

Ombudsman's Determination

Applicant	Mrs Y
Scheme	Local Government Pension Scheme - North Yorkshire Pension Fund (the Fund)
Respondents	North Yorkshire County Council (the Council)

Outcome

1. I do not uphold Mrs Y's complaint and no further action is required by the Council.

Complaint summary

2. Mrs Y is represented by Hugh James (the **Solicitor**). Mrs Y's complaint is that the Council transferred her Fund benefits to the Positive Retirement Potential Plan (**the Plan**) without carrying out sufficient due diligence.
3. The complaint has arisen as the value of Mrs Y's benefits in the Plan is unclear. Mrs Y believes that she has lost her benefits as a result of the transfer.

Background information, including submissions from the parties

4. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
5. Between 1 July 1998 and 31 October 2013, Mrs Y was employed by the Council. She was a member of the Fund, a defined benefit occupational pension arrangement for which the Council act as the administering authority.
6. On 14 February 2013, The Pensions Regulator (**TPR**) launched a new awareness campaign regarding pension liberation schemes. Part of this campaign involved issuing cautionary documentation informing members about the potential risks of pensions scams. This comprised of:
 - a two-page warning note, which TPR wanted administrators and pension providers to include in the information they provided to members who requested a transfer;

- an information leaflet (the **Scorpion Leaflet**), which contained a number of warnings directed at potential members who were thinking of transferring; and
 - a “fraud action pack” for pension professionals.
7. The Scorpion Leaflet included examples of real-life pension scams and explained that the warning signs of a potential scam could be:
 - receiving an unsolicited call about a free pensions review;
 - the promise of accessing a pension before age 55, through the provision of an advanced loan payment, or cash bonus, upon the completion of the transfer;
 - the promise of a unique investment opportunity in overseas property, which would make it harder to trace the transfer; and
 - the use of a courier service to pressure members into signing transfer documents quickly.
 8. In late 2013, Mrs Y’s father died.
 9. In dealing with her late father’s Estate, Mrs Y corresponded with an unregulated financial adviser (**the Adviser**) who had previously advised her father on several of his investments. During this time, the Adviser proposed an opportunity to Mrs Y to transfer her Fund benefits into the Plan, which would be wholly invested into Store First Limited Pods (**Store First Ltd**). She was promised a guaranteed return within two years, and within five years she would be able to withdraw all of her pension benefits.
 10. On 5 November 2013, Mrs Y signed a Letter of Authority (**LOA**) with the Pension Value Service (**TPVS**) and requested a Cash Equivalent Transfer Value (**CETV**) of her Fund benefits.
 11. On 21 February 2014, the Council sent Mrs Y an illustration of a CETV, guaranteed for three months. It explained that it had a duty of care to protect her from any pension scams and provided her with the Scorpion Leaflet and referred her to the fraud section of TPR’s website.
 12. On 5 March 2014, Mrs Y asked the Council to send her the necessary declaration forms to proceed with a transfer.
 13. On 17 March 2014, the Council recommended that Mrs Y should contact the Pensions Advisory Service (**TPAS**) to query the suitability of the receiving scheme. It also suggested that she should also provide TPAS with a copy of any documentation she had about the receiving scheme.
 14. On 28 March 2014, the Council telephoned Mrs Y to discuss her transfer request. According to the Council’s telephone note, the representative “strongly” suggested that Mrs Y should contact TPAS about the suitability of the receiving scheme. Mrs Y said that she did not realise that she had already requested transfer declaration

forms, nor did she remember what documents she had already signed. The representative explained that the necessary forms would not be sent until Mrs Y had spoken with TPAS.

15. On 31 March 2014, TPVS telephoned the Council because it had not yet received the transfer declaration forms.
16. On 2 April 2014, Mrs Y wrote to the Council and said that she had considered the information it had sent her. However, she wished to proceed with the transfer, so the Council should send TPVS the necessary transfer declaration forms.
17. On 9 April 2014, the Council sent TPVS the transfer declaration forms.
18. On 1 May 2014, Mrs Y signed a LOA for AC Management and Administration Limited (**AC Management**), the Plan's administrator. By signing the LOA Mrs Y agreed that:

"I hereby declare that I have not received and do expect to receive any payments from [the Plan] in return for agreeing to transfer my pension to this scheme. I hereby confirm that I am not attempting in any way to release monies early from my pension, nor take part in any pension liberation, loan or cash incentive scheme."
19. On the same day, Mrs Y also completed the transfer declaration forms and forwarded them onto AC Management. In doing so, Mrs Y agreed that she had "...obtained advice from [TPAS] as to the suitability of the intended transfer and all associated risks including tax charges."
20. On 14 May 2014, AC Management wrote to the Council and provided it with: Mrs Y's signed LOA; the completed transfer declaration forms; the Plan's Pension Scheme Tax Reference Number (**PSTR**); a copy of the Plan's registration details with His Majesty's Revenue and Customs (**HMRC**). It also confirmed that the Plan was not under investigation by TPR or any other regulatory body and asked the Council to arrange the transfer of benefits to the Plan.
21. On 27 June 2014, the Council transferred £82,817.41 to the Plan.
22. On 3 July 2014, AC Management sent Mrs Y confirmation that £81,750 of her transfer had been received and invested. The remainder was used to pay an annual management charge.
23. Between 2014 and 2017, Mrs Y did not receive any annual statements from the Plan and when she called AC Management no one answered the telephone. In the belief that her benefits were lost she contacted and appointed the Solicitor to act on her behalf.
24. In August 2017, the Solicitor contacted the Council to query the level of due diligence that was undertaken before paying Mrs Y's Fund benefits to the Plan.
25. On 22 August 2017, the Council responded to the Solicitor and said:

- It had received confirmation that the Plan was a UK registered pension arrangement under the PSTR number 00800277RX as of 29 May 2013.
- There was no requirement, at the time, for the Council to check whether the Adviser or AC Management were regulated by the Financial Conduct Authority (**FCA**). These checks were introduced in 2015 through the Pension Schemes Act 2015.
- Mrs Y was sent several letters that warned her of the potential for pension scams and to contact either TPR or TPAS before proceeding with the transfer.
- The Council was unable to provide financial advice to its members as it was not authorised to do so by the FCA. So, it could only act on a member's instructions.

26. On 12 November 2018, the Solicitor submitted a complaint under stage one of the Fund's Internal Dispute Resolution Procedure (**IDRP**) and said:-

- Mr Y had not received any statements or updates from the Plan about its value since the transfer was completed. Neither the Plan nor AC Management had responded to any communications, so she was unaware of the Plan's current value.
- The Adviser who approached Mrs Y was not authorised or regulated by the FCA to provide advice. Neither was AC Management a regulated firm.
- The Council should have obtained information about the receiving scheme that would have raised a number of red flags that it should have investigated (see Appendix 1 for a summary of the Solicitor's comments). The Council had not made these enquiries, nor had it identified the risks nor engaged with Mrs Y in relation to the red flags.
- The Council should return Mrs Y to the position she would have been in had the transfer not proceeded as it appeared Mrs Y's Plan benefits were lost.

27. On 14 February 2019, the West Yorkshire Pension Fund (**WYPF**) responded. WYPF said that its role was to consider whether the transfer of Mrs Y benefits was made in accordance with the relevant pensions legislation. In particular, the Local Government Pension Scheme Regulations 2008 (**the 2008 Regulations**) and the Finance Act 2004 (**the Act**). See Appendices 2 and 3 for relevant extracts from the 2008 Regulations and the Act.

28. WYPF explained that:-

- Mrs Y had a statutory right to a transfer out of the Fund. This was because she was not in receipt a pension from the Fund, and she was no longer accruing Fund benefits prior to the transfer.
- The Council had made a transfer to a UK registered pension arrangement in accordance with regulation 79 of the 2008 Regulations.

- The 2008 Regulations did not include any provision for what checks should be undertaken before a transfer took place. What needed to be considered was whether the actions of the Council were reasonable.
 - The Council had acted correctly, in that it had notified Mrs Y of the risk associated with a transfer on several occasions.
29. On 19 February 2019, the Solicitor asked for Mrs Y's complaint to be considered under stage two of the Fund's IDRPs.
30. On 6 March 2019, the Council responded to the Solicitor's stage two IDRPs. It did not uphold the complaint and said that on numerous occasions it had attempted to warn Mrs Y that the Plan may not be suitable. The Council had undertaken suitable and appropriate checks and the transfer was made in accordance with the relevant legislation.
31. Mrs Y's position:-
- The Council should have done more to check on the suitability of the Plan. Instead, it was left to Mrs Y to make checks on the suitability of the Plan. Mrs Y took the provision of the Scorpion Leaflet to be a consideration rather than meaning direct action was required of her.
 - She had no recollection of the handwritten letter of 2 April 2014; however the signature did match her own. Having reviewed it, she believed that the pen used to draft it was different to that of the signature. So, it was likely that the Adviser had drafted the letter and she had signed it, in addition to several other documents which he took back to his office.
 - The Adviser had previously looked after Mrs Y's father's investments which, upon his death, provided a substantial return. It was during the settling of Mrs Y's father's Estate that she was introduced to the Adviser.
 - The Adviser, TPVS and AC management were all involved at one point or another in the transfer. However, the Council did not raise any questions about why multiple parties were involved in the transfer. Further, she believed her Fund benefits were to be invested in Store First Ltd, not the Plan.
 - The transfer declaration forms were returned outside of the guarantee period. So, it would have been reasonable for the Council to have contacted Mrs Y to see if she still wished to proceed with the transfer.
 - Mrs Y was offered a cash incentive, that was not paid, to invest her Fund benefits with Store First Ltd. If the Council had asked her this question, the response would undoubtedly have raised a red flag.
 - While there was no statutory requirement for the Council to check whether the Adviser was regulated, it would have been good practice to have done so.

- The Council failed to conduct adequate checks on the Plan and failed to engage directly with Mrs Y in respect of any concerns it had about the transfer.
- Mrs Y was not made aware of the consequences of transferring out of the Fund.

32. The Council's position:-

- Prior to the transfer, Mrs Y was sent the Scorpion Leaflet several times. The examples provided were of real-life scams which outlined a number of parallels comparable to Mrs Y's own circumstances. If she had reviewed the Scorpion Leaflet, she would have been aware of this.
- The Solicitor has said that the contact from the Adviser was unsolicited. However, Mrs Y has said that she was introduced to the Adviser because of his involvement with her late father's investments.
- The Council did have concerns about the transfer, which is why, on 28 March 2014, it telephoned Mrs Y to encourage her to contact TPAS. It was also explained, during the telephone call, that it would not send any transfer declaration forms until she confirmed she had spoken with TPAS about the Plan.
- The CETV was guaranteed until 13 May 2014 and the completed transfer declaration forms were received on 14 May 2014. It was not unusual to proceed with a transfer if the forms were received one to two days after the guarantee date.
- At the time of the transfer there was no requirement for the Council to check whether the Adviser or AC Management were regulated by the FCA.

Adjudicator's Opinion

33. Mrs Y's complaint was considered by one of our Adjudicator's who concluded that no further action was required by the Council. The Adjudicator's findings are summarised in paragraphs 34 to 41 below:-
34. It would be inappropriate to judge a historical matter using the standards that apply in 2022, considering that there is much more awareness and guidance about pension scams. Furthermore, at the time there was no legislative requirement to check whether the Adviser was regulated or not. This form of checking was introduced in 2015 through the Pension Schemes Act 2015, after the transfer of Mrs Y's benefits.
35. The Adjudicator believed that the complaint should be considered against the industry standards that applied when the transfer was made, that is against TPR's guidance that was published in February 2013. This approach was consistent with the position that The Pensions Ombudsman has taken in other cases.
36. The Council explained that attempts were made to ensure Mrs Y had considered the potential risks associated with the transfer. These attempts included:

- the transfer declaration forms were only sent after Mrs Y had received the illustration of a CETV, and only upon request;
- Mrs Y was sent the Scorpion Leaflet several times and directed to the fraud section of TPR's website;
- in response to Mrs Y's request for transfer declaration forms the Council wrote to her and asked that she contact TPAS about the Plan; and
- the Council telephoned Mrs Y to explain the potential risks associated with the transfer.

37. Upon receipt of Mrs Y's letter of 2 April 2014, and the signed transfer forms, there was no reason why the Council should not have believed that Mrs Y had taken into consideration, and was aware of, the pension scam risks. The Council's attempts to direct Mrs Y's attention to a number of available resources to make her aware of any signs of a potential pension scam were sufficient.
38. Mrs Y also had a statutory right to a transfer and the 2008 Regulations did not provide the Council any discretionary powers to decline a transfer request to a HMRC registered pension scheme. Prior to the transfer, the Council received confirmation of a legitimate PSTR, indicating that the Plan had been registered with HMRC. This indicated that HMRC was satisfied with the Plan's paperwork and assurances. The Plan was registered with HMRC on 29 May 2013, the completed transfer forms were received on 14 May 2014 and the transfer was completed by 14 June 2014.
39. The Adjudicator explained that even though the Plan had been registered a little under a year, this likely would not have been a cause for concern. This is because, in addition to the provision of pension scam materials, Mrs Y had agreed, by signing the AC Management LOA, that she was not offered a cash incentive, nor was she looking to access her benefits before age 55. So, at that stage there would have been little reason for the Council not to proceed with the transfer.
40. Mrs Y said that she was introduced to the Adviser while she was dealing with her late father's investments which the Adviser managed. So, even if the Council directly asked Mrs Y how she was introduced to the Adviser, Mrs Y's above response would not likely have been considered as a red flag.
41. The Adjudicator concluded that the due diligence checks carried out by the Council were reasonable and that there were no indications that the Plan was a high-risk pension scam. Furthermore, in view of the checks that were carried out it was reasonable for the Council to make a transfer payment to the Plan.
42. Mr Y did not accept the Adjudicator's Opinion and her complaint was passed to me to consider. Mrs Y provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mrs Y. She said:-

- As she recalled it, the telephone call that took place on 28 March 2014 between herself and the Council was a courtesy call to provide an update on the progress of her transfer. She did not recall any red flags being mentioned by the Council representative.
- She believed that the letter of 2 April 2014 had been fraudulently submitted to the Fund by the Adviser. This was because the letter contained a number of disclaimers that a lay person would typically not have used. Additionally, the letter may have indicated that she had read any transfer literature that was sent to her, but it did not convey whether she understood it.
- She did not understand how the transfer was able to proceed when neither the Adviser nor AC Management were regulated by the FCA.
- The Council had claimed to have sent her several copies of the Scorpion Leaflet; however, she did not recall receiving the Scorpion Leaflet. There was also a large emphasis on reading and understanding the Pension Liberation Fraud notice from TPR. As a pensions lay person, she did not understand how she was expected to understand this information.
- The Council only ever suggested that she should contact TPAS about the transfer. The Council also never said that it had concerns over the suitability of the receiving scheme. If it had, then the outcome of the transfer may have been different.
- She was offered a cash incentive to transfer to the Plan, this was in the form of a cash bonus after being a member of the Plan for two years. However, she never received the cash bonus.

Ombudsman's decision

43. I have considerable sympathy for Mrs Y, who appears to have been a victim of pension liberation fraud and is not able to access her funds. However, this matter cannot be viewed with the benefit of hindsight, and it is the circumstances at the time of transfer which are of importance. Consequently, prior to the Pension Schemes Act 2015, there was no requirement for the Council to check the regulatory status of the Adviser or AC Management.
44. I understand that Mrs Y has said that, when the Council received her transfer forms outside of the guarantee period, it should have asked her whether she still wished to proceed with the transfer.
45. Mrs Y had a right to a statutory transfer, in theory, because she was not in receipt a pension from the Fund, and she was not accruing Fund benefits prior to the transfer. Section 93 to 96 of the Pension Schemes Act 1993 requires a number of steps to be followed in order for that right to be obtained and then exercised. First a CETV illustration must be requested, and then provided within a three-month period. The

CETV illustration will be guaranteed for three months. The request and provision of a CETV illustration obtains the statutory right to take the transfer value. That right is then exercised by returning the transfer declaration forms within the three-month guarantee period. However, as Mrs Y's transfer forms were returned one day outside of the CETV illustration's three-month guarantee period, she did not exercise her statutory right within the required period. Instead, the transfer request became discretionary in nature. Consequently, it was then up to the Council to decide whether, or not, to proceed with the transfer and it was able to decline the transfer.

46. While the transfer declaration forms were received one day outside of the three-month period, I do not consider this alone to have been a reason for the Council to refuse the transfer or to contact Mrs Y to check if she wanted to proceed. Mrs Y completed the transfer declaration forms within the three-month period, and only 15 days prior to the Council receiving them. So, there was nothing to suggest that Mrs Y would have changed her mind. Plus, Mrs Y still met the necessary conditions, that she had not taken benefits and was not accruing benefits within the Fund, to obtain a statutory transfer right again. I find that, upon receipt of the completed forms, there would have been little cause for concern, or any noticeable red flags, that the Council would have been required to act upon except, that if further enquiries had been made it would have revealed that the Plan had been registered in less than a year.
47. The 2013 Guidance provided an outline of potential warning signs which could suggest pension liberation fraud activity was taking place. There was initially some concern, on the part of the Council, as to the suitability of the Plan for Mrs Y. In recognition of these concerns the Council undertook the steps outlined in paragraph 36 above to ensure that Mrs Y had considered the risks associated with the transfer.
48. Upon receipt of the completed transfer declaration forms from Mrs Y, the Council no longer believed that there was any reason for concern. This is because, by signing the declaration forms Mrs Y had agreed that she had spoken with TPAS. Further, the AC Management LOA, signed by Mrs Y, confirmed that she had not been offered a cash incentive to transfer to the Plan, nor was she looking to access her benefits before age 55. Consequently, this satisfied any requirement for the Council to undertake additional due diligence. I do understand that Mrs Y has now said that she was offered a cash incentive for transferring to the Plan, which was not paid, however the Fund was not aware of this at the time of the transfer.
49. So, regardless of whether the transfer was statutory, or discretionary in nature, based on the steps taken by the Council, upon receipt of the transfer forms, there was little evidence to suggest that the transfer should not proceed. Even if the Council had asked Mrs Y if she still wished to proceed with the transfer, outside of the guaranteed period, I find it was more likely than not that she would have elected to proceed in any event. She had only recently signed the transfer forms, and she has said that the Advisor had previously looked after Mrs Y's father's investments which, upon his death, provided a substantial return which would have likely influenced her decision to transfer.

50. I note that Mrs N has argued that the Council did not provide her with the Scorpion Leaflet on multiple occasions as suggested. Nor does she recall the telephone call of 28 March 2014 being anything more than a courtesy call about the transfer.
51. Both the letters of 21 February 2014 and 17 March 2014y, make clear reference to the enclosure of TPR's guidance leaflet (the Scorpion Leaflet). At the time it was standard practice to enclose a copy of the Scorpion Leaflet with any correspondence relating to a transfer. So, I find that there is no reason to question whether, or not, the Scorpion Leaflet was sent to Mrs Y on several occasions, as it likely was. In any case Mrs Y has said that she took the provision of the Scorpion Leaflet to be a consideration rather than meaning direct action was required of her. Which suggests she has previously accepted that she was provided with it. If Mrs Y had any trouble understanding the information provided, she was able to contact either the Council, or TPAS, for clarification, which she did not. So, it was reasonable for the Council to expect that Mrs Y had understood what she was sent.
52. Regarding the telephone call of the 28 March 2018, I do not doubt Mrs Y's recollection of it being standard in nature. However, I have considered the Council's telephone note of the call, which confirms that the representative "strongly" suggested that Mrs Y should contact TPAS before proceeding with the transfer. While the telephone call may have appeared a courtesy, I am satisfied that the Council was attempting to ensure that Mrs Y understood that she could, or should, contact TPAS about the transfer and its potential risks.
53. I note that, previously, Mrs Y has suggested that she signed a number of forms for the adviser, which possibly included the letter. She believed that it was possible that the Adviser drafted the letter and that she had signed it. However, Mrs Y now submits that the handwritten letter of 2 April 2014 was fraudulently forged by the Adviser. This is contradictory to her previous statement about how the letter was drafted and signed. So, it is difficult to conclude how the letter came about, or whether Mrs Y was aware of it or not.
54. Having reviewed the letter in question, while I cannot comment on the handwriting, Mrs Y's signature, on the letter, is comparable to that of her signature on a number of other forms. Consequently, it seems likely that Mrs Y was aware of the letter at the time. I find that upon receipt of this letter, there would have been little reason for the Council to question its authenticity, nor would it have appeared as a red flag.
55. The Solicitor has listed a number of additional checks that it says that the Council should have undertaken. I do not agree. The 2013 Guidance identifies some initial checks that need to be undertaken before considering whether further checks are required. In the case of Mrs Y's transfer, these initial checks did not indicate any red flags. So, the Council was not obliged to undertake any additional checks, and although further enquiries would have found that the Plan was established in less than one year, I find that the warnings and advice provided to Mrs Y were sufficient

CAS-29927-D2K7

56. It is regrettable that the Council's decision to proceed with the transfer has not transpired to be in Mrs Y's best financial interests. However, it fulfilled its due diligence obligations with the information it held at the time.
57. In conclusion, I do not find that the Council failed in its due diligence obligations in respect of the transfer.
58. I do not uphold Mrs Y's complaint.

Anthony Arter
Pensions Ombudsman

15 December 2022

Appendix 1

Summary of the Solicitor's comments on the information the Fund should have obtained and the red flags it should have investigated

59. The Solicitor said that the Fund should have obtained information about the receiving scheme and those advising Mr N, including:

- the type and legal status of the Plan;
- the date the Plan was established;
- the location of the Plan and AC Management;
- details of any employment link between the Plan and Mrs Y;
- the marketing methods used by those involved in the transfer;
- details of any cash payments being offered to Mrs Y;
- the investment choices that were being made;
- the provenance of the Plan; and
- details of who provided Mrs Y with advice in relation to the transfer and whether there were any fees paid for the advice.

60. It said that these enquiries would have raised a number of red flags including:

- the Plan was only newly registered;
- the sponsoring employer was newly registered employer geographically distant from Mrs Y.
- Mrs Y was under the age of 55 and had no pressing need to transfer his benefits;
- the transfer came about after an unsolicited approach to Mrs Y;
- Mrs Y was not being advised on either the investment choices or the proposed transfer by an authorised individual;
- the transfer was being promoted to enable Mrs Y to invest in a very unusual investment; and
- Mrs Y was offered a cash payment as an incentive to make the transfer.

Appendix 2

Extracts from the Regulations - the Local Government Pension Scheme Regulations 2008

Rights to payment out of fund authority's pension fund

79.—(1) A member may apply for a transfer under Chapter 4 or 5 (as modified by regulation 78) and where he does so the amount of any transfer payment due in respect of the member under the relevant Chapter may only be paid by the fund authority from its pension fund if the transfer payment is a recognised transfer (within the meaning of section 169 of the Finance Act 2004(1)).

Appendix 3

Extracts from the Act – the Finance Act 2004

“169 - Recognised transfers

(1) A “recognised transfer” is a transfer of sums or assets held for the purposes of, or representing accrued rights under, a registered pension scheme so as to become held for the purposes of, or to represent rights under—

- (a) another registered pension scheme, or
- (b) a qualifying recognised overseas pension scheme,

in connection with a member of that pension scheme.”

“150 - Meaning of “pension scheme”

(1) In this Part “pension scheme” means a scheme or other arrangements, comprised in one or more instruments or agreements, having or capable of having effect so as to provide benefits to or in respect of persons—

- (a) on retirement,
- (b) on death,
- (c) on having reached a particular age,
- (d) on the onset of serious ill-health or incapacity, or
- (e) in similar circumstances.

(2) A pension scheme is a registered pension scheme for the purposes of this Part at any time if it is at that time registered under Chapter 2.”

“153 Registration of pension schemes

(1) An application may be made to the Inland Revenue for a pension scheme to be registered.

(2) The application—

- (a) must contain any information which is reasonably required by the Inland Revenue in any form specified by the Board of Inland Revenue, and
- (b) must be accompanied by a declaration that the application is made by the scheme administrator (see section 270) and any other declarations by the scheme administrator which are reasonably required by the Inland Revenue.

(3) The declarations which the Inland Revenue may require to accompany an application for the registration of a pension scheme include, in particular, a declaration that the

instruments or agreements by which it is constituted do not entitle any person to unauthorised payments (see section 160(5)).

(4) Following receipt of an application for a pension scheme to be registered the Inland Revenue must decide whether or not to register the pension scheme.

(5) The Inland Revenue's decision must be to register the pension scheme unless it appears that—

- (a) any information falling within subsection (5A) is inaccurate in a material respect,
- (b) any document falling within subsection (5B) contains a material inaccuracy,
- (c) any declaration accompanying the application is false,
- (d) the scheme administrator has failed to comply with an information notice under section 153A given in connection with the application (including any declaration accompanying it),
- (e) the scheme administrator has deliberately obstructed an officer of Revenue and Customs in the course of an inspection under section 153B carried out in connection with the application (including any declaration accompanying it) where the inspection has been approved by the tribunal,
- (f) the pension scheme has not been established, or is not being maintained, wholly or mainly for the purpose of making payments falling within section 164(1)(a) or (b) (authorised payments of pensions and lump sums), or
- (g) the person who is, or any of the persons who are, the scheme administrator is not a fit and proper person to be, as the case may be—
 - (i) the scheme administrator, or
 - (ii) one of the persons who are the scheme administrator, or
- (h) the pension scheme is an occupational pension scheme, and a sponsoring employer in relation to the scheme is a body corporate that has been dormant during a continuous period of one month that falls within the period of one year ending with the day on which the decision is made, or
 - (i) the pension scheme is an unauthorised Master Trust scheme.

(5A) The information falling within this subsection is any information—

- (a) contained in the application, or
- (b) otherwise provided to an officer of Revenue and Customs by the scheme administrator (whether under section 153A or otherwise) in connection with the application (including any declaration accompanying it).

(5B) The documents falling within this subsection are any documents produced to an officer of Revenue and Customs by the scheme administrator (whether under section 153A or otherwise) in connection with the application (including any declaration accompanying it).

(5C) The reference in subsection (5)(d) to the scheme administrator having failed to comply with an information notice under section 153A includes a case where the scheme administrator has concealed, destroyed or otherwise disposed of, or has arranged for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43 of Schedule 36 to the Finance Act 2008 as applied by section 153A(3).]

(6) The Inland Revenue must notify the scheme administrator of the decision on the application.

(7) Unless the Inland Revenue's decision is not to register the pension scheme, the notification must state the day on and after which the pension scheme will be a registered pension scheme."