

Maximising benefit flexibility on death

Our nomination form has been updated following changes to how benefits can be paid on death. In many circumstances it will be beneficial to complete a new form, even if the intention is still to leave funds to the same person(s) already nominated on the existing expression of wishes.

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 to complete a new form, even if the intention is to leave funds to the same person(s) already nominated on the existing expression of wishes.

How our new form works

Our expression of wishes and nomination 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 nominates all Eligible Benefits Recipients, as set out in our new scheme rules. This means that where our new form has been completed (and for SSAS where the new scheme rules have been adopted) 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 tells us how the member (or beneficiary) would like the benefits to be distributed. Upon the member's (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.

Maximum flexibility

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

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 usually be taxed at the marginal rate of the recipient.

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**. The ability to draw an income means that funds can be kept in the tax-free pension environment and withdrawn as and when required. This is why it is vital nominations are dealt with carefully.

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.

Receiving death benefits as a pension

To be eligible to receive a pension income anyone who isn't a dependant must be nominated – our nomination section ensures a wide range of beneficiaries have this option.

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 is classed as a dependant based on their position at the date of the member's death and cannot be classed as a nominee.

A scheme administrator can only nominate a beneficiary to receive an income when there are no dependants and there is no nomination.

Any person or trust whom the scheme administrator believes the deceased member would have wished to consider 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. A successor can only be nominated by a dependant, nominee, successor or, where no nomination has been made, the scheme administrator. The original member cannot nominate a successor to receive funds on second, or subsequent, death.

Only a successor can receive income on the second, or subsequent death, but the scheme administrator can pay a lump sum to any person or trust that they believe the deceased would have liked them to consider.

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 (or dependants) 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 Inheritance Tax issues.

The expression of wishes is not legally binding; it simply gives the scheme administrator 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 typically 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 Benefits Recipients?

Our new scheme rules set out the Eligible Benefits Recipients as follows:

"Eligible Benefits Recipients" in relation to a person are, on the basis of reasonable enquiries made by the Trustee, 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

There is an expression of wish in place stating 100% to the spouse; there have been no changes in circumstances so why would a new form need completing?

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 the lump sum would be taxable at the marginal rate of the children or grandchildren concerned.

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 the form just be signed and the expression of wishes section left 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 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 creates more opportunity for disputes.

When a beneficiary elects to have funds designated for flexi-access drawdown, do they have to join the existing pension scheme?

Once the beneficiary has decided they want to take the death benefits in the form of flexi-access drawdown (as opposed to taking a lump sum) we will need to designate the funds into their own name. Where the deceased held a Platinum SIPP we would set up a new SIPP for the beneficiary and transfer the benefits to that SIPP.

Where the deceased was a member of a SSAS the beneficiary could join the existing SSAS as a member (if not one already) if all remaining trustees are in agreement and they are over the age of 18. Alternatively they could be a beneficiary of the SSAS without being a member. This means they would be entitled to the benefits designated to them, but would not be involved in the investment decisions which would continue to be made by the remaining trustees. Alternatively the benefits could be transferred to a Platinum SIPP for the beneficiary.

A Junior Platinum SIPP can be established for the purposes of receiving death benefits for a minor. The member will not be a trustee and the parent or guardian of the minor beneficiary will be responsible for investment and income withdrawal decisions until the beneficiary reaches the age of 18. At age 18 the beneficiary can become a trustee and takeover the decision-making responsibilities.

What happens when the pension is invested in an illiquid asset such as property?

Where the beneficiary wishes to take the death benefits as a lump sum, or to purchase an annuity, all assets would first need to be sold. In the case of a property held in a group SIPP or SSAS it may be possible for other members to purchase the deceased's share within the pension.

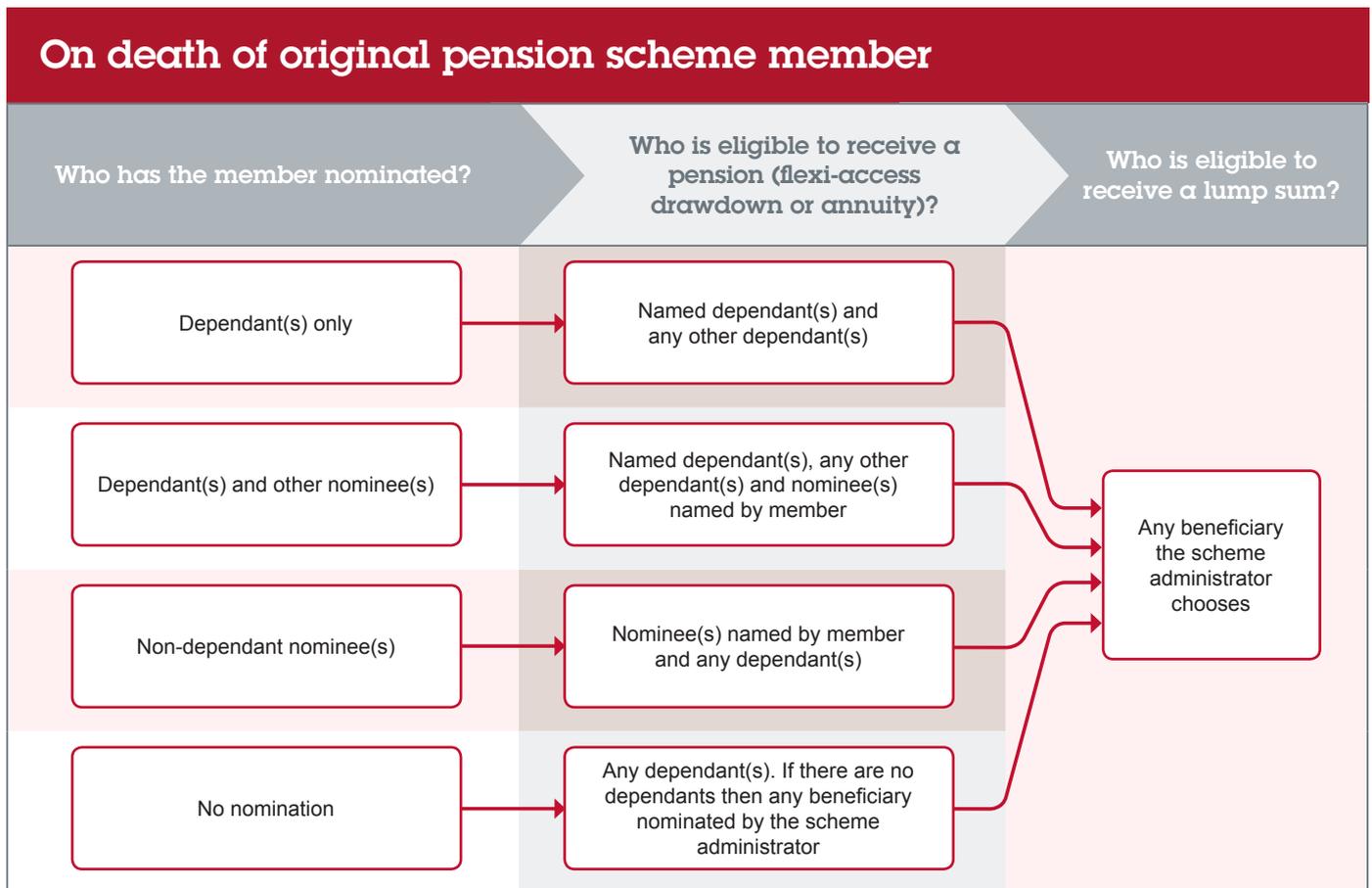
Where the beneficiary wants to designate funds to flexi-access drawdown it may also be possible to transfer the ownership of the property to the new SIPP in their name, or in the case of a jointly owned property, to join the group SIPP or SSAS. This option would require the agreement of all parties involved. As some of the funds would still be tied up in property the beneficiary would only be able to draw income from the liquid funds (including rent coming in) until such a time as the property is sold.

Where the death benefits are transferred to a new SIPP for the beneficiary there will be a conveyance of the property.

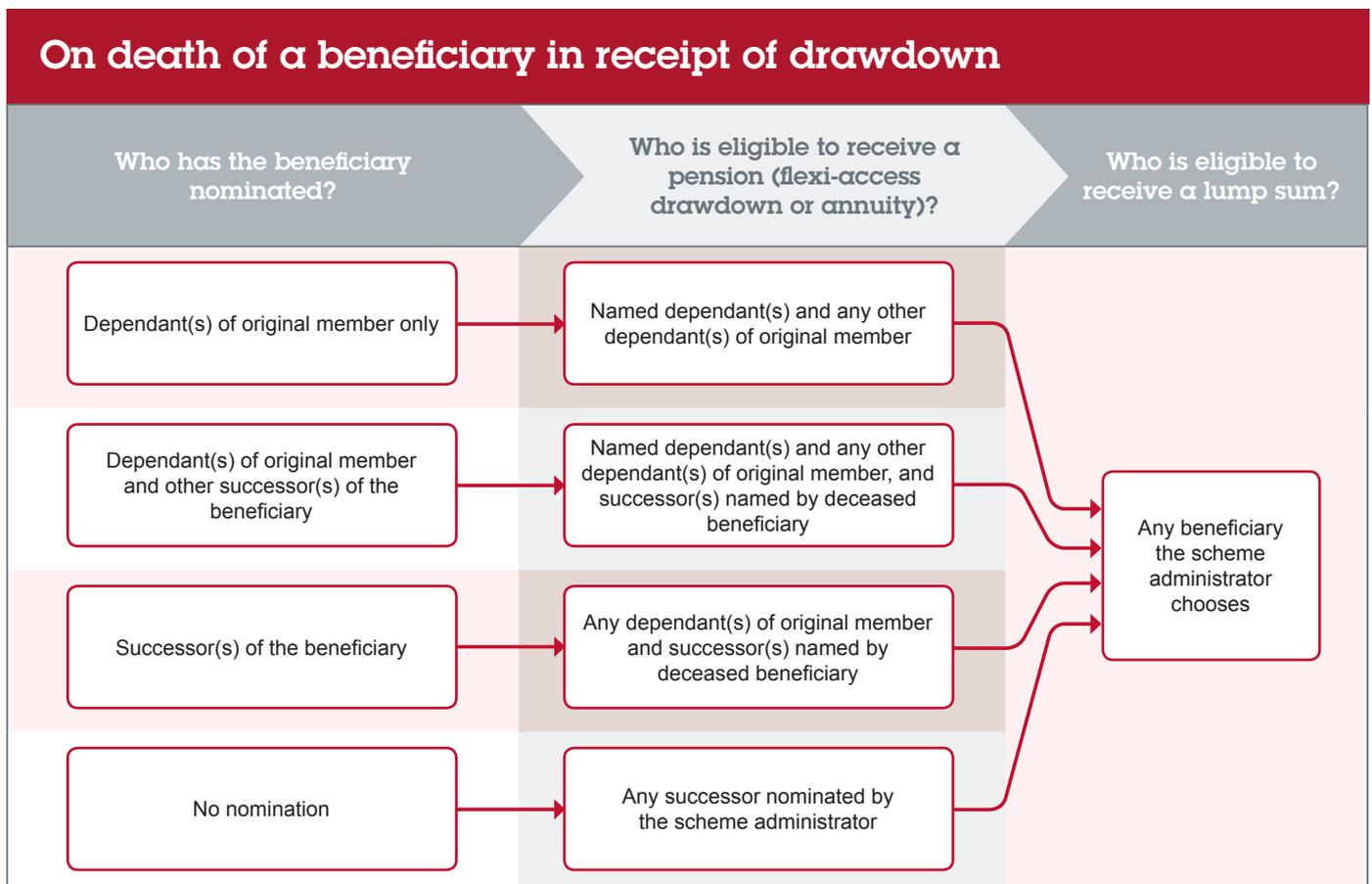
Where a property is held there are a number of additional points to consider when completing the expression of wishes, including:

- how easy it would be to sell to a third party, or other group members (where applicable)
- whether the beneficiaries would want to continue to hold the asset
- whether it would be practical for the beneficiary to hold it
- whether the business operating from the premises would want the beneficiary as landlord

How death benefits can be paid



Source: AJ Bell



Source: AJ Bell

Further information

If you have any further queries or need assistance in completing your nomination and expression of wishes you should contact your professional adviser. Our team of experienced and knowledgeable consultants are also available to help you make informed choices:

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