

HOGAN LOVELLS
CADWALADER

Pinsent Masons

IHT and pensions
Where are we now?

Jill Clucas, Hogan Lovells Cadwalader
Susie Daykin, Pinsent Masons LLP

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Overview

- IHT basics
  - And benefits in scope of new regime
- Key obligations
  - Information, Withholding, and Direct Payment

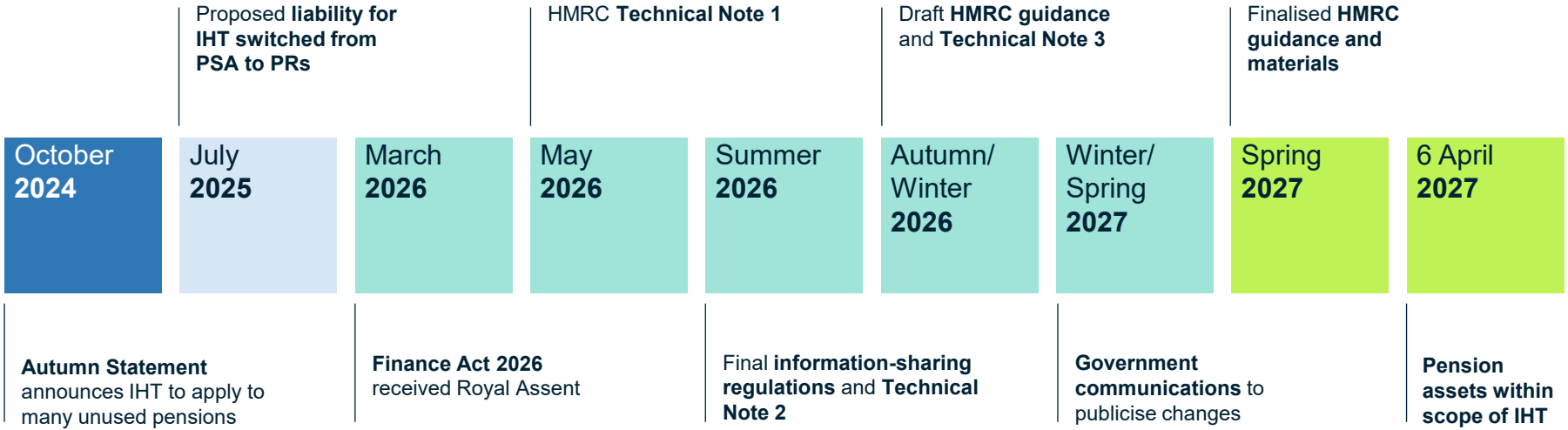
Some Tricky Issues

1. When is a DIS benefit not a DIS benefit?
2. Impact on trustee discretionary processes
3. Application of regime to Insurance companies
4. Fluctuating assets: how does withholding apply?
5. Who is a PR? Or a prospective PR?



IHT basics
And benefits in scope of new regime

IHT and pensions: timeline



IHT: the basics

- No IHT on property left to exempt beneficiary
  - Spouse, civil partner, charity, or community amateur sports club
- IHT nil rate band: £325,000
  - Lifetime gifts or chargeable transfers may reduce nil rate band available on death
- Residence nil rate band (RNRB): £175,000
  - Additional tax-free amount if leaving qualifying residence to direct descendant(s) and estate worth less than £2m
- Unused nil rate band and residence nil rate band can be transferred to surviving spouse/civil partner (TNRB)
  - And used on death of survivor
- IHT charged at 40% on value of estate above level of available nil rate bands
  - Unless left to exempt beneficiary



Paying IHT: deadlines

- Same deadlines will apply as for non-pension estate:
  - IHT due at end of sixth month following date of death
  - Interest accrues daily on unpaid IHT after this date
  - Penalties if IHT account is submitted more than 12 months after month of death
    - Or, if later, three months from appointment of PRs
    - Unless there is reasonable excuse for delay
- IHT / nil rate band must be allocated proportionately between pension and non-pension estate
- General IHT reliefs and easements will not apply to pension assets



IHT basics: when are a Grant or an IHT account unnecessary?

CAVEATS: CURRENT POSITION IN E&W ONLY; GENERALISATIONS – WE'RE NOT PROBATE LAWYERS!

Grant not needed if:

- Legal estate passes on survivorship
  - Joint tenants
- Small payments, if bank / building society will release funds on production of death certificate
- Assets outside probate estate
  - Life insurance written in trust
  - Trust property with no qualifying interest in possession
- [Pension benefits which pass under scheme rules]

IHT account not needed if:

- Deceased was long-term UK resident;
- Trust property and foreign assets are under specified limits; and
- No gift with reservation, plus EITHER
- **Low value excepted estate**
  - Gross value of estate ≤ nil-rate band (may include TNRB but not RNRB); OR
- **Exempted excepted estate**
  - Gross value of estate ≤ £3m; and
  - Net chargeable value (after exemptions) ≤ nil-rate band (may include TNRB but not RNRB)

Reporting IHT estate and applying for Grant

2023/24:

4.72% of UK deaths resulted in an IHT charge

HMRC IHT statistics

30 July 2026

2027/28:

Estimated further 1.5% of UK deaths will become liable to IHT

HMRC consultation paper

30 October 2024

Excepted estate, no Grant needed	No reporting requirement, proceed with distribution of assets
Excepted estate, Grant needed	Submit information on value of estate with application for Grant
Non-excepted estate, no Grant needed	Submit full IHT account (IHT400) to HMRC and pay IHT due
Non-excepted estate, Grant needed	Submit full IHT account (IHT400) to HMRC and pay IHT due, wait for unique code from HMRC before applying for Grant

Scope: which benefits will be within IHT estate on deaths on or after 6 April 2027?

BENEFITS FROM REGISTERED PENSION SCHEMES, QUALIFYING NON-UK PENSION SCHEMES, SECTION 615(3) SCHEMES

"Notional pension property":
within IHT estate (IHT may be payable unless paid to exempt beneficiary)

- DC drawdown funds, uncrystallised DC funds, and cash balance funds
  - Whether used to provide: survivor's lump sum / annuity / drawdown payments / dependants' scheme pension
- Lump sum guarantees
- Funeral benefits
- Unauthorised payments

"Excluded benefit":
outside IHT estate (no IHT payable)

- Death in service benefit (whether or not paid under discretion)
- Dependant's scheme pension from DB (but not cash balance) arrangement
  - Including if taken as a trivial commutation lump sum death benefit
- Survivor's pension from joint life annuity

Key obligations

New obligations for Pension Scheme Administrators

Information, Withholding and Direct Payment

New obligations for Pension Scheme Administrators

1

Information

2

Withholding

3

Direct Payment

New obligations for Pension Scheme Administrators

1

Information

2

Withholding

3

Direct Payment

New obligations for Pension Scheme Administrators

1 Information

2 Withholding

3 Direct Payment



PSAs must provide new information to personal representatives about death benefits payable from the scheme

Basic Information (PSA) – Regulation 10(C) of Information Regs

If requested by a PR, then PSA must provide:

What?

01 **Scheme information**

- Name of scheme
- Name and address of the PSA
- Whether the scheme is an "investment-regulated scheme"

An OPS cannot be an investment-regulated scheme.

02 **Member information**

- Member reference number (if one has been allocated)

03 **Benefit information**

- Value of NPP at the date of the member's death
- If NPP is estimated, the reason for the estimate

04 **Beneficiary information**

- Percentage of NPP (if any) allocated to beneficiaries in following categories

(i) charities

(ii) surviving spouse or civil partner

(iii) any other exempt beneficiary

When?

Within 28 days beginning with date of request

(If estimated NPP given, actual value must be provided within 14 days of PSA ascertaining actual value)

Later of 14 days from date all beneficiaries determined or 28 days from request

Further Information (PSA) - Regulation 10(E)

If PR required to file an IHT account, and requests information, then PSA must provide:

What?

01 **Scheme information**

- Name of scheme
- Name and address of the PSA

02 **Member information**

- Member reference number (if one has been allocated)

03 **Beneficiary information**

- Name, address and NINO (if applicable and known) of **each beneficiary**
- If **beneficiary** is a trust, the trust name and trustee names/addresses
- Value and percentage of NPP to which **each beneficiary** is entitled
- Whether PSA has paid or intends to pay **excluded benefits** in form of **dependant's scheme pension/annuity, TCLS or DIS payment** to **any beneficiary** (and if so, which benefits and initial pension rate/DIS amount)

When?

Within later of (i) 28 days from date of request and (ii) 14 days from when all beneficiaries determined

Further Information (PSA) - Regulation 10(E)

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When?

Within later of (i) 28 days from date of request and (ii) 14 days from when all beneficiaries determined

New obligations for Pension Scheme Administrators

1

Information

2

Withholding

3

Direct Payment

New obligations for Pension Scheme Administrators

1 **Information**

2 **Withholding**

3 **Direct Payment**



PSAs must comply with valid Withholding Notices issued by personal representatives or prospective personal representatives.

This prevents PSA paying more than 50% of a relevant death benefit for prescribed period

Withholding Notices

Withholding

50%

PSAs cannot pay (further) benefits in excess of 50% of person's NPP entitlement for the prescribed period.

➢ Why?

To address concerns about PR's ability to meet IHT liability.

➢ When can a notice can be issued?

(P)PRs know or "have reason to believe" IHT is due on the NPP

➢ Required information?

Prescribed by HMRC. HMRC expects to issue template notices schemes can use.

➢ Payments that can still proceed?

An excluded benefit or payment to an exempt beneficiary.

➢ How long?

Until (i) withdrawn by PR (PPR), (ii) relevant tax is paid or (iii) expiry of 15 months from end of month in which member died.

Payment in breach of a Withholding Notice makes the PSA jointly liable for IHT.

Withholding notices: PSA actions

Receive notice

PR or PPR has reason to believe IHT may be payable.

1

Validate

Within 14 days, confirm receipt to P/PR, whether the notice is valid (or reasons why considered invalid).

2

Notify

Within 14 days of receipt of valid WN (or identification of beneficiaries if later), notify affected beneficiaries of WN and provide P/PR details.

3

Report

Within 28 days of valid WN, provide to P/PR the amount withheld under WN and beneficiary details/amount withheld from each (if then determined).

4

*If beneficiaries **not** determined at point WN received, no need to follow up with details when they are.*

Withhold

Do not pay (any) more than 50% of the affected benefit during the withholding period.

5

New obligations for Pension Scheme Administrators

1

Information

2

Withholding

3

Direct Payment

New obligations for Pension Scheme Administrators

1 **Information**

2 **Withholding**

3 **Direct Payment**



Direct payment scheme introduced to address PR concerns about payment of IHT arising from pension scheme assets.

PSAs must deduct and pay notified amounts of IHT in accordance with valid Direct Payment notices received from personal representatives, prospective personal representatives or beneficiaries

Direct payment notices: payment, adjustment and reporting

1 → 2 → 3

NOTICE ISSUED

PR, PPR or beneficiary issues a notice.

PSA PAYS HMRC

PSA must pay HMRC within 35 days.

INFORMATION

PSA must provide information to PR/ beneficiaries within 14 days of payment

VALIDITY

Amount must be at least £1,000

Cannot be for more than amount of tax for which taxpayer liable:

- **If PR (or PPR):** entire IHT due on benefits payable from scheme
- **If beneficiary:** IHT due on benefit payable to that individual

Cannot be for more than remaining benefits payable under scheme (ignoring excluded or exempt benefits)

PPR can only give notice:

- after giving prior WN (28 days after PSA receipt)
- on giving a "PPR declaration"

BENEFIT ADJUSTMENT

The PSA has a statutory power to make the payment and adjust death benefits on a "*just and reasonable*" basis to reflect IHT/interest paid.

If the notice comes from a beneficiary, only that beneficiary's benefits can be reduced.

HMRC guidance is that "just and reasonable" means reductions should be made to NPP on which IHT arises – but not a statutory restriction

Failure to pay within 35 days makes the PSA jointly liable for the specified amount.

INFORMATION

- Required information: member and PR details, IHT reference number, HMRC payment reference, tax/interest paid (and date)
- Confirmation of benefit reductions.

If beneficiaries are unknown at payment, timing runs from date beneficiaries determined

If notice given by beneficiary, PSA must give certain information about member/tax paid etc to PR *(Query how PSA can do this where PR details not known).*

TRICKY ISSUE 1

When is a DIS benefit not a DIS benefit?

01

What is an excluded DIS benefit?

“

Any amount that—

(i) is payable as a benefit (in any form) in respect of a member of the scheme if the member is in employment or other work of a particular description immediately before their death, and

(ii) is not payable as a benefit (in any form) in respect of a member of the scheme if the member does not meet those conditions

Section 150A(6)(d) IHTA

- In any form – allows lump sums to be paid as pension and vice versa
- In respect of a member who is *in employment or other work* of a particular description immediately before death;
  - Other work eg partners / self-employed
- Is not payable if the member does not meet those conditions
- Intention is to exclude benefits also payable in deferment/retirement
  - Eg return of AVC funds or transferred in funds payable both on death in service and on death in deferment
  - HMRC: for employers/schemes to determine whether members on career breaks, long-term sickness and supported redundancy periods are in employment or other work
    - Gardening leave vs PILON?
  - Death benefit also payable after leaving service risks “contamination” of DIS benefits for active members
    - Section 67 issues?
  - Treatment of “higher of” benefits

TRICKY ISSUE 2

Impact on trustee discretionary process

02

Identifying beneficiaries and ~ determining benefits

- Usual process:
  - What do scheme rules say?
  - Gathering information about survivors
- Exercise of any discretion
  - Can be time consuming
  - Disconnect between IHT timescales and realities of discretionary process

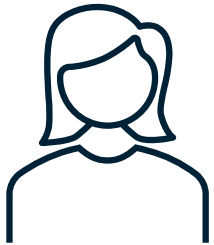


Discretionary benefits: exempt / non-exempt beneficiaries

WHAT THE PR NEEDS TO KNOW

All to exempt beneficiary

- Spouse / civil partner / charity
- All exempt from IHT!



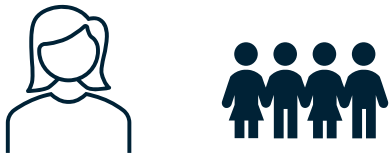
All to non-exempt beneficiaries

- No surviving spouse / CP
- All potentially chargeable to IHT and within IHT estate



Exempt and non-exempt Bs

- Eg spouse and children from previous relationship
- More challenging decisions
- Amount potentially chargeable to IHT cannot be known until trustees have exercised discretion



Discretionary decisions: excluded / non-excluded benefits

EXAMPLE: TOTAL £200K BENEFIT – TRUSTEES DECIDE 50% TO SPOUSE; 50% TO CHILDREN FROM PREVIOUS MARRIAGE

DIS 4 x salary: £120k

- 50% split
- Spouse: £60k
- Kids: £60k
- All excluded from IHT

DC pot: £80k

- 50% split
- Spouse: £40k
  - Exempt beneficiary – no IHT
- Kids: £40k
  - Within IHT estate
- Outcome: IHT potentially payable on £40k

Discretionary decisions: excluded / non-excluded benefits

EXAMPLE: TOTAL £200K BENEFIT – TRUSTEES DECIDE 50% TO SPOUSE; 50% TO CHILDREN FROM PREVIOUS MARRIAGE

DIS 4 x salary: £120k

- 50% split
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- Kids: £60k
- All excluded from IHT

DC pot: £80k

- 50% split
- Spouse: £40k
  - Exempt beneficiary – no IHT
- Kids: £40k
  - Within IHT estate
- Outcome: IHT potentially payable on £40k

Or, trustees take IHT into account

- Spouse
  - £80k DC pot; plus
  - £20k DIS
  - Exempt beneficiary – no IHT
- Kids
  - £100k DIS
  - Excluded benefit
- Outcome: no IHT payable

Discretionary process: review

- How swift is the trustees' discretionary process?
- How often do the trustees or discretions committee meet?
- Consider training for discretionary decision-makers on IHT implications of:
  - Exempt / non-exempt beneficiaries
  - Excluded / non-excluded benefits
- More fundamentally, do sponsors / trustees still want to provide benefits under discretion?
  - No longer a tax reason for death in service benefits to be discretionary (although may be desirable for other reasons)



Tricky Issue 3

Application of regime to Insurance companies

What applies when?

Application of regime to Insurance Companies

	PSA	Insurance companies
Information	Information Regulations impose various obligations on PSAs	Information Regulations impose separate obligations on an "*insurance company*"… "*which has paid a lifetime annuity or scheme pension to an individual who has been a member of a registered pension scheme, purchased with sums or assets held for the purposes of the scheme*"
Withholding	Only applicable to a PSA under IHTA 1984	Only applies if insurance company is a PSA
Direct Payment	Only applicable to a a PSA under IHTA 1984	Only applies if insurance company is a PSA

What this means in practice?

The application of the regime will depend on how and when the member's benefits were secured with an insurer.

Deferred annuity contract	The contract is itself deemed to be a registered pension scheme under section 153(8) Finance Act 2004.	**PSA obligations** (information, withholding and direct payment) apply to the insurer administering that contract.
Pension bought out in payment	Ongoing payments are taxed as though made from the original registered pension scheme under section 161 Finance Act 2004.	Only the **insurance company** information duties apply. Withholding/direct payment obligations do not apply as insurer is not a PSA.
Deferred annuity later comes into payment	A deferred annuitant retires	The **PSA obligations** (information, withholding and direct payment) apply. The **insurance company** information obligations would also seem to apply

Further Information (PSA) - Regulation 10(E)

If PR required to file an IHT account, and requests information, then PSA must provide:

What?

01 **Scheme information**

- Name of scheme
- Name and address of the PSA

02 **Member information**

- Member reference number (if one has been allocated)

03 **Beneficiary information**

- Name, address and NINO (if applicable and known) of **each beneficiary**
- If **beneficiary** is a trust, the trust name and trustee names/addresses
- Value and percentage of NPP to which **each beneficiary** is entitled
- Whether PSA has paid or intends to pay **excluded benefits** in form of **dependant's scheme pension/annuity, TCLS or DIS payment** to **any beneficiary** (and if so, which benefits and initial pension rate/DIS amount)

When?

Within later of (i) 28 days from date of request and (ii) 14 days from when all beneficiaries determined

How do Insurer information requirements differ from PSA obligations?

If PR required to file an IHT account, and requests information, then Insurer must provide:

What?

01 Scheme information

- Name and address of the insurance company

02 Member information

- Member reference number (if one has been allocated)

03 Beneficiary information

- Name and address of each beneficiary
- NINO of each beneficiary (if applicable and if known)
- If beneficiary is a trust, the trust name and trustee names/addresses
- Value and percentage of NPP to which each beneficiary is entitled
- ***any excluded benefits in the form of a dependant's or nominees'annuity purchased together with the lifetime annuity (and initial annual rate if so)***

When?

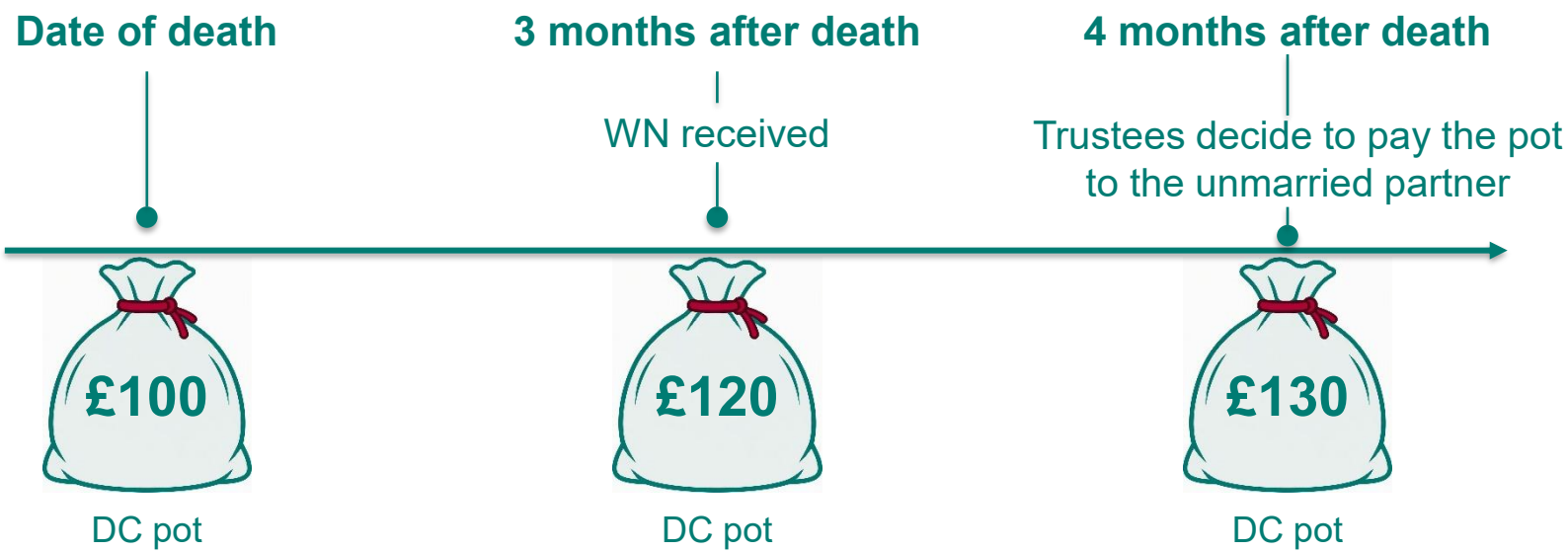
Within later of (i) 28 days from date of request and (ii) 14 days from when all beneficiaries determined

Tricky Issue 4

Fluctuating Assets

How does withholding apply?

Withholding and fluctuating assets



How much of £130 pot can Trustees pay?

- **£65? (50% of current pot)**
- **£80? (excess over 50% of pot at DoD)**
- **£50? (50% of pot at DoD)**

Withholding and fluctuating assets

226A Tax on notional pension property: withholding of benefits

…

(4) *While a withholding notice has effect, no benefit may be paid under the scheme to a person ("P") if—*

(a) the total amount of benefits previously paid under the scheme to P on the deceased's death exceeds 50% of P's benefit entitlement, or

(b) ***the payment of the benefit would result in the total amount of benefits paid under the scheme to P on the deceased's death exceeding 50% of P's benefit entitlement.***

(5) *In subsection (4) a person's "benefit entitlement" means so much of the value of the notional pension property of the deceased in relation to the scheme as is attributable on a just and reasonable apportionment, having regard to appropriate actuarial assumptions, to benefits that have been paid, or are or will be payable, to that person.*

(6) *Subsection (4) does not apply to the payment of an excluded benefit or an exempt benefit.*

Withholding and fluctuating assets

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A restriction on what can be paid after WN received
NOT what has to be retained in scheme.

Withholding and fluctuating assets

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(6) ***Subsection (4) does not apply to the payment of an excluded benefit or an exempt benefit.***

A restriction on what can be paid after WN received
NOT what has to be retained in scheme.

Can only pay *up to amount* which is 50% of P's "*benefit entitlement*".

Withholding and fluctuating assets

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(4) *While a withholding notice has effect,* ***no benefit may be paid*** *under the scheme to a person ("P") if—*

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(6) ***Subsection (4) does not apply to the payment of an excluded benefit or an exempt benefit.***

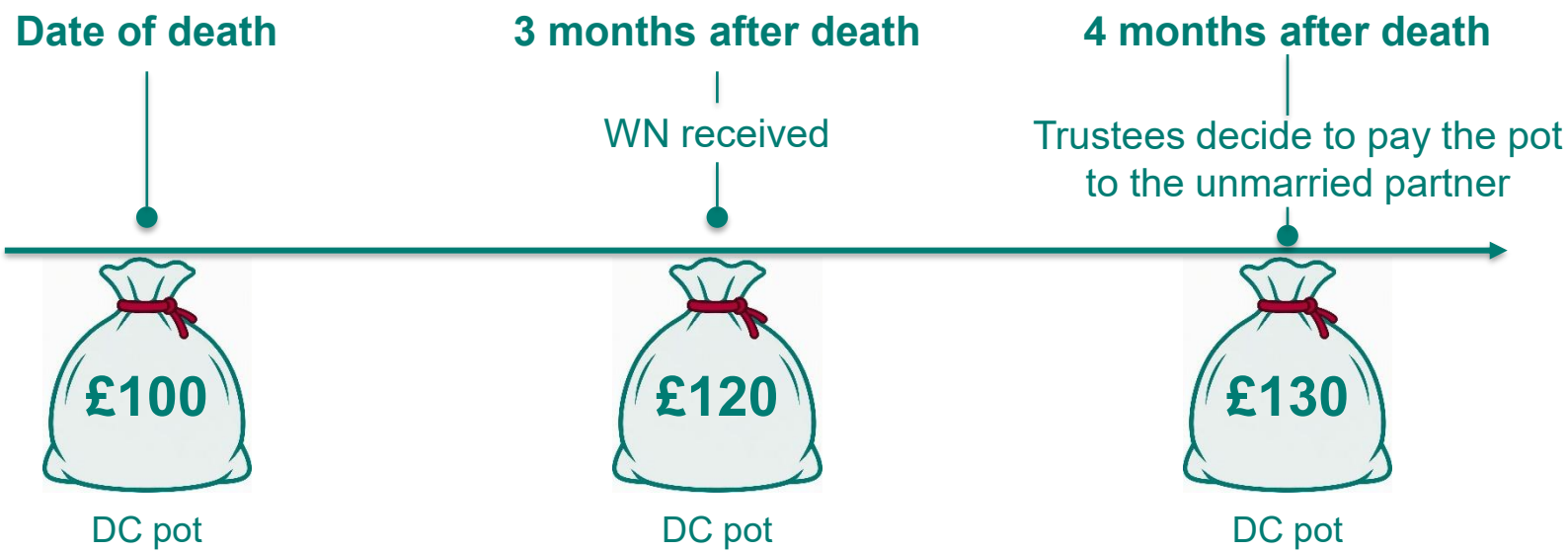
A restriction on what can be paid after WN received
NOT what has to be retained in scheme.

Can only pay *up to amount* which is 50% of P's "*benefit entitlement*".

S.150A IHTA1984 prescribes how "***value of the member's notional pension property***" is to be calculated

= DC pot at DOD

Withholding and fluctuating assets



How much of £130 pot can Trustees pay?

- **50% of DC pot at DoD**
  = £50 paid to P, £80 withheld

Withholding and fluctuating assets - HMRC's view?

- HMRC Technical Note 2 – Section 7 / Annex B
- Describes withholding as a concept which requires 50% of notional pension property to be withheld in scheme (rather than a restriction on what can be paid out)

"*The withholding notice allows a personal representative or a prospective personal representative,*

or *person acting on their behalf, of a deceased member to require a pension scheme administrator to withhold 50% of pension death benefit entitlement*."

- Example 10 is a case where a DC pot has increased by £12,000 in value since date of death, and is to be paid to Kelly, Ryan and Andrew.

"*the withholding only applies to the notional pension property which is determined at the date of death. Kelly, Ryan and Andrew can take their portion of his £12,000 as this is not part of the notional pension property and therefore is not covered by the withholding notice*"

Withholding and fluctuating assets – HMRC's view?

- HMRC Technical Note 2 - Draft withholding notice

"Section 5: Withholding instruction

I/We instruct the pension scheme administrator not to make a payment under the scheme where that payment would cause the total benefits paid to a person following the deceased member's death to exceed 50% of that person's benefit entitlement under the scheme as at the date of death.

I/We understand that:

- *Withholding cannot exceed 50% of a person's benefit entitlement under the scheme as at the date of death*
- *Payments of excluded benefits and payments to exempt beneficiaries will not be withheld*
- *Payments already made cannot be reversed*
- *where a non-exempt beneficiary has already received payments of benefits, that are not excluded, exceeding 50% of their entitlement as at the date of death, no further payments of benefits, that are not excluded, may be made to that beneficiary while the withholding notice remains in effect"*

Withholding: key risks for PSAs

Three ways to breach withholding:



1 PSA unaware of WN receipt

PSA pays benefits without withholding



2 Paying more than allowed

Lack of clarity in WN rules mean PSA pays more than is allowed



3 Incorrect spouse/CP exemption

Payment is made to spouse/CP who is not fully exempt (not a long-term UK resident) or to someone who is not a legal spouse/CP

PSA exposure

Joint liability for the IHT due

No overriding power to deduct	The statutory override only covers tax payable by a PSA under a Direct Payment Notice. Breaching WN would need scheme power to meet tax from benefits. Assuming PSA has benefits left from which tax could be deducted!
Relevant risks	Where if or how a WN applies is uncertain, withholding all payments for 15-month period may carry lower comparative risk than breaching WN
Asset investment	How should trustees invest assets between death notification and benefit payment?

TRICKY ISSUE 5

Who is a PR?
Or prospective PR?

05

Who is a PR / PPR?

WHY DOES THIS MATTER?

- PR or PPR will have rights to require pension scheme administrator (PSA) to:
  - Supply information about benefits and beneficiaries
  - Withhold benefits
  - Pay IHT direct from pension assets
- Acting on instructions of a person who is not in fact a PR / PPR may result in PSA breaching the law
  - Including data protection legislation
- At present, PSA may verify PR's status by requesting sight of Grant before disclosing information to PRs
- From April 2027, PSA will have to comply with PR / PPR requests before Grant is obtained



Who is a PR (or a prospective PR) – different definitions

Income tax definition of PR (s989 Income Tax Act 2007)

- "in relation to a person who has died, means—
  - in the United Kingdom, persons responsible for administering the estate of the deceased, and
  - (b) in a territory outside the United Kingdom, those persons having functions under its law equivalent to those of administering the estate of the deceased"
- Used for new regs 10C – 10F Provision of Information regs (provision of basic and further information by PSA / insurer)

Inheritance tax definition of PR (s272 IHTA1984)

- "includes any person by whom or on whose behalf an application for a grant of administration or for the resealing of a grant made outside the United Kingdom is made"
- Used for new regs 10G – 10M (provision of information concerning withholding and direct payment notices)

Inheritance tax definition of PPR (new s226A(12) IHTA)

- "in relation to a deceased person, means a person who has reason to believe that they will become a personal representative of that person"
- Tech Note 2: enables PPR to give withholding notice and to receive information about withholding and direct payment notices
  - And, following Budget 2026 announcement, PPR may also give direct payment notice

Who is a PR? Explanation from HMRC Technical Note 2

Valid Will and named executor will act

- Treated as PR from date of member's death
  - Before applying for Grant
- HMRC: PR under both Income Tax and IHT definitions
- May submit:
  - Information request
  - Withholding notice
  - Direct payment notice

Valid Will but named executor unable to act

- Eg named executor has died or is unwilling or unable to act
- Another person will be entitled to apply for Grant eg residuary beneficiary under Will
- Income Tax PR, but only IHT "prospective PR" until obtain Grant
- May submit:
  - Information request
  - Withholding notice
  - Direct payment notice (announced in Budget 2026)

Intestacy (no valid Will)

- Probate Rules determine who may become PR
- Usually spouse / civil partner (if any), then other relatives
  - Not unmarried partner
- Income Tax PR, but only IHT "prospective PR" until obtain Grant
- May submit:
  - Information request
  - Withholding notice
  - Direct payment notice (announced in Budget 2026)

Verifying who is a PR / PPR

HMRC TECHNICAL NOTE 2, ANNEX A – DRAFT GUIDANCE

- HMRC: PSAs should take reasonable steps to satisfy themselves of a person's identity and authority to act on behalf of the estate
  - With caveats from HMRC:
    - Not exhaustive list of appropriate evidence
    - PSAs should consider other evidence where reasonable to do so
    - PSAs should seek own legal advice on processes and procedures for establishing PR/PPR identity and authority to act
- PSA may request such information or documentation as reasonably require
- Time periods for responding to PR requests only starts once such information or documentation provided
  - Pragmatic but not what legislation says…
- Where multiple persons are administering the estate, PSAs should consider whether appropriate to deal with one lead person only
  - Depending on circumstances of case



Verifying PR status: what HMRC suggests

DEATH CERTIFICATE PLUS …

Valid Will and named executor will act

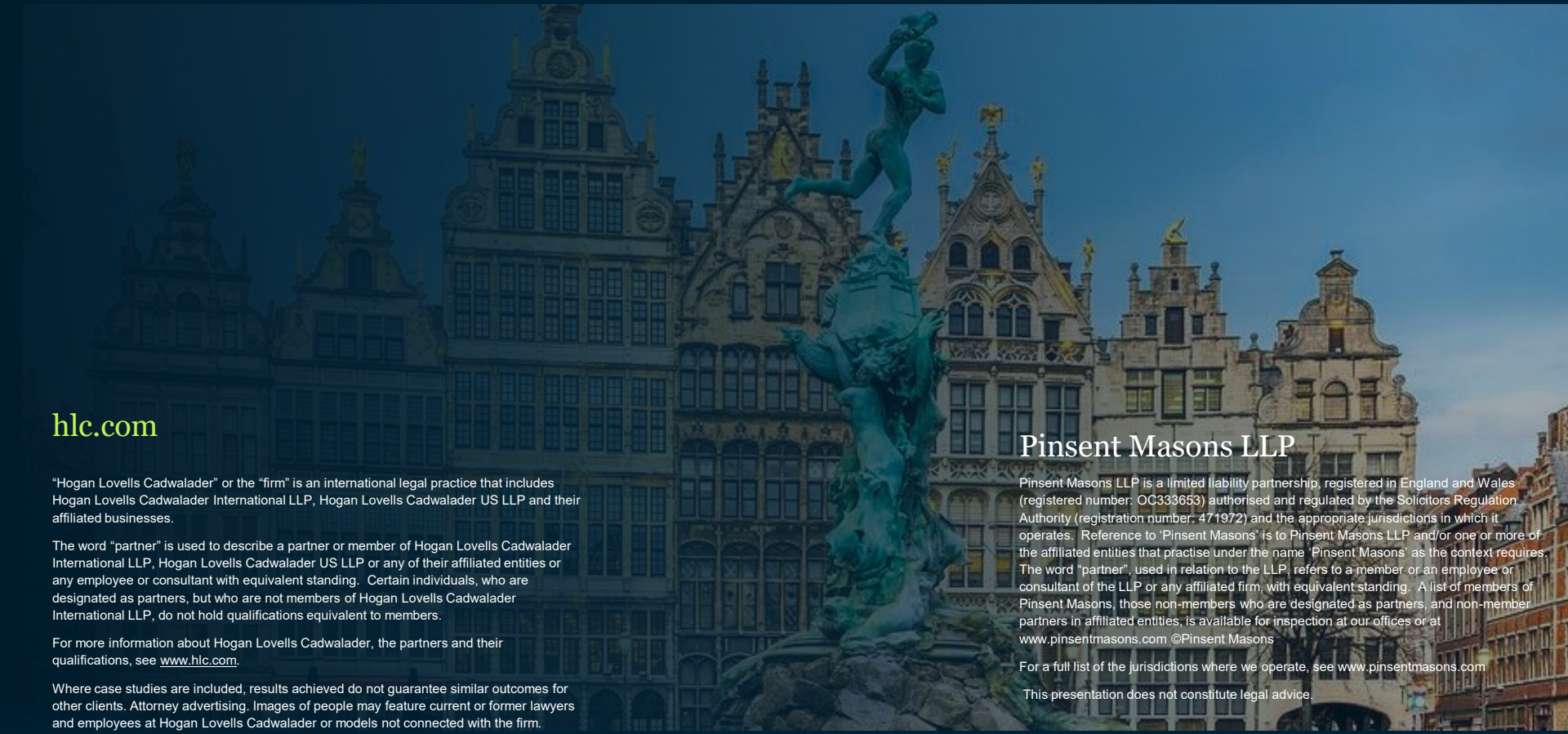
- Certified copy of Will
- Confirmation of acceptance of Executorship and intention to administer estate
- Confirmation that only Executor under Will or whether other Executors have accepted role (and explanation, if not)

Valid Will but named executor unable to act

- Certified copy of Will
- Signed declaration from person intending to administer estate, who considers themselves to be PPR, with
  - Explanation of why named Executors will not act
  - Confirmation of whether other individuals intend to administer estate
  - Explanation of why consider themselves entitled to administer estate

Intestacy (no valid Will)

- Signed declaration, confirming:
  - Belief that member died intestate
  - Intention to administer estate
  - Why believe themselves entitled to administer estate



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