STRATEGIC ASSET PROTECTION
WEALTH & ESTATE PLANNING

KEY FEATURES AND BENEFITS 7

Additional Options for:

✔ FAMILY PENSION DEATH BENEFITS TRUSTS POST 2015

PENSION DEATH BENEFITS TRUST

The following information must not be considered to be either investment or Pension advice. It covers the options for dealing with any benefits payable, or available to your chosen Beneficiaries on death from your Pension Plan(s).

Protecting your Pension plan

Any death benefits payable from your Pension could be assessed and vulnerable to any of the following if thought is not given to the options available to you.

Remarriage of Surviving Spouse

On first death if **the death benefits** passes to the surviving spouse/partner, what happens if the surviving spouse/partner remarries? **Your children could lose all or part of the Pension Fund upon the new spouse/partner's subsequent death or divorce.**

Care Costs

Following first death, should the surviving spouse/partner need Care, then the **whole estate** would be **assessed to pay for the cost of that Care.** This may include **Pension benefits considered 'available'** to the care user even if they are not taking benefits.

Bankruptcy/creditor claims or divorce of surviving spouse

If the surviving spouse/partner or a nominated Beneficiary under the new rules is subject **to Creditor Claims, Bankruptcy or Divorce,** the fund is **fully at risk** where the Beneficiary takes the benefits as a lump sum.

Where a nominated Beneficiary receives the benefit under the new Flexible Pension Legislation, **the fund may also be at risk if they later Divorce or become Bankrupt.**

NEW PENSION FREEDOM FUND LEGISLATION - POINTS TO CONSIDER:

The new 'Pension Freedom' rules allow clients with Pension funds to **pass these funds onto Beneficiaries who can then access and treat the funds as their own.** The **'Flexi Access'** may be available Tax free as income or a lump sum(s). Your current Pension may not be a 'Flexi Pension', but may be amended in the future, or you could move to another scheme that provides the new flexible benefits.

Post April 2015 - Pension freedom rules enable improved Tax free and more flexible access at any time to Pension funds for your nominated Beneficiaries. This is however, only available should you die **before age 75.**

Post age 75 - The same flexibility applies, but benefits are taxable as income to the receiving Beneficiary. This could be the whole fund taken as one lump sum or drawn down as an income. One concern here is that **unless specifically nominated,** the Beneficiary may not be eligible for all the 'Flexi Access' benefits. Even if that Beneficiary has decided **not to take benefits**, could their right to take all or any part of the Pension fund **be assessed** as if it was their asset or right to income? By not taking these benefits could they be challenged as depriving their estate and Creditors? Please note that the 'pension freedom' rules do not apply to every pension plan.

Death of a client up to age 75:

The fund (if the plan has 'Flexi Access') can be passed to a fund for a nominated Beneficiary(s). It becomes their Pension and with it all the usual Pension Tax Benefits. So, Tax efficient growth in the fund, access to the fund without restriction, and now **Tax free.**

If there is no 'Flexi Pension' option then the lump sum can still be paid **Tax free** to the nominated Beneficiaries or Trust, but thereafter growth and income would be taxable on the Beneficiary or Trust. If payable to a Beneficiary then the lump sum would form part of their estate for IHT and other threats.

Death of a client post age 75:

If there is a 'Flexi Pension' option then the pension fund may be paid to the nominated Beneficiary's, but any withdrawn funds subject to the Beneficiary's income tax rate when they take benefits.

If there is no 'Flexi Pension', then the fund would be available at the Trustees discretion and taxed as income at the beneficiaries' marginal rates, or the Rate Applicable to Trusts, if the payment is made to a Trust.

In any event we strongly advise that you carefully consider expressing your wishes to your Pension Provider(s) by establishing a more detailed Nomination form than previously necessary. It is worth remembering that previously this could potentially be done on your behalf after death. **This is no longer the case** with Pensions Freedom, where if the Beneficiaries are not nominated by the member in lifetime then **the tax paid could be increased significantly.**

Due to the nature of the legislation, it is necessary to name your nominated beneficiary(s) for the flexi access to apply. It is therefore imperative to review your nomination regularly, particularly if you have children/ more children etc who would need to be named in the nomination document.

The Potential pitfalls of no Nomination or a basic Nomination:

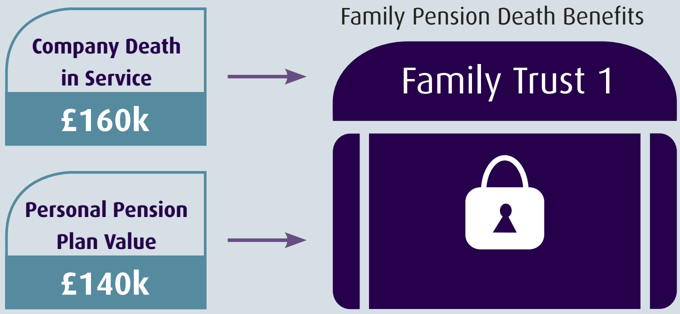
- The Pension Death Benefits may be paid to **someone you don't intend.**
- The Pension Death Benefits may become **subject to IHT** on the death of your nominated Beneficiaries should they receive funds absolutely.
- It may **limit the efficiency of Tax and Bloodline Planning options** for your Beneficiaries.
- The Pension Death Benefits may be paid to a Beneficiary who is about to Divorce or enter Care, for example, and may be **lost to your intended Beneficiaries.**
- If you establish a Trust **but do not complete the nomination,** the planning **will not work.**

WHY LEAVE YOUR HARD EARNED PENSION FUNDS TO CHANCE?

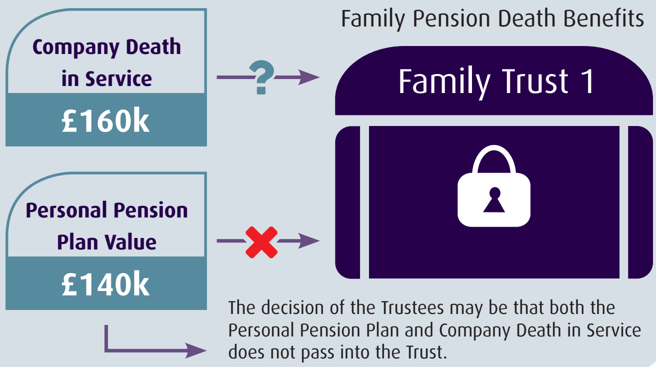
The best advice is therefore to put in place a carefully worded and bespoke Nomination for each Pension Plan Provider. This will ensure maximum flexibility and efficiency on your death, irrespective of the type of Pension that you hold now. This needs to be reviewed in the event that the scheme changes or your benefits are transferred to another Pension Provider.

OUR SOLUTION - THE CONTINGENT DEATH BENEFIT NOMINATION - 2 OPTIONS

Option 1 - Trustees accept the funds



Option 2 - Trustees refuse funds - Please see point 2 below for more details



CONTINGENT UPON THIS BEING THE APPROPRIATE COURSE OF ACTION, YOUR CHOSEN TRUSTEES COULD ACCEPT OR REFUSE THE FUNDS.

In the event a spouse/partner or children could receive and retain the Pension fund to take 'Flexi Access' benefits, then the Trustees would refuse to accept the funds in most circumstances, it allows your Trustees to make the best decision at the time rather than casting a decision instead now.

1. The new more detailed and contingent Nomination Form which must be put in places before death. The nominations are contingent on your Trustees accepting, or refusing to accept the funds in favour of your other nominated Beneficiaries if they receive these on more tax advantageous terms.
2. Appoint Trustees to the Family Pension Benefit Trust(s) who can make the decision whether to accept the Pension Funds on death or optimize the flexibility and Tax benefits of the new Pensions Freedom Legislation should this be available.
3. Nominations should be reviewed should your Pension Provider's terms change or if you transfer or join another Pension Scheme.
4. The Company Death in Service Payment and the Personal Pension Plan may require separate Nomination forms.

This sheet contains only general planning and is not to be construed as advice for any personal planning. Each strategy recommended is based on individual circumstances.