As a condition of granting compensation by the FCF, any "loans" or payments originally deemed to have been received by members through the pension liberation arrangements are deducted when allocating FCF compensation to their pension benefits. This avoids double recovery and helps ensure fair treatment between members who are believed to have received liberation payments and those who did not.

However, members remain liable for individual tax charges arising from the liberation arrangements, including the 'loans' used by the Ark Schemes, even though they have effectively been "repaid". These tax liabilities fall outside the FCF's compensation framework because they are owed by individual members rather than losses suffered by

the schemes. FCF compensation therefore does not resolve this remaining tax burden on members. There is no scope within the legislation governing the FCF, or through use of any discretion, to correct that injustice.

Whilst we cannot argue with the fact that individual tax charges are not covered by the compensation, the fact the FCF has paid the equivalent charges falling on the schemes directly – precisely because it has determined they arose as a result of an offence of dishonesty – serves to highlight the injustice facing the members who are suffering individual tax charges.

Ultimately, we are looking at the same victims here and yet one statutory body (the FCF) has the power to award compensation and cancel out the effects of dishonest acts – including the imposition of tax charges on the victims' pension funds – whereas another (HMRC) purportedly has its hands tied, pursuing the same victims for separate tax charges arising from exactly the same set of facts.

In one case known to us involving a regulated adviser, the Financial Ombudsman Service upheld a member's complaint about unsuitable advice to transfer into an Ark scheme. It required the adviser to cover the resulting tax liabilities, including applicable charges and interest, when payable.[6] However, most introducers involved in these arrangements were unregulated, leaving many members with limited practical scope to recover these costs from those who persuaded them to transfer.

This is inconsistent and unjust.

> **Key Point:**
>
> *FCF compensation has gone a long way to help pension scam victims, but it also shines a beacon on the injustice that remains. The fact compensation is payable shows evidence of offences of dishonesty causing loss for pension liberation schemes. Yet while the compensation covers the tax charges levied against the schemes, it cannot extend to the tax charges raised against individual members.*

6 Wealthmasters Financial Management Limited - Mr J DRN8210137 https://www.financial-ombudsman.org.uk/decision/DRN8210137.pdf

CHANGES MADE TO PREVENT PENSION LIBERATION

The deterrent value of collecting tax from victims of these historic scams should be reconsidered in light of the protections now in place. Legislative and regulatory changes have substantially reduced the opportunities to establish and use occupational pension schemes for large-scale pension liberation. We argue that there is no deterrent value for HMRC in continuing to pursue such unjust individual tax charges.

Pension scams remain a serious risk, and liberation activity has not ceased entirely. However, the safeguards introduced in the years since these schemes operated are an important part of the case for a targeted resolution for their victims.

The timeline of the key safeguards introduced were:

- **February 2013:** the launch of the Regulator's Scorpion Campaign – the first concerted effort made to warn pension scheme members considering transfers (as well as the prospective ceding scheme trustees/administrators) about the more modern form of pension liberation activity
- **October 2013:** changes announced by HMRC to strengthen processes (which had themselves been weakened in 2006, as explained above) to deter pension liberation, introducing more of a risk assessment by HMRC before deciding whether to register a pension scheme
- **March 2014:** changes introduced through the Budget including extending HMRC's powers to look into new registrations of schemes as well as to de-register existing schemes where fraudulent activity was suspected
- **September 2014:** introduction of a 'fit and proper' status test for scheme administrators, with scope for HMRC to de-register an existing pension scheme, or refuse to register a new one where the test is not met
- **March 2015:** publication of the first Code of Good Practice from PSIG, adding to the Regulator's campaign with more granular guidance given to raise additional awareness of likely scams for those handling transfer requests
- **April 2018:** requirement brought in that all new registered occupational pension schemes should be done through an active, rather than dormant, company – addressing the long-held concern that these scam schemes were set up by 'sponsors' employing no one and serving no purpose other than to 'tick a box'
- **January 2019:** cold-calling ban introduced to make it difficult for fraudsters to contact individuals about their pensions – addressing (belatedly) a hallmark of pension liberation schemes where members were traditionally approached by non-regulated 'introducers' making offers that were too good to be true

- **November 2021:** the icing on the cake with the introduction of the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021, SI 2021/1237 (the "Transfer Regulations") – these have made it much easier for any trustee asked to make a transfer to a scheme that raises any scam suspicion to object, either referring the member making the transfer request for a guidance session with MoneyHelper or simply, in appropriate circumstances, having the ability to decline the transfer. The flags created by the regulations largely mirror those set out by PSIG in their 2025 Code of Good Practice in Combating Pension Scams.

These changes collectively have made it almost impossible for scammers to get the sort of pension liberation schemes of the early 2010s up and running. The registration requirements introduced by HMRC have increased the scrutiny around schemes being set up; the need for an active company was an important development, raising the bar for scammers; the increased due diligence encouraged and expected of transferring trustees through the Regulator's campaign and the PSIG Code of Good Practice 'flushed out' and prevented more suspected scam transfers; and, ultimately, the Transfer Regulations have made it relatively easy for any transfer giving rise to a sniff of suspicion to be slowed down or stopped. Without the free movement of multiple pension transfers into large occupational pension schemes, scammers have simply been unable to gather the momentum and numbers needed to make their enterprises work in the same way.

To a lesser degree, but of some assistance too, the last decade has seen the Regulator take action to pursue recovery (using its own powers) from scammers as well as to prohibit certain individuals from acting as trustees.

The landscape has changed fundamentally, and, whilst we would never be complacent, and whilst we encourage continued due diligence with any transfer request, it is unlikely pension liberation schemes like those of the 2010s will be seen again.

This also proves that the sort of schemes giving rise to the risk of unauthorised payments are finite in number – a key plank of our contention that removing the resulting tax charges for members of those schemes would not result in any sort of resurgence or encouragement to scammers to revisit that model: legislation and regulation has moved on, and those types of schemes simply could not take off to any significant extent irrespective of any conceivable suggestion that members of such schemes might 'escape' the tax consequences.

> **Key Point:**
>
> *Stronger legislative, regulatory and industry safeguards have reduced the risk of large- scale pension liberation. We are unlikely to see a repeat on any significant scale, so there is no danger of setting a precedent if the tax charges are removed.*

WHO SHOULD PAY FOR THE PREVIOUS WEAKNESSES IN THE SYSTEM? NOT THE VICTIMS

It is important to pause here for a moment and note that the changes above have not been easy to achieve. They have followed extensive lobbying, including by PSIG and wider industry, but they have taken a long time to come to fruition.

It was, for example, clear in 2016 when the High Court[7] ruled that a member's statutory right to a transfer did not require the member to have an earnings link with the employer for a receiving occupational pension scheme that there was going to need to be further legislative change to stem the flow of pension scam transfers. This is because the ease with which the statutory right to a transfer was being established – even when transferring to a scheme to which the member had no employment connection – was continuing to aid scammers in achieving the transfers they needed to carry out their fraud.

It took *five years* though to achieve a change to address that concern.

Putting to one side the positives for pension scheme members in eventually seeing all of these changes made, the fact these were required at all shows there were gaps that could be exposed, particularly in the processes for establishing and registering occupational pension schemes.

As described above, these were not merely abstract weaknesses in the regulatory framework. The registration system made it possible for apparently legitimate pension schemes to be established with insufficient scrutiny, and, in the case of the Ark Schemes, an opportunity for earlier intervention was missed. Government was not responsible for the fraud, but nor was the State simply a bystander. That history matters when deciding whether its victims should now continue to bear the tax consequences.

The changes in HMRC scheme registration processes introduced in 2013 were, let us not forget, correcting their previous relaxation of processes brought in in 2006. Again, we see a significant passage of time – *seven years* – to identify the flawed thinking and revert to tighter registration requirements.

Whilst it would be difficult for any sort of legal case to be mounted against government bodies like HMRC for, arguably, taking their eye off the ball and allowing relaxed procedures to be exploited by scammers at the expense of unwitting pension scheme

[7] *Donna-Marie Hughes -v- The Royal London Mutual Insurance Society Limited [2016] EWHC 319 (Ch)*

members, we do feel some weight should be attached to this when considering whether it is reasonable to impose tax charges on the victims.

The very fact rules and processes have been tightened up in the years since schemes like the Ark Schemes were set up shows more could have been done to anticipate and prevent the proliferation of pension scams that we saw in the early 2010s. As highlighted above, it is not even as if pension liberation as a concept can have come as a surprise, given both HMRC and the Regulator were putting out warnings about it some years before the Ark Schemes were even conceived.

There has been a failing of the state here – not of one government or party, incidentally, but successive governments not appreciating fully the scale of changes needed to wrestle properly with the scourge of pension scams.

Victims have paid a heavy price for that – and a failure to remove the burden of tax charges adds considerably to that price.

> **Key Point:**
>
> *Scam victims are currently paying the price for the lax procedures that allowed for the registering and operating of scam arrangements – and for the delays in appreciating and implementing the necessary changes to put a stop to pension liberation.*

REASONS WHY PENSION SCAM VICTIMS SHOULD NOT FACE TAX CHARGES

There are multiple reasons why we strongly believe that pension scam victims, and the members of the Ark Schemes in particular, should not be required to meet the tax charges currently raised against them. These have largely been mentioned at various points in this paper but can be summarised as follows:

- Members of the affected schemes are fraud victims, and they have endured losses attributable to offences of dishonesty (as found by the FCF, a statutory body) – taxing victims of scams makes no sense and is unfair.
- In one case known to us involving a regulated adviser, the Financial Ombudsman Service upheld a member's complaint about unsuitable advice to transfer into an Ark scheme. It required the adviser to cover the resulting tax liabilities, including applicable charges and interest, when payable.[8] However, most introducers involved in these arrangements were unregulated, leaving many members with limited practical scope to recover these costs from those who persuaded them to transfer.
- Removing the tax charges would not restore members to the position they would have been in without the scam. Compensation generally restores no more than the original sums transferred, subject to deductions, and does not cover lost investment growth. Liberation payments already received by members are also deducted when allocating compensation, avoiding double recovery.
- Based on our experience of the affected schemes and available FCF claims information, we estimate HMRC may be pursuing members of as few as 20 schemes for unauthorised payment charges, including the six Ark Schemes. Although we have been unable to obtain a definitive answer from HMRC, this suggests a limited group for which a targeted remedy could be developed.
- The financial case for continuing to pursue individual members should be assessed alongside the human impact, as well as the costs of litigation, administration and collection.
- Given the limited number of affected schemes, there is probably limited financial benefit to HMRC/Treasury. We are not proposing that the scheme sanction charges are withdrawn as those are borne by the scheme assets and should (if the case for dishonesty is made out) be recovered in the form of compensation. However, if we are right about the number of affected schemes, the individual member tax charges are unlikely to amount to much more than £10m. The Ark Schemes alone account for about £4m of that, but other schemes are likely to have had fewer members and/or smaller payments made. In any event, even if more than £10m is claimed in tax, it is questionable how much will be recovered given many members will simply not have the means to pay and will be forced into bankruptcy. This is especially pertinent because most of the victims are now over pension age.

[8] Wealthmasters Financial Management Limited - Mr J DRN8210137 https://www.financial-ombudsman.org.uk/decision/DRN8210137.pdf

- When you factor in the costs of pursuing the legal proceedings that have established the members' liability, as well as the time cost for HMRC in dealing with this, not to mention the huge amounts of time spent since the First-Tier Tribunal judgment was obtained in grappling with calculations and logistics of collection, we question how much financial upside (if any) there will ultimately have been for the Treasury. HMRC/Treasury must have a sense of this themselves although HMRC have refused to answer a request made under the Freedom of Information Act regarding the costs incurred specifically in relation to the Ark Schemes because they claim the request relates to an "identifiable" person.[9]
- We would welcome an assessment by HMRC and HM Treasury of the likely tax recoveries and remaining costs of pursuing these liabilities. This would help clarify the financial implications for the Exchequer and inform consideration of a targeted resolution for affected members. As things stand, we do not believe that the net return for the public in pursuing scam victims for this tax is likely to be positive.
- The available evidence suggests that there is inconsistency between members of different affected schemes – taxing the members of the Ark Schemes is harsh when members of other schemes, where the making of payments was concealed by the scammers, have not been taxed. This is a complex situation, and it is far from clear that those members should be any more liable for tax charges than members of the Ark Schemes. However, it cannot be right that those members who, undeniably, did not understand that what they were doing might fall foul of tax rules, are punished simply because the receipt of payments has been handled in a more upfront, transparent way.
- Within the Ark Schemes, members' tax charges are based on loans they were treated as having made, rather than simply on the amounts they actually received. HMRC's unwillingness to tax the members in what most of us would view as a more common-sense (and, if it really has to happen, fairer) way (i.e. by taxing purely on the basis of the loan actually received by a member rather than on that notionally made) leads to plain inequality amongst the members. There is no risk of precedent in withdrawing the tax charges against the victims: we are not proposing that the legislation governing the meaning of an "unauthorised payment" is amended at all or that any wider changes are made that would impact taxation of pension scheme payments; we are simply advocating a specific carve-out or exemption for the members of an identifiable set of schemes and circumstances.
- Moreover, schemes like the ones covered by this report cannot realistically flourish again with all of the legislative changes made.

[9] Appendix C includes the request and response.

To reiterate, the fact these unauthorised payments were made and tax charges generated stems from systemic weaknesses in the checks made back in the early 2010s when new schemes were established and registered, those weaknesses arguably arising from 'A' Day and 'pensions simplification'. There has also been a failure over many years of successive governments in not grasping the threat of pension scams properly and not making the sort of changes needed to ensure members were fully protected against the risk of being defrauded.

We might be getting there now, but it has taken too long, and it is not right that individuals scammed in part because of loopholes in the law being exploited end up suffering.

Failures in the system contributed to the harm suffered by victims – failure to curtail marketing of suspicious schemes when the opportunity arose and failure to prevent the registration of scam schemes by HMRC over several years.

These are strong financially-driven and justice-focused reasons to take a stand now and help the victims of pension scams who have been hit with tax charges.

In addition though, account should be taken of the huge physical and mental harm caused to many of these scam victims over the years as a result of the stress they have suffered, initially fearing they have lost their pensions completely and then being landed with huge tax bills. Some victims have been forced into bankruptcy by the tax demands. Some have reported being unable to have family holidays for many years due to uncertainty of tax demands. There have been huge costs to the NHS of medical interventions. In 2025, PSIG carried out a small-scale study of members of the Ark victims group prepared to provide background information on medical records, it appears that fraud victims may present with depression and anxiety at a higher rate than the population generally. A comprehensive report by the Centre for Mental Health in 2024[10] shows that the cost of mental health interventions are typically around £30,000 per patient per year, so we believe the cost to the public purse over the years of the Ark Schemes alone could be substantial.

PSIG sent a briefing letter[11] to the Department of Health and Social Care in November 2025, but it garnered no interest. Whilst the position for the majority of those members is improved as a result of the FCF compensation, lasting damage has been done.

> *There are a host of good reasons why pension scam victims should not face tax charges including the limited financial impact for Treasury, lack of precedent risk and a need to address the current inconsistency and injustice.*

[10] https://www.centreformentalhealth.org.uk/wp-content/uploads/2024/03/CentreforMH_TheEconomicSocialCostsofMentalIllHealth-1.pdf

[11] The letter and the department's response is included at Appendix D

WHAT SOLUTION IS SOUGHT – AND HOW CAN IT BE ACHIEVED?

The authors would like to see relief from individual tax charges provided to victims of pension liberation caused by dishonest behaviour by scheme managers and promoters, where that contributing dishonesty has been recognised by the FCF.

> *A targeted legislative change could provide relief for members of a defined group of historic pension liberation schemes, with appropriate exclusions for those who knowingly promoted or facilitated the arrangements. The authors would also support another legally effective route to a fair resolution.*

Possible routes to a resolution

In essence, we believe it would be best, and simplest, to remove/withdraw any unauthorised member payment charge falling on a pension scam victim who was a member of one of what could be an identified, named list of pension schemes (including certainly the Ark Schemes). Any tax paid to date by affected members should also be reimbursed to ensure complete fairness between individuals.

We would anticipate those schemes to be only those set up between about 2009 and 2014 and only those where liberation payments have been identified as having been made – and where HMRC has taken, or intends to take, action to recover tax from individuals.
As stated above, we are anticipating the total number of relevant schemes might be as few as 20, with affected members numbering around 1,000.

More specifically, we contend that a proposal advanced by PSIG in a paper prepared in 2019 remains viable (at least in part) and a good starting-point for looking at how a change could be achieved within legislation.

Amendment to the Finance Act 2004

One option under s.164 (Authorised member payments) might be to:

(i) create additional regulations pursuant to s.164(1)(f) (giving rise to "*payments of a description prescribed by regulations made by the Board of Inland Revenue*" that constitute authorised payments). Such regulations could carve out an exception in relation to certain pension schemes. The difficulty with using this provision could be its prospective nature: referring to the only payments a registered pension scheme *"is"* authorised to make – the payments we are concerned with are all in the past.

Alternatively, a second option would be to:

(ii) amend s.164(3) to add reference to the Commissioners may by regulations make provision *"(d) having the effect that the making by certain prescribed pension schemes of prescribed payments prior to [1 January 2014] are to be treated as authorised member payments [in the circumstances set out in such regulations]."*

Otherwise, something to the same effect could conceivably be added as a fresh sub- clause of s.164 (or of a subsequent clause) referring to regulations.

If the preference was to ensure the scheme sanction charges remained due where they have been raised and paid (generally via the FCF compensation payments), the wording above would need to be adapted, given treating the liberation payments as authorised member payments would negate HMRC's right to pursue scheme sanction charges. In that case, the wording could state: *"...are to be treated as not giving rise to unauthorised member payment charges..."*, thereby limiting the impact to removal of individual tax charges.

Identifying affected schemes

If scope for production of regulations is added, regulations could then be produced that list very specifically the schemes recognised by HMRC as being registered and as having given rise to unauthorised member payment charges on the basis of suspected pension scams. This would include the Ark Schemes but should also encompass other schemes where tax charges have been pursued – which will be fairer and ensure greater consistency.

Alternatively, we have a new idea that was not advanced in the 2019 paper, unsurprisingly because it pre-dated any FCF compensation being paid. One potentially obvious angle to take now, and one that would remove much room for debate around the status of affected schemes, would be to link the remedy to schemes that have been deemed eligible for compensation by the FCF. This has the additional attraction of ensuring perfect alignment between recognising where there has been evidence of dishonesty offences and ensuring the members of such schemes who have benefitted from that compensation are not penalised with tax charges – really getting to the nub of the injustice.

The FCF maintains a list of schemes that have made compensation applications, together with the status/progress of such applications, so using the FCF as a reference point would make a lot of sense and help keep the scope of the 'fix' easily identifiable.

Defining the relevant period

The 2019 PSIG proposal additionally proposed limiting the carve-out/exemption to payments made prior to a particular date. This remains a possibility although might be unnecessary if reference is made instead to (and potentially exclusively to) whether a scheme has received FCF compensation.

Good faith/lack of knowledge

Regulations could specify that members of the schemes listed by the FCF as eligible for compensation would be accepted as not having received or made the unauthorised member payment provided:

(a) (if considered necessary) the payment was made before a specific date (to be considered further but possibly around early 2015); unless

(b) the FCF determined that the member should not benefit from compensation as the member was found to have promoted, facilitated or otherwise played an active role in the arrangement giving rise to the unauthorised member payment.

This provides for HMRC to maintain a harder line with any members who were involved in setting up the relevant schemes, joined such schemes and liberated their own pensions. With our experience of these types of schemes, we are aware of at least a few examples where that might be the case, and the FCF has similarly adopted a harder line when it comes to compensating those individuals reflected in the wording.

We also recognise that, in some circumstances, members have possibly had greater awareness as a result of being warned by the alleged scammers and encouraged to keep quiet. Even then, there might be a case for allowing leeway as members will rarely have appreciated quite what they were doing – and that is the thrust of why we are raising this issue at all: there is a big difference in our view between questioning whether some of the affected members might, with hindsight, have been more cautious, on the one hand, and, on the other, seeing these individuals as actively trying to avoid tax. The latter is not, based on our experience, the case for the vast majority of members.

The purpose of the above is to create scope for the remedy to be denied to members where it is considered ethically inappropriate. It is not intended to put extra burden on HMRC or any other body to make difficult assessments of mental states of individuals years after the event. It provides a potential option though to mount an objection in certain extreme circumstances should there be a desire to have that ability.

Treatment of payments received

Our suggested approach to the legislation, and implementation of an exemption, if we call it that, has been made more straightforward and attractive in our view since PSIG proposed it in 2019 because of the way the FCF has addressed the payments received by members.

There has, undoubtedly, been an 'elephant in the room' until recently of trying to reconcile the idea of allowing members to avoid the taxation on the payments they received yet leaving them in receipt of the payments.

Dalriada had the invidious task at one stage of having to consider seeking repayment of the MPVA loans from the members of the Ark Schemes. Instead though, the FCF's decision to 'net off' from compensation paid payments received by specific individuals addresses any perceived benefit victims of pension liberation schemes might receive if they are spared the tax charges.

Given the approach taken by the FCF, and on the assumption affected schemes will generally mount successful applications for compensation, as stated above, no member stands to benefit, given the payment received is effectively accounted for and deducted from compensation.

Overall, the FCF's position has tidied up a potential anomaly with the proposed exemption approach. The best any scam victim can do now is to have that part of his/her pension that was not liberated substantially reinstated – but minus a certain amount of costs and without any sort of investment return added. In no way can that outcome be viewed as unduly benefitting scam victims or incentivising any fraudsters out there to think liberation will now work.

Impact on "unauthorised payments" regime

Finally, just to reiterate, our proposed approach would have no impact whatsoever on the meaning of an unauthorised payment or the findings of law made in the First-Tier Tribunal decision relating to the Ark Schemes. The proposed legislative changes would be a straightforward carve-out for members of specific schemes and leave intact any findings that HMRC consider beneficial in the handling of tax penalties they wish to raise in relation to any future unauthorised payments made in respect of pension schemes.

CONCLUDING COMMENTS

Those who have contributed to this report have seen first-hand the lasting financial and personal consequences of pension liberation scams on the victims. FCF compensation has helped restore lost pension savings, although has not made up for lost investment growth over 15 years. Unfair, inequitable and substantial individual tax liabilities remain hanging over victims of fraud, while the perpetrators and beneficiaries of the fraud remain untouched.

The ability now to end the suffering of fraud victims in one small way by recognising the futility and inequity of pursuing those victims for tax charges is not one to dismiss lightly.

The authors therefore call on HM Treasury, HMRC and the relevant bodies to work together towards a fair and final resolution for this defined group of identifiable victims. A targeted remedy could ease a continuing burden on members while preserving the wider pension tax framework.

DETAILS OF CONTRIBUTORS

Margaret Snowdon OBE, Chair of PSIG

Margaret set up PSIG in 2014 to combat the scourge of pension scams and has been at the forefront of fraud prevention, representing the industry on the multi-agency Pension Scams Action Group. She also serves on the Victims of Fraud Working Group with the Home Office.

She is also a non-executive director with a number of organisations, both commercial and not-for-profit, a Governor of the Pensions Policy Institute (PPI) and a volunteer with The Pensions Ombudsman.

Ben Fairhead, Founding member of PSIG and Partner Arc Pensions Law

Ben Fairhead is a pensions litigation partner at Arc Pensions Law. Ben has been a member of PSIG since it was founded. He has many years of experience handling pension scam matters, including advising professional trustees appointed by The Pensions Regulator to scam schemes since 2011, acting in proceedings to recover assets, and supporting claims for compensation from the FCF.

He has also advised trustees and providers on complex transfer requests and complaints arising from suspected pension scam transfers.

Helen Dean CBE, Chair of Standard Life Mastertrust

Helen Dean CBE, is one of the architects of auto-enrolment, resulting in millions of UK workers saving into a pension for the first time. Helen started her career at the Department for Work and Pensions, where she developed the policy and legislation for the pension reforms that led to auto-enrolment and the establishment of Nest. She then moved to Nest to set up the Nest pension, becoming its CEO from 2015, with rapid growth in members (2 million to over 12 million) and assets (£600 million to over £30 billion).

Helen is a Governor of the Pensions Policy Institute (PPI) and a former member of the HMT Asset Management Taskforce. She is also a Trustee and Board member of Step Change, the largest debt charity in the UK.

Sean Browes, Dalriada Trustees

Sean is an Accredited Professional Trustee at Dalriada. Following graduation, Sean entered the pensions industry in 1988 and worked for two major benefit consultancies in both administration management and consultancy roles, before joining Dalriada in 2003.

Sean leads the team dealing with Dalriada's appointments by The Pensions Regulator (TPR) to schemes suspected of pension liberation. He now has a wealth of experience and knowledge with regard to the unique characteristics associated with the administration and management of these types of scheme and the challenges they present.

Suzanne Wilson, Dalriada Trustees

Following graduation, Suzanne entered the financial services industry in 1996, working for a leading bank before joining Dalriada Trustees in 2003.
Since 2011, Suzanne has worked alongside Sean on the schemes to which Dalriada was appointed by The Pensions Regulator, suspected of pension fraud and now going through the FCF claims process.

For further information or to support our campaign, contact:
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APPENDIX A: THE ARK SCHEMES - A CASE STUDY

1.Background

1.1 The Ark Pension Schemes were six registered occupational pension schemes[12] set up between 2010 and 2011. Each scheme had a principal sponsor but not, as has so often been the case with pension liberation schemes, employing anyone and with no connection between it and the members looking to transfer into the relevant scheme.

1.2 The Ark Schemes used the Pensions Reciprocation Plan ("PRP"). Payments were made using a 'Maximising Pension Value Arrangement' ("MPVA"). This was a contract put in place between the receiving scheme trustee and the individual member resulting in an 'MPVA loan' being paid to the member from a reciprocal scheme once the member's transfer had been received.

1.3 These were described as loans because they were expected to be discharged eventually from members' tax-free lump sums due upon reaching retirement age – but that presupposed very significant returns would be made on the investments made with that part of the members' pensions that had not been paid as MPVA loans. It has been suggested that a return of at least 8% to 9% would have been required to make the model work.

1.4 This model was devised by an individual architect although companies were installed as the trustees for each scheme, either Athena Pension Services Limited or Minerva Pension Services Limited. Administrators were appointed too, either Ark Commercial Pension Planning LLP or Ark Commercial Retirement Planning LLP, hence the schemes becoming known as the Ark Schemes. The administrator of each scheme drew an upfront fee of 5% of each transfer – a surprisingly large and inappropriate sum in the context of occupational pension schemes.

1.5 Over a period of several months HMRC investigated the Ark Schemes, leading eventually to the appointment by the Regulator of Dalriada as trustee of all six schemes on 31 May 2011. 490 individuals transferred their pensions into the schemes, with 351 by then having received MPVA loans. A total of £9,941,255.00 is believed to have been paid out by way of MPVA loans.

1.6 Dalriada, concerned about the PRP structure, went to Court to seek directions regarding the validity of the MPVA loans, the High Court determining in December 2011[13]

[12] The Lancaster Pension Scheme, the Portman Pension Scheme, the Grosvenor Parade Pension Scheme, the Cranborne Star Pension Scheme, the Tallton Place Pension Scheme, the Woodcroft House Pension Scheme

[13] *Dalriada Trustees Limited -v- Faulds and others* [2011] EWHC 3391 (Ch)

that the payments had not been made pursuant to valid exercises of the trustees' powers of investment and were therefore void.

1.7 In addition to the significant fees deducted and the invalid MPVA loans, the trustees of the Ark Schemes made highly risky and speculative investments with the remainder of the funds transferred by members, including an option to buy shares in a property- holding company in Cyprus; an investment in a British Virgin Islands property- development company; an investment in a Guernsey company that owned properties in Derby and Hackney; and an investment in a St Lucia company that was developing a luxury hotel and apartment villa complex.

1.8 Apart from the last of those, Dalriada has successfully managed to recover monies in relation to those investments, albeit at significant cost and with none of them with the sort of return required that would have enabled the PRP model to work as intended.

1.9 There was no evidence of any meaningful due diligence being undertaken by the original Ark trustees in relation to any of the investments and nor was there any evidence of written investment advice being obtained, despite a clear legislative requirement for trustees of schemes like the Ark Schemes to do so.

1.10 HMRC declined to participate in the High Court proceedings initiated by Dalriada regarding the status of the MPVA loans, but they raised unauthorised member payment charges against the members as well as scheme sanction charges against the six Ark Schemes.

1.11 Those tax charges were challenged and eventually considered – many years later – in proceedings before the First-Tier Tax Tribunal in late 2022, resulting in a judgment issued in March 2023.[14]

1.12 That judgment has resulted in the worst outcome for members and the schemes in terms of tax charges imposed.

2.The tax outcome

2.1 The tax position for the Ark Schemes was complex, occupied 9 days of Tribunal time, and has generated a judgment running to over 130 pages.

2.2 One of the key considerations in the proceedings was a spreadsheet the architect of the schemes had been operating in order to maintain at least some form of notional matching of members to balance the loans being made from one scheme to another. This became critical because HMRC could not find a means of levying tax charges on the payments actually *received* by individual members so looked instead at the payments they were notionally *making* to other members from their pensions by reference to the architect's spreadsheet.

[14] *Dalriada Trustees Limited and others -v- The Commissioners for HMRC* [2023] UKFTT 314 (TC)

2.3 The architect himself maintained that the spreadsheet was not a good way of determining how members had been matched with other members. However, the Tribunal found him to be *"evasive"* and *"hostile"* in the proceedings and accorded almost no weight to his evidence.

2.4 The Tribunal found (on the balance of probabilities) that member-to-member matching was indeed intended and therefore agreed with HMRC that members should be taxed in respect of the loans they had (according to the spreadsheet) made. This, as detailed above, results in members facing tax charges of 55% of the sums they were said to have loaned other members.

2.5 To compound matters, very many of the members were hit with a second, separate tax charge in relation to the 'benefit' received from effectively having an interest-free loan for several years. This had been sought by HMRC as an alternative to the larger tax penalty it was seeking from each member and yet the Tribunal decided members were liable for both charges.

2.6 The Tribunal also found that the schemes were liable for scheme sanction charges in respect of the MPVA loans. These amounted to 40% of the sums loaned, payable from scheme assets held by Dalriada as trustee, subject to reduction where members paid the corresponding unauthorised payments charges.

3.Data inconsistencies and their tax consequences

3.1 The spreadsheet operated by the architect of the schemes was flawed, and it did not bear much resemblance to the reality of the payments made, given the purported 'matching' was unclear in a number of cases.

3.2 As a result there are a number of perverse consequences resulting from the Tribunal's judgment:

3.2.1 There are 22 members who have been taxed yet did not receive an MPVA loan at all – they are effectively being punished for being members of the Ark Schemes despite gaining no benefit;

3.2.2 There are 23 members whose transfer value into the Ark Schemes was lower than the taxbills they have received;

3.2.3 Aside from the members who did not receive an MPVA loan, there are a further 81 members who are being taxed on loans made that were £1,000 or more greater than the loan they actually received – there was evidently a disconnect between the sums notionally loaned between members;

3.2.4 Conversely, there are 16 members who have been taxed on loans notionally made that were £1,000 (or more) less than the loans they received – again, those members are paying the price for being members of the Ark Schemes rather than being taxed on a fairer basis related to the money they actually received;

3.2.5 There are a number of other members who are not being taxed to anything like the same extent as other members purely due to technicalities with the matching in the spreadsheet – this is despite those members receiving MPVA loans.

3.3 These points just underscore the injustice caused by HMRC's approach to the taxation of members of the Ark Schemes. The spreadsheet operated by the architect had clear inconsistencies so HMRC's reliance on it has resulted in charges not landing in such a way as to penalise proportionately the individuals who have, in reality, benefitted from the liberation activity.

3.4 On top of the above, it is worth highlighting that HMRC's application of interest to the tax charges means the interest alone equates to an additional 53% to 56% of the original tax charge (depending on the tax year in which it fell due). HMRC will no doubt contend that the interest is reasonable, given members had the option to pay their tax charges much earlier, but the process of raising the initial assessments, working through the complexity of the legal arguments challenging them, and ultimately calculating precise sums due has been extremely protracted, not to mention stressful for the members concerned, many of whom did not – and still do not have – ready cash available to meet such large tax charges.

3.5 The outcome has also led to so many anomalies, given its reliance on a spreadsheet that was plainly deficient, it is hard to believe HMRC are actually seeing through the threat and pursuing recovery of the tax charges.

4.Compensation

4.1 One slight silver lining for the members of the Ark Schemes – albeit with some hefty caveats attached – is the acceptance by the FCF of the schemes' applications for compensation.

4.2 Notwithstanding the disappointment of the decision by the First-Tier Tax Tribunal, the findings made by the Tribunal about the architect of the schemes and the operation of the Ark Schemes were supportive of the application Dalriada had made to the FCF for compensation for the schemes. Compensation was eventually confirmed – and on a significant scale, with any monies paid to third parties and in respect of the misconceived investments described above (to the extent recovery had not been made already) being paid to the Ark Schemes.

4.3 The FCF recognised the Ark Schemes for what they were – involving dishonesty at the outset when members were lured into transferring their pensions under entirely false pretences.

4.4 Critically, the compensation extended too to covering the scheme sanction charges levied against the schemes. This reflects the FCF's recognition that those losses (i.e. the tax charges caused by the payment of MPVA loans) arose from an offence of dishonesty.

4.5 The compensation also had the impact of reimbursing the Ark Schemes for costs incurred by Dalriada in pursuing the actions it had taken to the extent those arose from the

original dishonesty in setting up and introducing members to the schemes. This has included the vast majority of legal costs incurred in pursuing various Court proceedings including those detailed above – all brought about because of the unorthodox nature of the Ark Schemes and the dishonesty that caused members to transfer their pensions into them.

4.6 Exclusions from recovery were limited but did include 'business as usual' costs incurred by Dalriada in running the schemes. Compensation does not extend to lost investment returns either.

4.8 Turning to the MPVA loans, the FCF applied conditions upon granting of compensation such that members would have deducted from their compensation any MPVA payment received by them. This meant that those (more limited in number) members who did not receive MPVA loans received compensation in full and were not disadvantaged compared with those who did.

5. Remaining injustice

5.1 Theoretically, the approach taken by the FCF has created more of a level playing field between members, at least as far as compensation is concerned. However, it has left the question of individual unauthorised payment tax charges.

5.2 Those certainly cannot be met from FCF compensation, given they relate to the members as individuals rather than being a loss suffered directly by the schemes themselves.

5.3 This leaves the Ark Scheme members with a position of inconsistency and injustice – both amongst themselves and also compared with members of other schemes where liberation has been concealed and no tax charges raised.

APPENDIX B

FREEDOM OF INFORMATION REQUEST ENQUIRING ABOUT TAX ASSESSMENTS, TOGETHER WITH HMRC RESPONSE

HMRC Freedom of Information Team

S1715

6 Floor

Central Mail Unit

Newcastle Upon Tyne

NE98 1ZZ

16 February 2026

Dear HMRC FOI Team,

I am writing to request information under the Freedom of Information Act 2000.

Please provide, for each tax year 2009–10 to 2014–15 inclusive, the following aggregated data concerning assessments raised on individual members under Finance Act 2004:

1. The number of assessments raised under s208 (Unauthorised payments charge)
2. The total amount of tax assessed under s208
3. The number of assessments where the s209 (Unauthorised payments surcharge) applied
4. The total amount of surcharge assessed under s209
5. The total amount of tax paid by members in relation to the assessments at 1 to 4 up to and including 31 December 2025 (or to whatever date information is held)
6. The total number of pension schemes in relation to which the above assessments at 1 to 4 have been raised

Please note that this request is not seeking information related to specific individual members, but to the membership as a whole.

This request is limited to "pension liberation" cases and does not seek any information requiring manual review of enquiry files. It seeks only centrally held, aggregate counts/amounts by charge type/legislative basis. However, if limiting the data request to "pension liberation" cases only is too granular to provide, please provide the information on a more generic basis related to s208 and s209. If exact legislative tagging is unavailable, please provide the closest centrally recorded charge-type codes that HMRC uses to represent the s208 charge and s209 surcharge on pension scheme members.

If any part would exceed the cost limit, please provide the subset that can be produced within the limit (for example, counts without amounts; or a single consolidated total for 2009 –10 to 2014–15) and advise how the request might be refined in order to reduce the expense.

If HMRC does not itself hold all this information, but it is held by another public authority (for example HM Treasury), I would be grateful if you could indicate which authority holds the relevant information.

If any exemptions are relied upon, please specify the exemption(s) and disclose any information that can be released in redacted form.

I would prefer to receive the information electronically.

Yours faithfully,

Margaret Snowdon OBE

Chair of The Pension Scams Industry Group

HM Revenue & Customs
Rights Unit

Information

S1727
Eighth Floor
Central Mail Unit
Newcastle Upon T
NE98 1ZZ

Margaret Snowdon OBE

By email: Margaret@msnowdon.co.uk

Date: 10 March 2026
Our ref: FOI2026/15290

Dear Margaret Snowdon OBE

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 16 February:

Our response
We can confirm we hold some the information you seek. However, providing it would exceed the FOIA cost limit. We have therefore refused your request under section 12(1) of the FOIA.

Section 12(1) FOIA allows a public authority to refuse to comply with a request for information if the authority estimates that the cost of compliance would exceed the 'appropriate limit', as defined by the Freedom of Information and Data Protection
(Appropriate Limit and Fees) Regulations 2004 (the Regulations). In the case of HMRC this is £600, or 24 hours charged at £25 per hour.

Regulation 4(3) of the Fees Regulations allows the following activities to be taken into account when calculating the cost of compliance:

- determining whether the information is held;
- locating the information, or a document which may contain the information; • retrieving the information, or a document containing it; and
- extracting the information from the document containing it.

HMRC does not readily hold the information requested. This information is not routinely gathered or recorded for statistical reporting purposes. Cases falling within the scope of the request are handled on a case-by-case basis, and the level of detail in our existing statistical measures means that the requested information cannot be identified without interrogating each of our finalised and ongoing cases for the period in detail.

To identify the information sought in each of your points, we would be required to manually review all cases that were open during the relevant period. To illustrate this, a representative sample of six cases were reviewed to demonstrate the application of section 12(1). This took an average of 11 minutes per case. To provide a definitive response, this exercise would need to be repeated for each relevant case, of which there are several thousand. Therefore, this cannot be achieved within the FOIA cost limit.

Advice and assistance
Normally we would explore how you might be able to refine your request so that it did not exceed the FOIA cost limit. However, in this case, we cannot see any scope for doing so. To provide data of this type for one year alone would lead to the FOIA cost limit being exceeded.

If you are not satisfied with our reply, you may request a review within 40 working days of receiving this letter by emailing informationrightsunit@hmrc.gov.uk or by writing to our address at the top of this letter.

If you are not content with the outcome of an internal review you can complain to the Information Commissioner's Office.

Yours sincerely,
HM Revenue and Customs

APPENDIX C

FREEDOM OF INFORMATION REQUEST ENQUIRING ABOUT COST OF PURSUING ARK SCHEMES TAX CHARGES, TOGETHER WITH HMRC RESPONSE

HMRC

Freedom of Information Team

S1715

6 Floor

Central Mail Unit

Newcastle Upon Tyne

NE98 1ZZ

16 February 2026

Dear HMRC FOI Team,

I am writing to request information under the Freedom of Information Act 2000.

Please provide information on expenditure incurred by HMRC in relation to the pursuit, development, defence, or oversight of tax charges affecting members of the Ark pension schemes[15] during the period 1 January 2011 to 31 December 2025.

Specifically, I request the following recorded information:

1. The total amount of public funds spent during this period on:
    - internal staff time (where recorded or costed),
    - administration cost (where not included above),
    - external legal fees,
    - consultancy fees,
    - counsel's fees, and
    - other professional or advisory services relating to tax charges, litigation, policy development, or legal proceedings concerning members of the Ark pension schemes.
2. Any annual or aggregate breakdowns of this expenditure, if held.
3. The names of any external law firms, barristers' chambers, or consultancy firms engaged by HMRC in connection with these matters, together with the total fees paid to each (where recorded).

[15] Lancaster Pension Scheme; Cranborne Star Pension Scheme; Grosvenor Parade Pension Scheme; Tallton Place Pension Scheme; Woodcroft House Pension Scheme; Portman Pension Scheme

4. The amount of tax paid as at the end of December 2025 by members of the Ark Schemes in response to unauthorised payments charges applied.

I have listed the Ark pension schemes in the footnote below. If the information is held on an individual scheme basis rather than for the Ark schemes collectively, please provide it either on a scheme specific basis or aggregated, whichever is easier.

If HMRC does not itself hold all this information, but it is held by another public authority (for example HM Treasury), I would be grateful if you could indicate which authority holds the relevant information.

If any part of this request exceeds the cost limit under section 12 of the Act, please provide any information that can be supplied within the limit and advise how the request might be refined in order to reduce the expense.

If any exemptions are relied upon, please specify the exemption(s) and disclose any information that can be released in redacted form.

I would prefer to receive the information electronically.

Yours faithfully,

Margaret Snowdon OBE

Chair of The Pension Scams Industry Group

HM Revenue & Customs Rights Unit

Information

Margaret Snowdon OBE

By email: Margaret@msnowdon.co.uk

Email: foi.request@hmrc.gov.uk
Web: www.gov.uk

Date: 10 March 2026
Our ref: FOI2026/15284

Dear Margaret Snowdon OBE
Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 16 February, for the following information:

Our response
Under section 44(2) of the FOIA we can neither confirm nor deny whether we hold the information requested. This is because you seek information about an identifiable “person”.

Section 44 of the FOIA applies when the requested information, if held, would be prohibited from disclosure by other legislation. In this instance, the relevant legislation is section 23(1) of the Commissioners for Revenue and Customs Act 2005 (CRCA).
When deciding whether we are prohibited from releasing information under section 23(1) of the CRCA, we are required to consider two questions:
• is the requested information held in connection with one of our functions? And
• does the information relate to a "person" who is identified, or who could be identified from it?

CRCA explanatory note 110 states the term "person" includes both natural and legal persons, so, for example, entities such as companies, trusts and charities.
If the answer to both questions is “yes”, then the section 44(1)(a) FOIA exemption is engaged and that removes any possibility of disclosure under this act.

Where even just confirming whether we hold the information could tell you something about an identifiable person, section 44(2) of the FOIA removes the obligation at section 1(1)(a) of the FOIA to either confirm or deny whether we hold the information.

Outside of the FOIA, you may find our Information Disclosure Guide useful as it explains the limited circumstances under which we can lawfully disclose information about our customers.

If you are not satisfied with our reply, you may request a review within 40 working days of receiving this letter by emailing informationrightsunit@hmrc.gov.uk or by writing to our address at the top.

If you are not content with the outcome of an internal review you can complain to the Information Commissioner's Office.

Yours sincerely,
HM Revenue and Customs

APPENDIX D

PSIG BRIEFING PAPER TO DEPARTMENT OF HEALTH AND SOCIAL CARE ON THE COST TO THE NHS OF PENSION FRAUD VICTIMS, TOGETHER WITH THE RESPONSE

Rt Hon. Wes Streeting

Secretary of State for Health and Social Care

7 November 2025

Dear Minister,

Pension scams, tax and the impact on mental health

I am writing to you in your capacity as Secretary of State for Health and wish to raise my concerns about the impact of taxation decisions on the mental health of certain victims of pension fraud and the associated costs on the public purse. I am fully aware that tax decisions are not your area of responsibility, but the potential link between tax treatment and mental well-being could be of great importance.

I am the volunteer Chair of the Pension Scams Industry Group, a team of pensions experts I formed in 2014 to address the growing problem of pension scams and the damage caused by them. Our work for the last 10 years has been providing guidance to pension providers on how to prevent pension savers being deceived into transferring their funds to bogus arrangements. We have been highly successful in this work, resulting in preventing at least £100million of people's lifetime savings being misappropriated by scammers. This is good for individuals and also for the economy.

However, one area where I have been less successful is in changing how early victims of such scams are treated by HMRC.

I am a pensions expert of some 45 years and of working-class origin, proud of my roots. I am therefore aware of how vulnerable ordinary unsophisticated people are to deception by professional advisers. The asymmetry of knowledge in the area of pensions is significant. For 15 years, HMRC has maintained that the victims of clever pension scams, which financial regulators and HMRC themselves were unable to identify and stop until too late, should have known better and are therefore liable to tax charges of up to 55%, plus cumulative interest, for making a mistake. HMRC is legally correct, but the law makes no distinction between tax avoiders and people who were deceived by advisers they trusted.

Ironically, police, regulators and other agencies recognise that the victims were defrauded, but HMRC continues to pursue those victims for tax, regardless of mitigating factors. The tax calculations are so complicated that HMRC has to date been unable to finalise the assessments, although they appear to be nearing the end.

Why I am bringing this to your attention and hoping for some support is that a many of the victims of this decade-long pursuit of tax charges are suffering serious mental health issues. Their deterioration over the years is plain to see and a small-scale study I recently undertook revealed that anxiety, depression, stress and hypertension are common clinical diagnoses with the same medications, treatments and sick notes being prescribed. GPs and psychologists attribute this mental health decline to the dogged pursuit of the victims by HMRC and HMRC's insistence that the only options available to victims is to pay in full if they can afford to or pay over time if they cannot. Tax avoiders are treated more favourably.

I am concerned that the imminent enforcement of tax bills will result in hospitalisations and may drive some victims to suicide. We have had a couple of near misses already.

What may be of interest to you is the cost to the NHS of this entirely avoidable mental health crisis. Based on the typical cost of the drugs and treatments for the pension scam victims between 2010 and 2014, the cost to the NHS could be around £15million a year. Given the potential tax-take will be around £20 million in total, this represents poor value for the public purse as well as shockingly poor treatment of citizens approaching their later years. This is an extraordinarily complex matter and I am sorry to distract you from your important work, but perhaps you could influence HMRC's unrelenting pursuit of ordinary people for the sake of fairness and the negative impact on stretched NHS resources. It may interest you to know that one of the ordinary victims I deal with is an NHS nurse, trying to cope with her own problems while caring for others.

I will be happy to explain the issues in more detail to you and/or your officials if you would find it of help. I look forward to your reply.

Your sincerely

Margaret Snowdon OBE

Chair of the Pension Scams Industry Group

07983 565955

margaret@msnowdon.co.uk

Department of Health & Social Care

From the Ministerial Correspondence and Public Enquiries Unit

39 Victoria Street
London
SW1H 0EU

Our ref: DE-1657418

11 February 2026

Dear Ms Snowdon,

Thank you for your correspondence of 6 November to the Secretary of State for Health and Social Care about the impact a pension scam has had on the mental health of its victims. I have been asked to reply and I sincerely apologise for the delay in doing so.

I was very sorry to read of the problems some of your members have been having and appreciate that this is very distressing. I would urge them, if they feel they can, to discuss their problems with their GP, who will be able to assess their health and assist in accessing suitable healthcare services as appropriate.

If they do not feel able to speak to a GP or anyone close, they may wish to contact the Samaritans. The Samaritans provide anonymous, confidential and non-judgemental support, 24 hours a day, for people who are experiencing feelings of distress or despair. More information about the Samaritans is available online at www.samaritans.org.

In addition, people of all ages who are in crisis or who are concerned about a family member or loved one can now call 111, select the mental health option, and speak to a trained mental health professional. NHS staff can help callers by – for example – organising face-to-face community support or facilitating access to alternative services, including crisis cafés and safe havens, which provide a place for people to stay as an alternative to A&E or a hospital admission.

They can also speak to a trained NHS professional at any time of the day by calling 111. NHS staff can assess their needs over the phone and organise the most appropriate support.

I would also urge them to visit Hub of Hope, the UK's leading mental health support database. The Hub brings local, national, peer, community, charity, private and NHS mental health support and services together in one place, so that anyone struggling can find the most appropriate support. Through the 'Need help now?' service, they would be able to speak to or text someone immediately in the event of a mental health crisis. The Hub can be found online at hubofhope.co.uk.

Although you have contacted the Department of Health and Social Care on this matter, I hope you will appreciate that it is not something that sits directly in the Department's remit. The role of the Department is to set national policy for the NHS and adult social care services, and so this is not something the Department can comment on.

If you have not already done so, however, you may wish to try the following organisations. Action Fraud can be contact at www.actionfraud.police.uk/a-z-of-fraud/pension-scams while the Financial Conduct Authority can be contacted at www.fca.org.uk/consumers/pension-scams.

I am sorry I cannot be more directly helpful.

Yours sincerely,

Correspondence Officer
Ministerial Correspondence and Public Enquiries
Department of Health and Social Care