

TOP TIPS IN DEATH BENEFIT CASES

Death benefit cases often involve highly personal and sensitive matters, and the decisions made can have a significant impact on the lives of those affected. It is therefore very important that the cases are handled with great care.

Set out below are some practical tips to help make the best decisions and communicate with those affected in a clear and sensitive manner.

Death Benefit Lump Sums – Information Gathering

Gathering information is a key part of the process and all reasonable steps should be taken in the circumstances to gather information. Without good information the decision can be flawed:

- Make sure your questionnaire asks appropriate questions to identify all potential beneficiaries under the Rules.
- Consider putting in place procedures to regularly update nomination forms – particularly when significant changes occur in a member's life.
- Ensure both HR files and pension files are reviewed as both may contain relevant information.
- Always try to corroborate key information provided by potential beneficiaries – follow up discussions with friends or colleagues can be informative.
- Try to get a copy of the member's Will and speak to the executors to identify any other relevant parties.
- Where a claim of dependency is made it is reasonable to ask for evidence, such as financial statements to support this.

Death Benefit Lump Sums – Decision-making

The decision-making body will usually have discretion under the Scheme Rules to make the payment to anyone within the class of potential beneficiaries. But adopting the proper process is vital to the effectiveness of the decision.

- Make sure all relevant information is provided to the decision-maker.
- A record should be kept of all the information that has been taken into account in making a decision and at least the key conclusions or assumptions drawn from the evidence that have informed the decision-maker's thinking.
- There is no legal duty to disclose to members the reasons for a decision but trustees should be sensitive to the wishes of potential beneficiaries who may wish to be satisfied that a proper process has taken place.
- In order to avoid tax charges, payment must be made within 24 months of the trustees being notified of the member's death. A similar requirement is often contained in Scheme Rules in any event.

Death Benefit Lump Sums – Subsequent Information

Even when all reasonable steps have been taken to gather information, it is possible that further information can come to light after a decision has been made:

- Any relevant new information must be taken into account by the Trustees. If a decision has already been made, this will involve reconsidering the matter afresh.
- Even if the payment has already been made, that does not affect the need to reconsider the matter afresh. However, further, potentially complicated, issues will have to be considered in the event that a different decision is reached.

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