

Achieving full benefit flexibility on death

Our new nomination form has had some really positive feedback from advisers, so we thought it was worth explaining to everyone the changes we have made and how it will help your clients.

In many circumstances it will be beneficial for your clients to complete a new form, even if they still wish to leave their funds to the same person/people they have already nominated on their existing expression of wish.

It is also important that anyone who is in receipt of a pension income as a dependant/beneficiary completes a nomination form, as any funds left on their death can now be passed on again.

Update nominations

In many circumstances it will be beneficial for your clients to complete a new form, even if they still wish to leave their funds to the same person/people they have already nominated on their existing expression of wish.

How our new form works

Our expression of wishes and nomination form has been redesigned in light of the new rules. It has been designed to give the most flexibility possible when it comes to paying out death benefits.

Maximum flexibility

Our new form has been designed to give the most flexibility possible when it comes to paying out death benefits.

The form itself is split into two sections – one for nomination, and one for expression of wishes.

The nomination section is the legal bit that nominates all Eligible Benefit Recipients, as set out in our scheme rules. This means that where our new form has been completed a very wide class of individuals are eligible to receive the death benefits as an income, in addition to having the lump sum option available to them.

The expression of wishes section informs us of how the member (or beneficiary) would actually like the benefits to be distributed. Upon the member (or beneficiary)'s death we will refer to this, as well as looking at the will and consulting family members, when making the decision as to whom benefits should be paid.

By structuring our form in this way it means individuals who are not specifically named in the expression of wishes section will have the option of receiving death benefits as a pension, not just a lump sum, where it is deemed appropriate for benefits to go to them.

Why this is important

On 6 April 2015 the way pension funds can be distributed following a member's death changed significantly. In most cases where the member dies before age 75 the funds can be passed on tax-free, and on death over 75 they will be taxed at the marginal rate of the recipient if paid as an income, or 45% if paid as a lump sum.

Crucially, the scope for who can receive the benefits as an income has been significantly widened. Previously, only a dependant could receive a pension income. Under the new rules anyone, related or not, can potentially receive an income – but if they are not a dependant **they have to be nominated to be eligible**. This is why it is vital nominations are dealt with carefully.

Receiving death benefits as a pension

To be eligible to receive a pension income anyone who isn't a dependant must be nominated.

It is also important that anyone in receipt of an income as a beneficiary completes the nomination form, as any remaining funds can be passed on again following their death.

Who can make nominations for a beneficiary to be eligible to receive an income?

The original pension member can nominate anyone they choose to receive benefits on their death. Anyone the member nominates who is a dependant (most commonly spouse, civil partner or child under the age of 23) will be classed as a dependant beneficiary. Anyone else nominated will be a nominee beneficiary. A dependant cannot be a nominee.

There are only limited circumstances when a scheme administrator can nominate a beneficiary to receive an income – see charts at the end of this update for details.

Anyone is eligible to receive a lump sum payment of death benefits, regardless of whether nominated or not. However, the ability to spread death benefits over a number of years as a pension, rather than take them all in one year as a lump sum, may be extremely beneficial from a tax perspective.

Once a beneficiary is in receipt of a pension income they should complete a nomination to appoint successors who can receive an income from any funds remaining on their death.

Nomination v expression of wishes

The legislation which sets out the rules on who can receive death benefits in the form of an income (under flexi-access drawdown or annuity purchase) refers to nominations. Therefore, only persons nominated can receive benefits as an income. A nomination is only legally binding in the sense that individuals must be nominated to receive an income. It does not require that they must receive an income and does not require administrators to pay death benefits to nominees. This helps to avoid IHT issues.

The expression of wishes is not legally binding; it is simply giving the scheme administration an indication of how the member (or beneficiary) would like the remaining benefits to be paid out following their death. The scheme administrator retains discretion and although in most circumstances benefits will be paid out in accordance with the expression of wishes, the scheme administrator does not have to follow it.

In circumstances where a nomination has been made but the scheme administrator chooses to pay to an alternative beneficiary who has not been nominated, and is not a dependant, they will only be able to make the payment as a lump sum. Where the recipient has been nominated they will have the choice of taking an income or a lump sum payment.

Who are the Eligible Benefit Recipients?

Our scheme rules set out the Eligible Benefit Recipients as follows:

“Eligible Benefits Recipients” in relation to a person are, on the basis of reasonable enquiries made by the Scheme Administrator, his Spouse, his grandparents, such grandparents’ descendants (including step and adopted descendants), such descendants’ Spouses, Successors, persons interested in his estate, any other Member and any charity and persons or unincorporated associations that is the subject of a written expression of wishes that he has made to the Scheme Trustee or Scheme Administrator to the effect that he would like them to consider making payment of death benefits to or for their benefit following his death or the trustees of any trust established for the purposes of receiving benefits under the Scheme.

This is deliberately worded as widely as possible to make sure that as many beneficiaries as possible have the option to take death benefits as a pension.

FAQs

My client has an expression of wish in place stating 100% to his wife. It is still his wish that she receive all the benefits, so why would he need to complete a new form?

On the member’s death if there were no other dependants then only the widow could receive a pension income.

If, at the time, she decided she did not need all the income and wanted some to go directly to their children or grandchildren, they could only receive this as a lump sum, not an income. If the member was age 75 or over at the time of his death this would mean funds would currently be taxed at 45%, as opposed to marginal rate, which for grandchildren could be as low as zero.

If the member completes the new form he can still express his wish that we pay 100% to his wife, but in the same circumstances following his death the children and grandchildren would also have the option of taking an income or a lump sum.

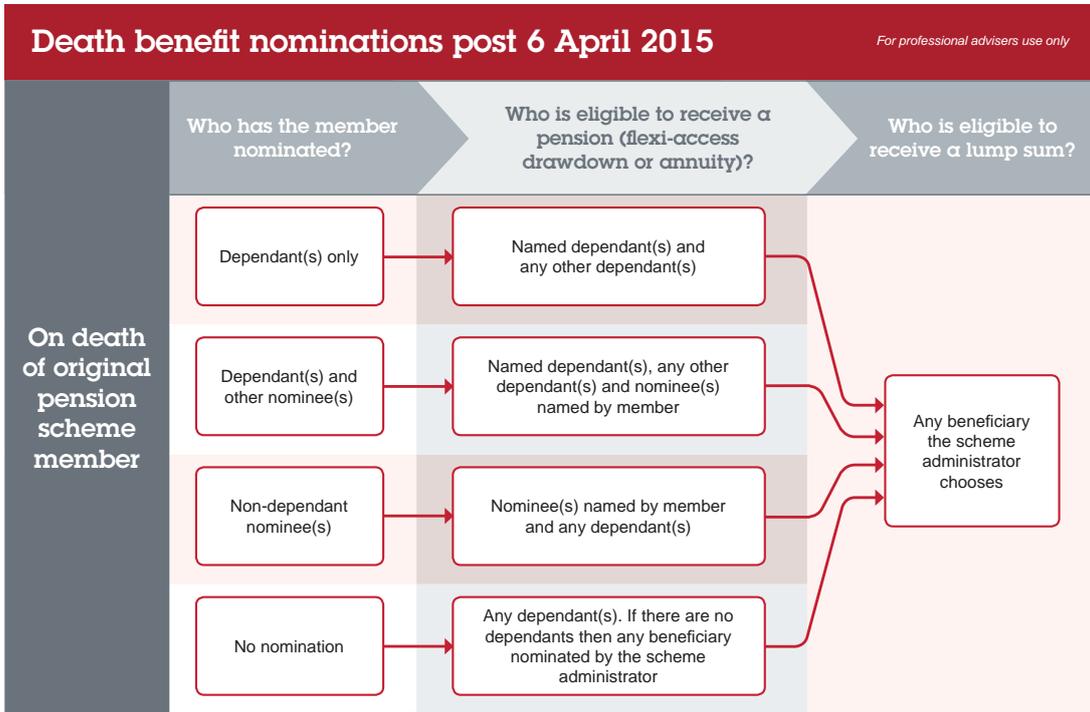
What happens if there is no nomination in place?

If there is no nomination in place we will look at the will and contact family members before making a decision as to how the benefits are distributed. If there are any dependants we would be able to pay a pension income to them, but any other beneficiaries would only have the option of a lump sum.

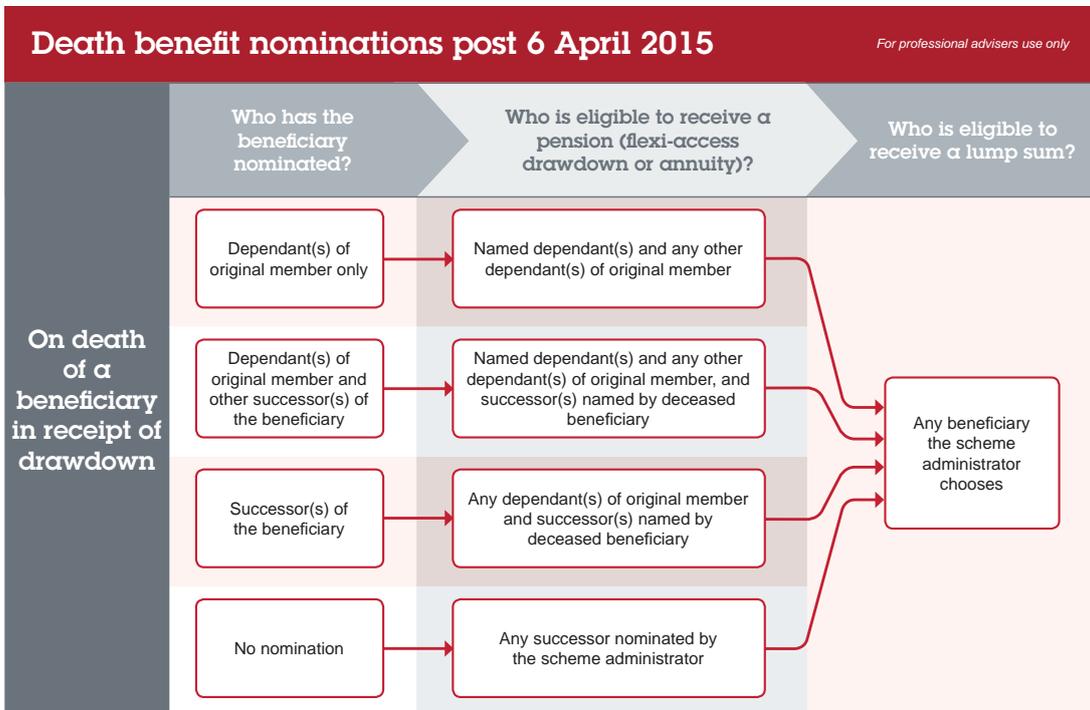
Only in the event of there being no dependants can the scheme administrator nominate anyone else to receive a pension income.

Can my client just sign the form and leave the expression of wishes section blank?

We would strongly recommend that the expression of wishes is completed in all circumstances. Without this we have no indication of where the member actually wants the funds to go following their death and there may be a delay in paying the benefits, as further investigation will be needed. Leaving no clear instruction also has more opportunity for disputes.



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