

Prudential Retirement Account

Distribution of death benefits

The introduction of pensions freedom has changed the treatment of death benefits under personal pension plans, like our Prudential Retirement Account (PRA).

There has been communications from different providers on what needs to be done to deal with these changes. An example is the “98%, 1%, 1%” expression of wish.

This leaflet:

- explains the death benefits available under PRA
- summarises the new death benefit rules
- confirms how we pay PRA death benefits
- explains how PRA interacts with the new pension death benefit rules
- provides sample scenarios explaining the beneficiary income options which would apply
- gives you guidance on how you can help your clients' express their wishes over their death benefits

Death benefits under PRA

The following death benefit options may be available:

- Dependant, Nominee and Successor annuities (annuities will be bought from an insurance company chosen by the beneficiary).
- Dependant, Nominee and Successor drawdown.
- Lump sum payment, including to a separate trust arrangement.
- Multiple beneficiaries are possible and each beneficiary can select a different option, or a combination of the options.

We cover how we pay benefits in a later section.

Pension freedom death benefits rules

The key change to be understood is the ability to pay drawdown or annuity income (beneficiary income options) to non-dependants from pension funds. However, there are certain rules that must be followed to allow this to happen.

The new rules (legislation covered below) only allow a scheme to pay an income to a non-dependant:

- a) if there were no living dependants of the member when the member died,
- b) or if there are dependants, if the non-dependants have been nominated.

Full details of death benefits are available in our Technical Centre – pruadviser.co.uk/content/knowledge/technical-centre/

Legislation

The Taxation of Pensions Act 2014 introduced definitions for ‘nominee’ and ‘successor’ (TOPA 2014 Schedule 2, Part 1, Para 3, 27A). This legislation states, “no individual nominated by the scheme administrator counts as a nominee of the member at any time when there is:

- a) a dependant (at the date of death) of the member, or
- b) an individual, or charity, nominated by the member in relation to the benefits.”

The same principles apply to successors.

HMRC use nominated – this means either a binding direction or the more usual ‘expression of wish’.

It is important to note that individual scheme rules may dictate what and to whom pension death benefits are distributed. We cover this for PRA below.

What is the 98%, 1% 1% expression of wish?

Broadly, the 98%, 1%, 1% expression of wish is to try to maximise the death benefit flexibility.

It is effectively saying 'favour my spouse with the death benefits but, if you don't want to give it to them or they don't want it, as I have nominated my children they can get an income even though I have a dependant still alive'.

It's basically trying to make sure that non-dependants can be offered beneficiary income options – i.e. nominee annuity/drawdown.

Do nominations have to be on expression of wish forms?

Unless there is something specifically detailed in a scheme's documentation, an expression of wish can be made in any format as long as it's received by the scheme and is clear.

Does the 98%, 1%, 1% expression of wish work?

There are two ways to look at this – yes and no.

First, yes, it achieves the aim of giving the scheme the option of paying an income to a non-dependant where there is a living dependant.

But, no, individual schemes may not offer the full range of death benefits and/or there may be things in individual schemes rules/policy conditions which dictate how death benefits are distributed.

For a standard scheme with full death benefit options and discretionary distribution by the scheme, it would work.

We confirm that it would work for our Prudential Retirement Account, both the Savings Account and the Income Account.

How do death benefits work under PRA and how does that interact with the new death benefit rules?

Although we have decided to offer full flexibility under PRA, it's important to be aware that the legislation can restrict us.

It doesn't remove our ability to use our discretion to decide who to pay death benefits to. However, it does potentially restrict the death benefit payment options we may offer to our chosen beneficiary if they are not named.

Where a client dies leaving any dependant(s), or has made an expression of wish for any individual, or charity, then we can only offer beneficiary income options to any dependant(s) and/or nominated individual(s).

However, we can pay a lump sum death benefit to anyone we choose using our discretion. We will gather relevant information before deciding who we will pay death benefits to, but will usually take notice of the expression of wish where we do not uncover a reason to deviate from it.

Example

A client has made an expression of wish for 98% to his wife, 1% to a child under age 23, and 1% to an adult non-dependant child. This allows us to offer all 3 nominated individuals the full suite of options – a lump sum, an annuity or drawdown. We are not bound by the 98%, 1%, 1% split and can vary the actual percentages to be allocated depending on the needs of the beneficiaries once the death benefit becomes payable.

You can see this nomination would achieve the point of 98%, 1%, 1%.

Sample scenarios and the beneficiary income options

The following table can be used to understand the death benefit distribution position under PRA in different scenarios.

Client instruction before death	Is there a surviving dependant?	Death benefits
		<p>In all scenarios we have discretion to choose who we will pay death benefit to and we can offer to pay this as a lump sum.</p> <p>The position for offering beneficiary income options is covered in detail below.</p>
No expression of wish	Yes	A, B
Nominates 1 dependant for 100%	Yes	B, C
Nominates 2 or more dependants for an equal share	Yes	B, C
Nominates one or more non-dependant(s)	Yes	F, G
Nominates spouse for 98% and 2 non-dependant children for 1% each	Yes	F, G, H
Nominates 2 non-dependant children for 50% each.	Yes	F, G, H
Nominates a Trust	Yes	A, B, L
No expression of wish	No	M
Nominates 1 dependant for 100%	No	<p>M</p> <p>We're assuming here that the nominated person has pre-deceased our planholder so we are treating in the same way as a 'No expression of wish' case.</p>
Nominates one or more non-dependant(s)	No	F, N
Nominates spouse for 98% and 2 non-dependant children for 1% each	No	<p>F, G, H</p> <p>We're assuming here that the nominated spouse has pre-deceased our planholder.</p>
Nominates 2 non-dependant children for 50% each.	No	F, H, N
Nominates a Trust	No	L, M

Key:

- A Any dependant(s) can be offered income options (annuity or drawdown).
- B Any non-dependant(s) can only be offered a lump sum.
- C Any dependant(s) – (i.e. whether nominated or not) can be offered income options.
- D If the nominated dependant satisfies our definition of 'relevant dependant', we are bound by the client's instruction and have NO discretion.
- E The nominated dependant can choose to take the death benefit as a lump sum, an income, or a mixture of both.
- F For an expression of wish in respect of any non – relevant dependant, we are not bound by the client's wishes.
- G Any nominees we select can choose to take the death benefit as a lump sum, an income, or a mixture of both.
- H Any other non-dependant(s) can only be offered a lump sum.
- I Any dependant(s) (i.e. whether nominated or not) AND the nominated non-dependant(s) can be offered income options.
- J NB we do not need to comply with the percentage amounts stated by the client. The fact a non-dependant has been nominated allows us to offer them an income and this may be for any amount of the death benefit fund up to 100%.
- K A spouse satisfies our definition of 'relevant dependant', and so we are bound by the client's instruction and have NO discretion.
- L We may choose to pay the surviving dependant some, or all, of the death benefit and as they satisfy the HMRC definition of dependant, we can offer all options – for example, lump sum and income options.
- M We retain full discretion on who to pay death benefit to. If we choose to pay to the Trust, then this will be as a lump sum.
- N We can offer any chosen beneficiary all options, for example, lump sum and income options or a mixture of both.
- O The nominated non-dependant(s) can be offered income options.

Does a nomination have to be expressed using percentages?

Where a client is in PRA and wants to make an expression of wish without stipulating percentages of death benefit to be allocated to surviving dependants and nominees, then our expression of wish form has a small space for additional information but an additional page can be attached to the form. Some examples of how this works and what it achieves, are detailed below:

Possible wording	What it would achieve
'My primary concern is that my spouse is adequately provided for from my pension on my death. Once my spouse has had an opportunity to decide how much, if any, of the death benefit fund they want, any remaining pension funds should be distributed to my children named X and Y in any proportion that the Trustees see fit using their own discretion'.	The spouse would be paid as much of the fund as they wanted. It would also allow us to offer the full suite of death benefit options to the 2 named children if we chose to pay to them at our discretion. Anyone not named could get a lump sum only.
'On my death I would like the trustees to pay my death benefits to my spouse and children named X and Y in any proportion they see fit'.	This would allow Prudential complete discretion to whom and how much we pay any death benefit to. We would not have to pay any death benefit to the spouse. We could pay a lump sum to anyone but would only be able to pay an income to the spouse and X and Y.

Anything else to be aware of on an expression of wish?

It should be noted that a member cannot dictate who the death benefits go to after their dependant or nominee dies. It is the beneficiary of the death benefits who will nominate their own successor(s) to whom benefits may be paid on their subsequent death.

Need more help?

For more help or information, contact your Account Manager.