REPORT TO: **PENSION SUB-COMMITTEE OF THE CITY GOVERNANCE COMMITTEE & PENSION BOARD – 17 MARCH 2025**

REPORT ON: **PENSION ADMINISTRATION PERFORMANCE – UPDATE TO 31 DECEMBER 2024**

REPORT BY: **EXECUTIVE DIRECTOR OF CORPORATE SERVICES**

REPORT NO: **94-2025**

1. PURPOSE OF REPORT

This report provides information on the recent quarter's operational performance in relation to Pension Administration and other general developments in this area over the above period.

2. RECOMMENDATIONS

The Sub-Committee is asked to note the contents of the report.

3. FINANCIAL IMPLICATIONS

There are no direct financial implications.

4. BACKGROUND

This report focusses on statutory performance and is subject to ongoing review and development that will aim to provide enhanced reporting functionality that can be prepared efficiently and improve the quality of information on administration performance and compliance that is presented to members for scrutiny.

5. SERVICE SUMMARY

- **Summary of Statutory Performance Requirements**

The following table summarises the performance of the fund administration against statutory requirements:

	Received (1)			Completed (2)					
	Q2	Q3	% Change	Q2	Q3	% Change	Statute Days (3)	Days to Complete Q3 (4)	Cases Out with Statute at end of Q3 (5)
Starter	1,031	735	-29%	1,026	711	-31%	60	6	-
Estimate	190	144	-24%	273	199	-27%	60	53	1
Options	552	449	-19%	541	620	15%	60	45	-
Actual	366	424	16%	346	389	12%	60	15	-
TV In	38	36	-5%	26	39	50%	60	45	-
TV Out	196	139	-29%	153	200	31%	90	46	-
Deferred	220	341	55%	215	237	10%	60	30	6
Death	165	159	-4%	170	160	-6%	60	12	-
Death Grant	34	44	29%	25	41	64%	60	48	-
Dependant	53	72	36%	64	70	9%	60	25	-
Divorce	11	18	64%	13	12	-8%	90	40	-
Total	**2,856**	**2,561**	**-10%**	**2,852**	**2,678**	**-6%**			**7**

Key:

Q2 denotes July to September 2024 period.
Q3 denotes October to December 2024 period.

1) Reflects total number of cases received in each period and movement %
2) Reflects total number of cases completed in each period and movement %
3) Reflects the statutory target timescale to deal with each case
4) Reflects the average number of days take to complete each case during the quarter
5) Reflects the number of individual cases that were not dealt with in the statutory time at the end of the quarter

The following provides further detail on statutory task data:

Overall Caseload:

There was an overall improvement in the average days to complete cases this quarter with these decreasing in nearly all areas of the statutory requirements. The number of cases received in this quarter decreased by 10%, however, 7 cases remained out with statue at the end of the period. A continued effort within the team is made to ensure all cases are completed within the statutory period where possible.

Prioritised Tasks:

- **Issue of Pension Options & Pensions Brought into Payment**
    - Actual pension payments saw a 16% increase in cases received compared to last quarter, along with a 12% increase in cases completed.
    - The volume of pension options decreased by 19% in the quarter but there was an increase in 15% of the amount issued to members.

- **Processing of Death Benefits, Payments of Death Grants, and Dependant Pensions**
    - Death grant payments received increased by 29% along with an increase of 64% in the amount completed in the quarter.
    - Whilst death benefit cases saw a small decrease in 4% received and 6% completed, Dependant Pensions increased by 36% received and 9% completed.

Other Statutory Tasks:

- **New Member Processing:** Due to the workflow system in operation the average days for completion in the area dropped to 6 days this quarter.
- **Estimates:** Cases dropped in both areas for this period and along with this a decrease in the average number of days to complete was recorded.
- **Deferred Member Processing:** There was an increase by 55% in the number of cases received along with an increase by 10% of cases completed. There are ongoing complex cases in this area and the team are communicating with some employers for information to calculate the member benefits.
- **Outbound Benefit Transfers**: The number of cases completed in the quarter rose by 31%, whilst there was a decrease of 29% of cases received.
- **Inbound Benefit Transfers**: The number of cases completed in the quarter improved by 50% and the cases received decrease of 5%.
- **Divorces:** The average days to process saw a small decrease to 40 days in this quarter, whilst the number of cases received increased by 64%

5.1 Other Pension Operations

The following table summarises the other operations undertaken in addition to statutory requirements:

	Received [1]			Completed [2]			Days to complete [3]		
	Q2	Q3	% Change	Q2	Q3	% Change	Q2	Q3	% Change
Amendment to Account	3,500	834	-76%	1,345	637	-53%	27	69	153%
Certificates	77	68	-12%	218	101	-54%	34	42	23%
Other Admin Tasks	686	911	33%	594	1,003	69%	24	52	115%
Other pensions processing	1,564	902	-42%	640	888	39%	213	285	34%

Q2 denotes July to September 2024 period.
Q3 denotes October to December 2024 period.

1) Reflects total number of cases received in each period and movement %
2) Reflects total number of cases completed in each period and movement %
3) Reflects the average number of days take to complete each case during the quarter and movement %

After successful recruitment in the previous quarter a new Clerical Assistant started in the vacant post from November. The post being unfilled for a period along with the requirement of training for the new staff member have affected the case numbers in this area.

5.2 Employer Contributions

For the period October-December covering the payroll periods of September to November there were 2 late payments and 2 late submissions of the TPF91 form which is required to be submitted with supporting details of payment to the fund. The employers were contacted regarding the late payment of contributions, and these were received promptly after.

The fund remains in open communication with one employer regarding outstanding contributions and we will continue to provide updates in future reports.

Employers and Member Online Portals:

5.3 Member Self Service Update

On the 31 December 2024 there were 17,705 members registered for the Member Self Service Portal, this is an increase in 211 users in this quarter.

Heywood have advised that the Member Self Service portal will be replaced by a new system named Engage and Member Self Service will no longer be available from January 2026. We are in discussion with Heywood for costings and to agree an implementation plan with key dates for migration over to the new service. Updates will be provided in future reports.

5.4 I-Connect Update

28 Employers submitted monthly uploads through the I-Connect system during the period. We continue to work with the larger employers on the issues they are experiencing in providing us with data and aim to have this resolved and all employer using the system monthly by April 2025.

5.5 Call Centre

The volume of inbound calls reduced in this quarter. This was expected as the previous quarter volumes were mainly as a result of annual benefit statement queries. Calls answered totalled 2,481, a decrease of 571 calls from the last quarter. Over the period, a total of 539 hours was spent on incoming calls, which continues to be a major resource for the team.

5.6 Compliance

National Fraud Initiative: 5 cases continue to remain outstanding at the end of this quarter and Tayside Pension Fund will liaise back to the Dundee City Council fraud section regarding these where appropriate**.**

The next Nation Fraud Initiative exercise is due to take place in the next quarter and training is scheduled in January for this.

5.7 Recruitment

- New Clerical Assistant started in post in November.
- The ongoing review into resources and structure of the staff is ongoing and further updates will be provided as this progresses.
- Recruitment for a further Pension Assistant and Assistant IT/Systems Process Analysis began in December and interviews will take place in the next quarter.

5.8 Queries & Complaints

- 4,045 emails were received into the generic mailbox in the quarter up to the 31 December 2024, this equates to approximately 64 emails per working day. This is a decrease of 2,419 emails from the last period (where volumes were higher as a consequence of Annual Benefit Statement issue). E mail tasks continue to be a significant work allocation and is an area which is also being reviewed as part of the resourcing exercise.

  - Complaints to Prudential: one escalated complaint was received and is under review by Prudential.
  - GDPR: No GDPR breaches within this quarter.
  - Complaints: During the quarter one complaint was received and this was upheld.

5.9 Staff Training

- In House Training

In house training continues to be utilised for the newer members of staff and also with staff who are undertaking extra responsibilities within the team. Peer to peer training is delivered by experienced staff and whilst this training is invaluable to the team, it is recognised the impact this has on caseloads. This will be reviewed in the wider resource review.

5.10 Employers meetings

Meetings have been held with some employers to provide a Q&A session on the new Ill Health guidance for employers which covered the completion of the new ill health certificate by the occupational health provider and the employer. These sessions were offered to all employers when details of the new guidance was circulated and a further 1 employer is scheduled in the next quarter.

Management have also attended meetings with some employers to discuss topics on Voluntary Early Retirement, McCloud and Certificates of Protection.

5.11 Annual Allowance Update

The statutory Annual Allowance Annual exercise for 2023/24 was carried at the start of October to issue Pension Input letters to those who had exceed the Annual Allowance threshold of £60,000. Due to the increase in the threshold from £40,000 to £60,000 less members were affected than previous years.

Below shows a breakdown of the number of members affected and how they were contacted to advise of a breach.

	Email	Letter	Total
Members Affected	9	5	14

5.12 September CPI Rate Announced

On 16th October 2024, the Office for National Statistics announced the Consumer Prices Index (CPI) rate of inflation for September 2024 as 1.7%

Government policy in recent years has been to base increases under the Pensions (Increase) Act 1971 and revaluation of pension accounts under section 9 of the Public Service Pensions Act 2013 on the rate of CPI in September of the previous year, and official confirmation is awaited.

6. MCCLOUD UPDATE

<u>Club Transfers (transfer from another public service pension scheme under the Club transfer rules)</u>

There has been an extension of 12-month time limit granted on the 24 October 2024. The Cabinet Office has emailed public sector pension scheme stakeholders about the 12-month time limit for Club transfers. Paragraph 4.1 of the Club memorandum provides that individuals must elect to proceed with a Club transfer within 12 months of becoming eligible to join their current scheme. However, a transfer can take place after the 12-month time limit if there are exceptional circumstances that have prevented the member from making an election within 12 months, and both the sending and receiving schemes agree.

The email from Cabinet Office stated: “It has long been our policy that, if both schemes agree, that time limit can be extended if there are exceptional circumstances to justify it. The purpose of this email is to advise that, in its capacity as secretariat to the Club, the Cabinet Office's view is that complying with the 2015 Remedy can be considered as 'exceptional circumstances' for the purposes of extending the 12-month time limit.”

If administering authorities need to extend the 12-month time limit due to the above exceptional circumstance, an agreement for extension will be required with the receiving scheme.

<u>LGPS (Remediable Service) (Scotland) (Miscellaneous Amendment) Regulations 2024</u>

On the 12 December 2024, the Scottish Government laid the LGPS (Remediable Service) (Scotland) (Miscellaneous Amendment) Regulations 2024 (the ‘Amendment Regulations’), which will amend the underpin rules. These regulations come into force on 6 February 2025.

The Scottish Public Pensions Agency (SPPA) consulted on the Amendment Regulations between 2 September 2024 and 28 October 2024.

The main changes are:
Correcting an error in regulation 4L(4) Regulation 4L(4) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 provides for actuarial reductions to provisional underpin amounts, calculated using the early retirement GAD guidance. This will apply where:

• the member is drawing the main CARE pension on voluntary retirement or flexible retirement before age 65, and
• their pre-April 2015 benefits are being actuarially reduced.

The second condition is an error. The intention is that actuarial reductions may apply to the provisional underpin amount where the first condition is met, even if the pre April 2015 benefits are not reduced.

Amendment Regulation 4 will correct the error by revoking the second condition with backdated effect to 1 October 2023.

The early retirement GAD guidance was drafted assuming the second condition was an error.

Active and deferred annual benefit statements

From 2023/24 onwards, before preparing an ABS for an active and deferred CARE account, administering authorities must identify whether the account qualifies for underpin protection. If it does, the ABS figures must be calculated using the new underpin rules set out in the LGPS (Remediable Service) (Scotland) Regulations 2023. To do this accurately, the administering authority must have:
• obtained, validated and loaded all relevant McCloud service data
• ensured that all transfers-in and aggregations are correctly and fully recorded
• for deferred members or active members over the final salary normal retirement age, calculated the provisional assumed benefits and provisional underpin amounts.

Additionally, software must be capable of calculating the ABSs figures using the new underpin rules.

The Scottish Government has acknowledged that it will take time for administering authorities to be able to calculate the ABS figures for CARE accounts with underpin protection under the new underpin rules correctly.

Amendment Regulation 6 modifies the LGPS ABS rules for 2023/24 and 2024/25 with backdated effect to 1 October 2023:
• ABS for 2023/24: administering authorities should have calculated the ABS figures ignoring the new underpin rules. If, for any member or class of members, the authority was able to, it has discretionary power to have calculated the figures under the new underpin rules. This power can be exercised at any point before 1 April 2025.
•ABS for 2024/25: administering authorities must calculate the ABS figures using the new underpin rules. For any members, or class of members, the authority has discretionary power to calculate the ABS figures ignoring the new underpin rules where it considers it reasonable in all circumstances of the case. This power can be exercised at any point before 31 August 2025. If the authority uses this power, it must notify the member in the ABS.

Pension credit member ABSs
Administering authorities must revisit pension credit calculations where the pension debit member qualifies for underpin protection and the effective date of the pension sharing order was between 1 April 2015 and 30 September 2023. From 2023/24 ABS onwards, the figures should reflect any recalculations. The Scottish Government has acknowledged that it will take time for administering authorities to complete the recalculations. Therefore, the modifications to the LGPS ABS rules for 2023/24 and 2024/25 also apply to ABSs for pension credit members.

Pensioner member death grant recalculations
Regulation 7 of the LGPS (Remediable Service) (Scotland) Regulations 2023 requires administering authorities to recalculate death grants for pensioner CARE accounts that qualify for underpin protection where:
• the member both retired and died before 1 October 2023,
• the death grant was calculated before 1 October 2023, and
• after recalculating the member’s pension for the underpin, arrears of pension are due.

Amendment Regulation 10 will amend regulation 7 with backdated effect to 1 October 2023 as follows:

• the condition requiring the death grant to have been calculated before 1 October 2023 will be revoked
• where the member was also an active member at death and the single death grant paid was three times the assumed pensionable pay, authorities will not need to recalculate the pensioner death grant. These amendments align the rules on recalculating pensioner death grants with those for recalculating deferred member death grants.

Special interest - misalignment with LGPS (England and Wales) rules
Regulation 14 of the LGPS (Remediable Service) (Scotland) Regulations 2023 outlines the special interest rules for McCloud recalculations. The Scottish Government intended to align these rules with the equivalent rules in LGPS (England and Wales). However, the rules in LGPS Scotland are unintentionally misaligned:
• When a member's pension increases due to the McCloud recalculation and the member elects to commute some of the extra pension for a tax-free lump sum, the regulation does not specify the start date for calculating special interest on the lump sum. In LGPS (England and Wales), the start date is the earliest date from which the administering authority would have been able to pay the lump sum.
• When a top-up death grant, top-up transfer payment or top-up trivial commutation payment (including small pot payment) is due as a result of a McCloud recalculation, special interest is calculated from the day that falls halfway through the period beginning with the date on which the original payment was made and ending with the date on which the top up payment is paid. In LGPS (England and Wales), the start date is the day on which the original payment was made.

Amendment Regulation 13 will align the special interest rules with the equivalent rules in LGPS (England and Wales) with backdated effect to 1 October 2023.

Special interest rules - Club transfers
The Scottish Public Pensions Agency is aware that there is an error in regulation 14 of the 2023 Regulations regarding the interest due for retrospective adjustments to Club transfers. The regulation requires interest to be paid on all top-up transfer payments (other than bulk transfers). For top-up Club transfer payments to chapter 1, judicial and other LGPS schemes, this conflicts with paragraph 4.41 of the Club Memorandum, which says not to pay interest. Scottish Ministers will amend the LGPS regulations to align with the Club memorandum.

Amendment Regulation 13 will correct this error with backdated effect to 1 October 2023 by disapplying the special interest rules to top-up transfer payments to other McCloud remedy schemes (eg NHS Pension Scheme, Civil Service Pension Scheme, Teachers' Pension Scheme). The amendment applies to both non-Club and Club transfers.

7. UPDATE ON THE LIFETIME ALLOWANCE

The Pensions (Abolition of LTA Charge etc) (No 2) & (No 3) Regulations 2024

On the 7th and 9th October 2024, the Pensions (Abolition of Lifetime Allowance Charge etc) (No 2) Regulations 2024 and the Pensions (Abolition of Lifetime Allowance Charge (No 3) Regulations 2024 were laid. Both sets of regulations will come into force on 18 November 2024 and have effect from the tax year 2024/25. The regulations amend the Taxes Management Act 1970, the Income Tax Earnings and Pensions Act 2003, the Finance Act 2004 and secondary legislation.

The changes include:

• minor corrections relating to LTA protections

• new provisions covering Transitional Tax-Free Amount Certificates (TTFAC) and the calculation to determine the value of member's benefits when paying a Trivial Commutation Lump Sum (TCLS).

The Pensions (Abolition of Lifetime Allowance Charge etc) (No. 2) Regulations 2024

The Pensions (Abolition of Lifetime Allowance Charge etc) (No. 3) Regulations 2024

8. PROPOSED CHANGES TO DEATH BENEFITS

The Chancellor announced that from 6 April 2027 that most unused pension funds and death benefits will be included in the value of a person's estate for inheritance tax (IHT) purposes. The Government launched a technical consultation on Inheritance tax on pensions: liability, reporting and payment on the same day. The consultation seeks views on the processes required to implement the change. Under the current rules, unused pension funds and death benefits are not liable for inheritance tax where the trustees/scheme managers have discretion in deciding who will receive the payment. From 6 April 2027, the distinction between discretionary and non-discretionary payments will be removed. The proposed changes would mean that:

- LGPS death grants would be subject to inheritance tax from April 2027

- personal representatives would calculate whether any inheritance tax is due, and pass on the relevant information to the administering authority

- administering authorities would be responsible for paying and reporting to HMRC any inheritance tax deducted from an LGPS death grant.

<u>A response to this proposal has been collated between the 11 LGPS funds in Scotland and the reply submitted can be read at Appendix 2 of this report.</u>

9. FIRE SCOTLAND – CONSOLIDATION OF FUND

The transfer of Fire Scotland members is to take place at the 31 January 2025, Tayside Pension Fund officers have continued to liaise with the fund actuaries to consolidate the information required for the upcoming transfer of members to Strathclyde Pension Fund.

29 letters to deferred members and 79 letters to pensioners were issued to members who are affected by the transfer. Work has been carried out with Strathclyde Pension Fund and Heywood to extract data to ensure that the transfer completes with minimum issues

Further updates will be provided in future reports.

10. REGULATIONS

Details of regulatory matters are contained in Appendix 1.

11. POLICY IMPLICATIONS

This report has been subject to the Pre-IIA Screening Tool and does not make any recommendations for change to strategy, policy, procedures, services or funding and so has not been subject to an Integrated Impact Assessment. An appropriate senior manager has reviewed and agreed with this assessment.

12. CONSULTATIONS

The Chief Executive and Head of Democratic and Legal Services have been consulted in the preparation of this report.

13. BACKGROUND PAPERS

None

ROBERT EMMOTT

EXECUTIVE DIRECTOR OF CORPORATE SERVICES **21 March 2025**

Appendix 1

REGULATORY COMMUNICATIONS

Wider Landscape

Court of Appeal dismisses Virgin Media appeal – update

The case confirms that amendments made to pension scheme rules regarding section 9(2B) rights are void unless the scheme actuary certified that the scheme still met the contracting-out adequacy test. It has been confirm that HM Treasury is still assessing the implications. However, we understand that it does not believe the case expressly addresses whether actuarial certifications are required for relevant amendments to public service pension schemes (the case deals specifically with private sector schemes).

Relevant amendments to public service schemes would have been made by legislation. The general position in public law is that legislation remains valid until it is revoked or repealed by subsequent legislation or, in the case of regulations, specifically declared void by a court. Further updates will be provided when HM Treasury has finalised its assessment.

Website Updates

LGPS website for funds in Scotland

LGPS Regulations and Guidance

HMRC

- Pensions schemes newsletter 163 — October 2024 - GOV.UK
- Newsletter 164 — October 2024 - GOV.UK
- Pensions schemes newsletter 165 — December 2024 - GOV.UK
- Finance Bill - Parliamentary Bills - UK Parliament

Pension Dashboards

- DWP Ministerial Statement on dashboards to confirm it's commitment to the current timetable: Written statements - Written questions, answers and statements - UK Parliament
- The Pensions Administration Standards Association (PASA) published the first content in its new 'Dashboards Toolkit' which will be updated over time: Dashboards Toolkit – The Pensions Administration Standards Association

The Pension Ombudsman

TPO Update: November 2024

Operating Model Review: Reflections on our achievements this year | The Pensions Ombudsman

The Pension Regulator (TPR)

Joint statement from the FCA, ICO and TPR for retail investment firms and pension providers | ICO

Scheme Advisory Board

Scotland Updates

LGPSAB | Local Government Pension Scheme Advisory Board

SAB Bulletin – October 2024 | LGPSAB

England & Wales updates

LGPS Scheme Advisory Board - Home

Appendix 2

Technical consultation – Inheritance Tax on pensions: liability, reporting and payment

Please find attached the consultation response from the Scottish Pension Liaison Group, the senior pension officer group for the 11 administering authorities in the Local Government Pension Scheme (Scotland) (‘LGPS (Scotland)’) and Northern Ireland Local Government Officers’ Superannuation Committee (‘NILGOSC’). The 11 administering authorities in the LGPS (Scotland) represent 674,620 members and NILGOSC has approximately 165,000 members.

Background

The Local Government Pension Scheme (‘LGPS’) is a statutory defined benefit scheme providing an income in retirement and family protection, in the event of death, for its members.

The main scheme benefits of the Scheme are salary related and members can choose to make voluntary contributions to either buy extra Scheme pension or build up a pot of money that can be taken as tax free cash on retirement (subject to HMRC limits).

The family protection provided in the event of a member’s death is twofold. The first element is a pension that is payable to the eligible survivors and the second element is a death grant (i.e. a defined benefits lump sum death benefit or pension protection lump sum death benefit). The survivor’s pension is a proportion of the deceased member’s pension and the death grant depends on the status of the member, the date the member left the LGPS and how long a pension has been in payment. The death grant cannot be commuted to provide the survivor with extra Scheme pension. For the purpose of this response, we will not refer to survivors’ pensions as we understand they are out of scope.

If an active contributing member dies a death grant is payable of three times their assumed pensionable pay. If that member has both active and deferred records, only the highest death grant is paid and not the aggregated combination. If a deferred member dies, depending on the date of leaving the LGPS, a death grant of either three or five times the annual pension is paid. If a pensioner member dies, depending on the date of leaving the LGPS, a death grant of approximately either five or ten years pension less the pension already paid is payable. There is no age limit applying to these death grants in Northern Ireland though Scotland caps payments at age 75. In consequence, in Northern Ireland, pensioner death grants can be paid to the beneficiaries or personal representatives of deceased members who are over age 75 at date of death with associated lump sum death benefit tax charges.

The LGPS is a public service pension scheme (PSPS) and, as such, cannot be used as a tax-planning vehicle to pass on pension wealth free of tax. The employment benefits provided by the LGPS are designed to provide an income for employees during retirement and protection for survivors in the event of their death and a member cannot engineer a situation where the current level of tax free benefits provided to survivors can be increased beyond that prescribed by the Scheme’s Regulations. The only exception is where the member chooses to pay additional voluntary contributions (AVCs) and dies before retirement where an unused AVC pot would, as a discretionary death benefit, become payable as a lump sum tax free. However, the member would have to plan to die before reaching retirement age for this to be classed as a tax planning tool to transfer wealth without an Inheritance Tax (‘IHT’) charge.

Question 1: Do you agree that PSAs should only be required to report unused pension funds or death benefits of scheme members to HMRC when there is an Inheritance Tax liability on those funds or death benefits?

We feel that beneficiary details should only be reported where there is an IHT liability, as we would feel uncomfortable passing on the personal data for beneficiaries (particularly children), especially when they may not be in scope to become jointly and severally liable for IHT due to the size of the inheritable estate. Where the death benefit lump sum attracts IHT, we would suggest the **beneficiaries' details should be supplied by the PR** as we are firmly of the belief the PR should remain solely liable for IHT.

In regard to reporting the death grants themselves, due to the proliferation of small pots, we wonder whether, as with annual allowance where all excess savings are reported, whether or not in scope for Income Tax, all death benefit lump sums should be reported in order to afford HMRC greater transparency on the total payments made in respect of the deceased. It also allows for HMRC to already hold the data it needs in the event further assets are identified at a later date occasioning an amendment that brings the death benefit lump sum into scope for IHT.

If we were required to report all death benefit lump sums, our preference would be to do this annually in the form of an **annual event report without the inclusion of beneficiary data**. While reporting all death grants may be of assistance in the detection of error or omissions and acting as a safety net for PRs who may accidentally omit listing a payment (noting that PRs may be relatives and classed as vulnerable due to their bereavement), it may not be a practical way to report given the way IHT is collected.

For example, in Northern Ireland, an estate is not cleared for probate or administration until the inheritance tax is determined and either paid or there is agreement to pay in instalments on certain items. When HMRC is satisfied it issues a probate summary that allows the PR to proceed and apply for probate. In other words, the PR must pay all of the IHT first or agree to pay instalments on certain items before probate is received allowing any other steps to wind up the estate to be taken e.g. selling a house etc. However, were we only to report once a year, then we believe it may be possible that probate could be delayed until our report was received, unless steps were put in place to prevent this from happening.

At present there is a Direct Payment Scheme for Inheritance Tax where the PR fills out a form, **IHT423**, and forwards it to the parties whom it wishes to make a direct IHT payment to HMRC e.g., building society, bank, **pension contracts** and life insurance contracts. This states the amount of IHT to be paid and contains the IHT Reference number. Currently, payments from pension contracts do not require the pension provider to become jointly and severally liable. We do not understand why this current arrangement of making payments towards IHT is not expanded and rolled out for the additional IHT payments that are now being proposed. Expanding the current process is much more straightforward and avoids the AFT reporting, which is not without complications and would only allow actual cases where IHT is due to be reported, please refer to our response to question 4.

As previously advised, where the death benefit lump sum attracts IHT, we would suggest the details for beneficiaries should be supplied by the PR as we are firmly of the belief the PR should remain solely liable for IHT. We do not see the logic in making the PSA jointly and severally liable with the beneficiary when any payment towards IHT will be taken before the death benefits are distributed and we do not see why the PR should not continue to be solely liable for any IHT due, as they are at present. Any payment towards IHT will be taken from the deceased member's death benefits, not the payment made to beneficiaries and under the proposed information sharing process PSAs will be required to inform PRs and provide them with details of the settlement made within three months of a relevant death benefit being paid.

We also have concerns with the PRs process for instructing the tax payment rather than the PSA receiving a tax demand from HMRC. We note in Example 3 that the PR will use a HMRC calculator that will set out how the nil-rate band should be apportioned across different elements of the estate. We also understand the PR will notify the PSA of the amount of nil-rate band to be set against the unused pension funds, using a HMRC form provided for this purpose. However, the nature and content of the form is not discussed and while data protection does not extend to the dead, PSAs could face a very difficult balancing act if the form that is to be used to process the IHT payment contains details of the makeup of the estate left to beneficiaries. The LGPS provides discretionary death benefit lump sum payments and while we will request sight of a Will to inform our decision-making, we don't normally ask how large the estate was or how much each beneficiary received as, generally, we are looking to determine who the deceased wished to protect and provide for following their death. If the form contains more information than just the nil-rate band that is apportioned to the LGPS there is a danger that more of the beneficiary's personal data than is necessary to settle the IHT demand is collected.

We are not averse to making payments towards IHT, but we believe the primary purpose of a PSA is to settle the death benefits, not to provide an IHT checking or tax collection service and, as such, the responsibility for settlement of an estate with HMRC should remain the sole responsibility of the PR. We note that PRs may instruct banks to make payments or part payments towards IHT without the bank becoming liable for the IHT payment and we believe that this exemption from becoming liable should similarly continue to apply to PSAs where a payment towards IHT is made from a deceased member's death benefits / accrued pot.

Example 1 demonstrates the potential in the defined contribution arena for a double taxation issue to arise, if the beneficiary draws unused pension funds to pay IHT, but this situation is not possible in the LGPS. The death grant (i.e. a defined benefits lump sum death benefit or pension protection lump sum death benefit) that's payable under the LGPS is not an unused pension pot but is instead in-built scheme protection for dependants that is paid when a member dies. In consequence, where a lump sum is due payment, it is paid out in full and there is no option to convert the death grant paid into extra scheme pension. We would, therefore, endorse the current mechanism under form, IHT423, that allows PRs who have an IHT demand to settle to be able to instruct the deceased's pension contract to make a payment towards the IHT before monies are settled on the beneficiary rather than the current proposal which requires the PSA to become jointly and severally liable. We believe that extending the existing mechanism should remove the need to make the PSA jointly and severally liable for IHT and is consistent with the treatment of banks that do not become liable for the payment of IHT when making a payment towards IHT from a deceased member's bank account.

It should be noted that it is a principle of the LGPS scheme design to provide family protection and this is enshrined in both the Scheme Regulations and in the LGPS Members' Guide which contains a section called 'Protection for your family'. This intentional element of the Scheme's design existed before the introduction of defined contribution pension arrangements and their associated life assurance schemes.

Defined contribution arrangements are generally earmarked arrangements meaning that even where assets are pooled, they are identifiable and marked against the contributions made in respect of an individual member. This makes life assurance schemes the best way of providing the death benefit lump sums that are related to pensionable service. Though termed life assurance schemes, these are actually group life assurance policies and our understanding is that some defined contribution schemes are combined pension and life assurance schemes where there is one set of Trust Deed and Rules covering both the pension and the life assurance schemes whereas others, such as group personal pension schemes have standalone life assurance schemes.

We note the consultation specifically states on page 30 that:

***"All life policy products** purchased with pension funds or alongside them as part of a pension package offered by an employer are not in scope of the changes in this consultation document."*

In many respects, the death grant that's payable under the LGPS is not dissimilar to the death benefit lump sum payable under a defined contribution arrangement's group life assurance policy, the main difference being that the life assurance in a defined benefit scheme is provided for "in-house" (and accounted for in triennial valuations) rather than through an external group life assurance policy. Like the defined contribution life assurance scheme a lump sum is paid to dependants in the event of a member's death. In the LGPS, the death grant cannot be turned into extra Scheme pension as it is not intended to fund retirement income. Additionally, as provided by some life assurance schemes, there is also a separate pension payable to eligible survivors. Though this family protection element of the LGPS scheme design predates life assurance schemes and is currently a self assured feature in the Scheme, it would be possible for the Scheme Regulations to be amended to allow the "in-house" employer life assurance premium to be paid to an external group life assurance policy. However, this would increase the costs in providing this Scheme benefit and the benefits of the LGPS are ultimately funded not only by the contributions paid by members but also the taxpayer.

Given the administrative complexities that will be presented to PSAs if they become liable to IHT, we would request that government publishes detailed guidance covering these complexities as well as other matters related to the information sharing, such as, the action to be taken by PSAs when dealing with multiple PRs who may not be acting in concert, which PR should IHT payment instruction be taken from? What PSAs should do if there is no PR. What form(s) will be used and the information to be given to PSAs when payment of tax is requested, and what information must be supplied to HMRC etc?

Question 2: How are PSAs likely to respond if they have not received all the relevant information from the PR to pay any Inheritance Tax due on a pension by the 6-month payment deadline?

Our options are limited and in some cases we will know in advance that the six month limit will be breached. A breach will happen if the deceased is due supplementary Pensions Increase ('supplementary PI') and the death was to occur more than six months before the supplementary PI was due payment. For these circumstances, we would request that government either excludes the supplementary PI due under the Pensions (Increase) Act 1971 from IHT or makes some accommodation that enables the PR to settle an estate without having to wait for the supplementary PI to be paid and allow the PR to make a penalty free amendment to any IHT due once supplementary PI is paid to the beneficiaries, providing the additional IHT was paid in a reasonable timeframe.

Our understanding of the proposed process, as outlined in the consultation, is that it is not simply a question of supplying the amount of the total death grant to the PR and then paying the IHT to HMRC but it is also necessary to have identified the beneficiaries we intend to make payment to and report these people when we pay the IHT. This is very different from the data requirements under the current information sharing processes which only require amounts to be disclosed.

Generally speaking, six months would be challenging to meet due to the majority of deceased members not leaving a nomination form and gathering the data to make a decision on who should receive the death grant can be time consuming due to the complexities involved with modern relationships and, in certain circumstances, the cause of death. It is not that people are unwilling to engage with us, but the process can take time. This is particularly true when Tell Us Once (TUO) is not used by the person registering the member's death.

The easiest way to make the six month deadline would be to remove the discretionary element of the death grant but this would reduce the protection afforded to survivors by the introduction of Income Tax. It would also increase the exposure of beneficiaries to the potential for double taxation. This is particularly true in the event of the death in-service of a moderate to high earner where the death grant may be sufficient to bring the estate into scope for IHT. We do not operate a non-discretionary death benefit, and it is unclear from the consultation if it is the death grant after the deduction of Income Tax that is in scope for IHT or the original amount before the deduction of Income Tax that is used. If it is the latter, then it would seem perverse that a beneficiary could pay 42% Income Tax and then pay an additional 40% on part of the same sum that has already been subjected to taxation at 42%.

Finally, the funds would seek to avoid building up late payment charges. Clearly this would be difficult to achieve if we didn't have the information from the PR, but could IHT be applied to the full death grant (i.e. we assume no nil-rate applies)? Would it then be possible for any excess IHT paid to be resolved between HMRC, beneficiaries and the PR when the PR is in a position to make settlement? From the information we have gathered, which excludes the impact of supplementary PI on settlement, we feel it is likely that a reasonable number of cases will exceed six months to settle.

We also believe pension funds should not be responsible for settling the personal tax affairs of its members and, in consequence, any late interest should be deducted from the lump sum due payment to ensure fairness to other scheme members, scheme sponsors and, in the case of PSPSs, the taxpayers who help fund these schemes as they should not be required to fund the cost of other people's personal tax. The PSA does not have control of the process to prevent late payment from arising and once death grants are distributed, the deceased's rights and entitlements in the pension fund are extinguished meaning there is no money left to settle any further tax demands. It, therefore, needs to be made clear who is responsible for paying the late payment charge and how pension funds can recoup costs to ensure a loophole is not introduced which sees pension scheme members, scheme sponsors and taxpayers subsidising and paying to settle other people's personal tax affairs.

Question 3: What action, if any, could government take to ensure that PSAs can fulfil their Inheritance Tax liabilities before the Inheritance Tax payment deadline while also meeting their separate obligations to beneficiaries?

Many PSPSs use the TUO service which, if used by the PR, means notifications of member deaths in Great Britain are delivered promptly to the PSPS, though it can still take over a week to receive a death notification. However, this is not the same experience for other workplace pension arrangements or PSPS who do not participate in TUO, where it is not uncommon for death notifications to take up to or more than a month to be received. Additionally, regardless of whether TUO is used, depending on the nature of the death where an autopsy may be required, timelines can be protracted due to delays in producing the necessary documentation verifying the death.

We would, therefore, suggest that, as the priority for the Pensions Dashboard Programme is to connect people with their pensions, allowing anyone with a State Pension and/or one or more private pensions to locate and view their pensions savings together in one place, allowing PRs to register and access the deceased's pension savings via the Pensions Dashboard will help PRs to locate and contact PSAs thereby increasing the speed and accuracy at which estates can be wound up. While only undrawn pension pots will be shown on the dashboard, as most people do not talk to their partners about their pension savings, allowing PRs to access the Pensions Dashboard would increase the chances that all PSAs were notified of a death in a timely manner and that all death benefits could be accounted for in the wind up of the deceased's estate. Additionally, noting that some private sector schemes apply a six year rule whereby an unclaimed pension pot becomes forfeit if not claimed within six years (this is likely to happen when a person builds up a small entitlement from an employment at the beginning of their career), we believe allowing PRs to connect to the dashboard on behalf of the deceased would result in a positive outcome and reduce potential stress for beneficiaries who would be connected to and benefit from all of the deceased's pension savings.

However, even with the benefit of TUO, notifying a PR of the beneficiaries of a death grant within six months is challenging. This is particularly true where identification of the actual beneficiaries from the eligible beneficiaries is not straightforward. This is exacerbated when TUO is not used and NILGOSC who do not have access to TUO have reported that for the death grants paid out between 1 April 2023 and 31 March 2024, approximately 25% took longer than six months to settle. We would, therefore, ask government considers extending the deadline for payment of IHT to decrease the likelihood that late payment charges occur. Additionally, currently only amounts due must be disclosed within two months, but if it is intended that the PR be informed within two months of the actual beneficiaries, then, for discretionary death benefits, two months is inadequate time to properly decide on the distribution of the death grant.

For reference, funds representing a membership of 137,371 were able to provide data on how death grants were distributed to beneficiaries and showed that of the 309 death grants paid from deaths arising in a 12 month period, 115 of these death grants were paid to two or more beneficiaries (of which 30 were paid to three or more beneficiaries). This, in part, demonstrates the extra complexity surrounding the distribution of discretionary death benefits as compared to non-discretionary death benefits where payment would likely be made to fewer beneficiaries.

Question 4: Do you have any views on PSAs reporting and paying Inheritance Tax and late payment interest charges via the Accounting for Tax return?

If the current process and use of HMRC form IHT423 is to be abandoned, then the Accounting for Tax return (AFT) seems the sensible method for paying any IHT and interest charges, similar to how annual allowance payments are currently made.

However, as AFT payments are returned quarterly, the six month deadline before interest applies may prove problematic.

It is therefore preferred that any IHT / interest charges are formatted in such a way as the date of payment / deduction of IHT is captured, as opposed to when the AFT is submitted and paid.

Our understanding is that AFT submissions cover each quarter, with deadlines for payment being approximately 6 weeks later. See below, using 2023/24 as an example;

Q1 – 30/06/2023 (ends) – 14/08/2023 (payment deadline)

Q2 – 30/09/2023 (ends) – 14/11/2023 (payment deadline)

Q3 – 31/12/2023 (ends) – 14/02/2024 (payment deadline)

Q4 – 31/03/2024 (ends) – 14/05/2024 (payment deadline)

The current version of the AFT reporting tool has its issues, such as automatic application of interest and the use of traditional mail to resolve any queries, which present PSAs with difficulties. On that basis, it is the view that a robust system must be in place prior to implementation so that any IHT amounts submitted via the AFT must clearly record the date they were deducted by the PSA, to avoid breaching a potential 6 month deadline and the online AFT system automatically applying interest. For example:

Member dies late February 2024

- Proposed 6 month deadline would be end August 2024
- Death grant paid and IHT deducted by PSA on 25 August
- Tax would be included in Q2 AFT and reach HMRC on or around 14 November

If sufficient controls are not in place, it could be (incorrectly) envisaged that interest is due on the IHT payment between end August due date and payment being made on or around 14 November.

It would also be helpful to PSAs if a help service unit or some similar service could be added to the AFT reporting structure, which could include HMRC officers being on hand either via telephone or email to assist PSAs with their returns.

Additionally, provision for capturing IHT on supplementary PI would need to be made, if that portion of the death grant is not made exempt from late payment charges.

Question 5: Do you agree that 12 months after end of the month in which the member died is the appropriate point for their beneficiaries to become jointly and severally liable for the payment of Inheritance Tax?

No

We feel that if the PSA must become jointly and severally liable, the point at which beneficiaries must also become jointly and severally liable for the payment of IHT should be the earlier of when PSAs have been instructed to and have paid the IHT, and 12 months after the end of the month in which the member died. This is because our preference would be to distribute the death grant once the IHT is paid but if, for example, the death grant was made in month six and an amendment was made, in say, month nine, then the fund, though liable under the current proposal, would be unable to pay any further IHT demanded because the death grant will have been distributed and the deceased's rights and entitlements in the Scheme extinguished, meaning there would be no monies available to meet the demand.

In, consequence, it would either be necessary to delay the distribution of the death grant to the month 12 point (potentially increasing hardship for the survivors that the family protection is designed to alleviate) or pay the death grant and allow any subsequent late interest charges to build up to the point where the beneficiaries become jointly and severally liable for the payment. The pension funds cannot make payment if there is no money remaining available to make the payment.

It is also not uncommon for spouses to die within a year of each other though we consider this instance not to be common where a death grant is also payable. Additionally, we would expect that there will be situations where the death of a surviving spouse could reveal an asset that should have been included in their predeceased spouse's estate. Although we would imagine these occurrences would not be commonplace, we would ask government gives consideration as to how the collection of any additional IHT will be collected (which may fall due as a result of an amendment to a deceased scheme member's estate after the death of the beneficiary and after the distribution of the death grant), noting that funds will not have any money available to meet the additional IHT. In this instance it would be unfair on other scheme members, scheme sponsors and taxpayers to bear the burden of the IHT due and it should be expected that the deceased beneficiary's estate pays the additional IHT demanded.

Question 6: What is the most appropriate means of identifying or contacting beneficiaries if either the PR or HMRC realises that an amendment is needed after Inheritance Tax has been paid? Should PSAs be required to retain the details of beneficiaries for a certain period?

The primary purpose of the PSA is to administer the retirement and death benefits of its membership and not act as an extension of HMRC's tax collection service. However, PSAs will retain details of beneficiaries for a certain period according to their retention schedule, though this does not mean the PSAs are holding current contact information. Beneficiaries of a death grant are not necessarily in receipt of a survivor's pension, so the information PSAs hold will not be different to that notified to HMRC or the PR when the relevant death benefit was paid unless the beneficiary is in receipt of a survivor's pension. Additionally, where the beneficiary is not in receipt of a survivor's pension but is a UK taxpayer, we would expect HMRC's records to hold superior data.

Question 7: What are your views on the process and information sharing requirements set out above?

We have grave concerns over the expectations and additional responsibilities these proposals bring to PRs, many of whom, in our experience, are relatives and consequently vulnerable individuals during the proposed timeframe of six months (i.e. their first six months of bereavement).

Within Scotland there is a two-tier approach to winding up a deceased's estate. The first is the Small Estates route which is for estates under £36,000 and for which PRs can get support from their Sheriffs Office in completing the necessary paperwork and obtaining the Letter of Confirmation.

The second is the Large Estates route which is for estates over £36,000. This process is more complex and can result in legal costs arising when PRs, who do not have significant financial or legal knowledge, must obtain assistance to wind up the estate.

The administrative burden between the two tiers is markedly different and while we have not been able to trace any observable data on the number of Small Estates filed as they relate to local government employees, we believe a reasonable number of current employees will have estates that would currently be classed as Small Estates. This is due to a combination of our expectation that many low paid workers will live in rented accommodation and statistics on savings habits showing that average savings are below the Small Estates limit of £36,000. However, we would expect the estates of the majority of deaths in service to be dragged into Large Estates if death grants were to form part of a member's estate.

For example, the National Living Wage for people aged 21 and over, with effect from April 2025, is £12.21 per hour, making the annual earnings of a fulltime worker who works 35 hours per week £22,283 (£12.21 x 35 x 52.142).

The LGPS provides a death in service lump sum of three times assumed pensionable pay, or £22,283 x 3 = £66,849 for a fulltime worker on National Living Wage. Even if the person was a part-time worker earning assumed pensionable pay of £12,000 giving a death grant of £36,000, if this person had even £1 in other savings, their estate would be dragged into the Large Estate regime.

Additionally, a moderate earner with assumed pensionable pay of £50,000, who is the sole owner of an average home but who lives with an unmarried cohabiting partner would also be dragged into IHT. This is based on data from the HM Land Registry data © Crown copyright and database right 2020. This data is licensed under the Open Government Licence v3.0. which shows the average house price in the UK for September 2024 as:

- £308,782 in England
- £190,553 in Northern Ireland
- £198,046 in Scotland
- £216,750 in Wales

See About the UK House Price Index - GOV.UK

For example, in Northern Ireland, the estate would be made up of a death grant of £150,000 and the house of £190,553, making the estate £340,553. We are also aware that in Scotland people make use of joint ownership (also known as tenants in common) where each joint owner owns a share of the property which may or may not be equal in size to the other joint owner. Additionally, due to the definition of marital property in Scotland, some people choose not to move house if they enter into a long term relationship and they owned their property prior to entering into their long term relationship, so this example is equally applicable in Scotland to some married couples, particularly where a second or later marriage is being entered into.

While it is clear that the policy intention is that the majority of estates will not become subject to IHT, the current construct of the proposals will see the wind up of many more estates in Scotland dragged into a more complex and costly process which could add to the distress experienced by survivors. To ameliorate this, we would suggest that consideration is given to introducing an equivalent to the trivial commutation limit whereby, if a member's total pension pots fell under a set limit, the pension pot(s) would be exempt from IHT. Additionally, we would suggest that a de minimis for single pots is set noting that a person of high wealth is unlikely to disperse their savings into multiple small pots.

A total pots exemption limit of £30,000, while similar to the trivial commutation limit is not reflective of the difference between defined benefit life cover and defined contribution pension saving, so we would ask that if such an arrangement is considered, a higher limit is set. For example, a total pots exemption limit of £70,000 could be reasonable given that a person with a total pension pot of £70,000 is unlikely to have more than £255,000 saved elsewhere. We would also suggest that a de minimis of £10,000 for single pots should apply or a higher amount with a restriction on the number of de minimis payments that could be made. This suggestion is based on evidence provided by the data and analysis from the 2021 Census published by the ONS which detailed the saving for retirement in Great Britain: April 2018 to March 2020. This data showed that the average pot size at the 50th percentile point for defined contribution arrangements was close to £10,000.

The process and information sharing requirements set out under the consultation seem, on the face of it, straightforward: PSAs are required to respond to requests for information from PRs within two months and inform PRs within three months of paying a relevant death benefit. Additionally, PRs will tell PSAs to pay IHT within six months after the end of the month in which the death occurs. Late payment interest will accrue on any IHT that is not paid by this point.

However, complications abound and LGPS administrators are acutely aware that the reality of settling death benefits is full of complexity, especially when dealing with discretionary benefits. Our experience is that six months is not necessarily sufficient time to carry out such a complex process. Additionally, without some easement on the amounts of death grant due payment that fall into a deceased member's estate, more estates, which would otherwise have been classed as a Small Estate, will pass into the Large Estate regime attracting legal fees, delays and additional distress and potential hardship for the bereaved who will have to wait longer before the death grant is paid to them.

Question 8: Are there any scenarios which would not fit neatly into the typical process outlined above? How might we address these?

Official pensions, such as those paid by PSPSs, are required to increase pensions in payment in accordance with the Pensions (Increase) Act 1971. In certain situations, this Act requires supplementary PI to be paid. The supplementary PI is paid following the coming into force of the annual Pensions Increase (Review) Order and if the death was to occur more than six months before the supplementary PI was known and the estate was in scope for IHT, then by default, late payment charges would accrue because the PR would not be able to pay the IHT until the supplementary PI was known, even if all other elements of the estate were known. For these circumstances, we would request that government either excludes the supplementary PI due under the Pensions (Increase) Act 1971 from IHT or makes some accommodation that enables the PR to settle an estate without having to wait for the supplementary PI to be paid and allow the PR to make a penalty free amendment to any IHT due once supplementary PI is paid to them, providing settlement is made within a reasonable timeframe.

Under the LGPS regulations a member may buy additional life cover by paying in-house AVCs to a scheme established under an agreement between the administering authority and a body approved for the purposes under the Finance Act 2004 to be an AVC provider and that body / scheme is registered in accordance with that Act and administered in accordance with the Pensions Act 2004. The life cover provided by these AVCs, because they are a "*life policy product purchased with pension funds"*, are not in scope of this consultation meaning the current proposals create a conflict in the treatment of the death grant that could be paid under the LGPS Regulations because the death grant arising from the AVC policy will be treated differently to the death grant in respect of the main scheme benefits, thereby causing member confusion. NB the AVCs paid by members in these circumstances do not build up a pot of money but instead purchase additional life cover and there is no pot at the end of the contract.

The proposed process also fails to take account of the additional complexities presented to umbrella schemes like the LGPS (Scotland) (11 funds, one scheme) that operate a one death grant rule. The one death grant rule means that if a person has more than one pension record, we will only pay the higher of the total of the aggregate death in service grants and the total of the aggregate pensioner and in-deferment death grants. As the memberships can span more than one fund, this adds time to the process. As previously stated, six months is a challenging timeframe with two months being inadequate for a discretionary death benefit to be decided on.

The LGPS (NI) has many multiple jobholders / multi-record members and, consequently, multiple small death grants per deceased individual. These are also subject to the one death grant rule and each record needs to be assessed separately to determine which amounts are payable. As described earlier the one death grant rules means that only the highest death grant by status is payable and not the combined total of death grants.

Unlike the LGPS (Scotland), the LGPS (NI) also makes payment of death grants following the death of some pensioners who are over age 75. These are taxable at the recipient's marginal rate of Income Tax. If the recipient is the PR they are taxed at 45%. The same also applies to any LGPS death grants that are not paid out within two years of the PSA finding out about the death. It is not clear from the consultation if these payments will also be liable for IHT and, if so, on the gross or net amount.

It is also not clear from the consultation if payments in excess of the lump sum death benefit allowance which are paid to beneficiaries and taxed at their marginal rate will also be liable for IHT and, if so, on the gross or net amount. Finally, we understand that trivial commutation lump sum death benefits are to be captured for IHT. This is the commutation value of a small survivor's pension and extinguishes the survivor's pension. Only 25% of the payment made is paid tax free with the remainder taxed at the survivor's marginal rate. As survivors' pensions are out of scope from the proposed changes because they are subject to Income Tax, we believe that a trivial commutation lump sum death benefit should also be out of scope as 75% of the payment made is subject to Income Tax and the payment, by its very nature, will be small. It would be expected that where the survivor's pension can be trivially commuted, the estate left by the deceased would be unlikely to exceed £325,000 and the necessity for bringing the trivial commutation into scope for IHT may not be proportionate when weighed up against the delays and hardship that could be occasioned for this particularly financially vulnerable group of beneficiaries. A small survivor's pension is typically associated with a person of low net wealth and while there is potential for double taxation to arise if the payment is brought in scope for IHT, we believe it unlikely to arise as the aggregate of the trivial payment and residue of the estate is unlikely to exceed £325,000.

There isn't always a PR and given the responsibilities attached to being a PR, there may not be anyone willing to undertake that role, especially when a small pot is involved or there is no obvious PR because the deceased had no known relatives. In such circumstances, is it intended for legislation to allow for PRs to be appointed by The Pensions Regulator '(the Regulator')? Our concern is that many small pots may otherwise go unclaimed due to the responsibilities placed on PRs. If legislation is made to allow for the Regulator to appoint PRs, how will this process work? What fees would be chargeable and who would have responsibility for making payment etc?

There is a presumption that the PR will be internet savvy, but this is not always the case. Will there be paper based options and an alternate recourse to the online calculator for PRs for determining the apportionment of the nil-rate band?

It is not uncommon for there to be more than one PR. Occasionally the PRs do not act in concert, and it would be helpful if government published guidance covering how this scenario and other issues generated by this new process were to be handled.

Question 9: Do you have any other views on the proposal to make PSAs liable for reporting details of unused pension funds and death benefits directly to HMRC and paying any Inheritance Tax due on those benefits? Are there any feasible alternatives to this model?

The primary role of the PSA is to administer member benefits and, in the context of this consultation, deliver the Scheme's family protection to beneficiaries by paying a pension and death grant to eligible survivors / beneficiaries. We do not believe it is necessary for the PSA to become involved in the wind up of a deceased's estate and PRs should remain solely liable for IHT if death grants are brought in scope of IHT. We note that PRs may already instruct pension contracts and banks to make payments or part payments towards IHT from a deceased member's pension or bank account using form IHT423 without the PSA or bank becoming liable for the IHT payment and we believe this exemption to liability should continue to apply to PSAs should the life cover provided by defined benefit schemes be brought into scope for IHT.

Where IHT is due, we are not averse to making payment to HMRC in respect of that IHT and agree that allowing PRs, who have an IHT demand to settle, to instruct the deceased's pension arrangement by completing form IHT423 to make payment direct to HMRC before settlement of the death benefits would remove the requirement for a beneficiary to drawdown funds to facilitate a payment, thereby removing the double taxation issue identified in Example 1. As the payment towards IHT would be on behalf of the deceased, if it were necessary for the PSA to become jointly and severally liable, should it not be with the deceased's representative rather than their beneficiaries as the IHT payment would be deducted before the death benefits were distributed. However, we note that current arrangements for payments from PSAs towards IHT do not result in the PSAs becoming jointly and severally liable to the IHT due and we fail to understand why this is now deemed necessary as no reasoning is given as to why the current arrangements cannot continue.

We further note that the policy intention is that all life policy products purchased with pension funds, such as additional life cover purchased via AVCs, or alongside pension funds as part of a pension package, such as the life assurance schemes provided by employers alongside their defined contribution pension arrangements are not in scope of the changes in this consultation. However, the policy does not appear to recognise that both defined benefit and defined contribution arrangements are providing life cover to their membership. The differences are simply in the structures of the arrangements, with defined benefit arrangements allowing for in-house self assurance and defined contribution arrangements, by their very structure, effectively disallowing in-house self assurance by reason of the fund being segregated into earmarked pots or being held in individual personal pension pots, in the case of group personal pension arrangements.

To understand why defined contribution pension arrangements have life assurance schemes requires a look back in history. When pension provision was first introduced in the UK it was done so on a salary related basis. These arrangements developed over time to become what we now call defined benefit arrangements. Many of these schemes provided for retirement benefits for workers as well as family protection in the event of the member's death. This was of particular importance in the early 1900s when women were not expected to work after marriage and the breadwinner's death could result in penury for the family.

However, due to the rising cost of providing defined benefits, towards the end of the 1900s employers started to set up defined contribution pension arrangements to fix their costs. These employers did not wish to lose the family protection element they previously provided in their defined benefit arrangements and so set up pension and life assurance schemes or, in the case of group personal pension schemes, an adjoining life assurance scheme. A Trust based occupational money purchase pension scheme is, generally, a pooled arrangement consisting of earmarked pots due, in part, to the fact members can specify the funds into which their pension contributions are invested. A contribution once paid into a personal pension is owned by the individual holding the policy.

The reason defined benefit schemes have chosen not to use a life assurance scheme to cover life benefits is simply a matter of cost: it is cheaper to build in self assurance via the pension fund's actuarial valuation. In consequence, we do not believe the life benefits in the LGPS should be in scope for IHT because the Scheme's Regulations could be amended to require the life cover to be placed with an external provider. Additionally, the death grant provided by the LGPS is a family protection benefit that provides a lump sum (which cannot be turned into extra Scheme pension) to dependants in the event of a member's death and is in addition to the pension payable to eligible survivors. The death grant is not intended to fund the deceased member's retirement income but is intended to act as compensation for survivors and, as such, we do not believe it falls within the definition of an unused pension asset as it applies to unused defined contribution pots which are intended to fund a deceased member's retirement income and are intended to provide income to their survivor, that could become subject to Income Tax.

While we accept there is a difference in the treatment of discretionary and non-discretionary death benefits, we would suggest that if it is desired to remove the difference then either the tax treatment of non-discretionary death benefits should align to that of discretionary death benefits or **all life cover** provided by defined contribution and defined benefit pension arrangements should be in scope for IHT. Singling out one regime over another would, to our minds, potentially create inequalities and member confusion. This is particularly true of the LGPS where the current proposals would see the introduction of some death grants falling in scope of IHT and others being exempt from IHT, please see our response to question 8.

Additionally, while we accept the findings of Example 1 which shows the potential in the defined contribution arena for a double taxation issue to arise, if the beneficiary draws unused pension funds to pay IHT; this is not possible under the current proposals in the LGPS. This is because where a death grant is due payment, it is paid out in full as a lump sum with no option to convert the lump sum into extra scheme pension. Additionally, as noted earlier, if the PR instructed a payment towards IHT using form IHT423 before closure of the deceased's pension account, the issue of taxation on funds drawdown by beneficiaries should be eliminated. Finally, the proposed information sharing process contains a requirement for PSAs to notify PRs about any relevant death benefits and, in consequence, we feel PRs should retain sole responsibility for the settlement of any IHT due.

The proposals made within the consultation will perforce result in delays to the settlement of the death grants for all deceased members, not just the top 10% quoted in the consultation. We also fear that due to the scheme design for the LGPS more of our memberships' death grants will be in scope for IHT over time, though not necessarily attracting IHT, due to the increase to the life cover provided for deferred and pensioner members.

The following paragraphs set out real time data from the 12 funds last triennial valuation or later snapshot.

At 31 March 2024, the LGPS (NI) had 78,324 active members. The average annual pay was £17,251 and the average death grant per active member record was £51,754.

If a deferred member dies, depending on the date of leaving the LGPS (NI) a death grant of either three or five times the annual pension is paid. At 31 March 2024, the LGPS (NI) had 35,177 deferred members with an average deferred pension of £1,740 per annum. The average death grant is, therefore, in the range of £5,220 to £8,770.

If a pensioner member dies, depending on the date of leaving the LGPS (NI) a death grant of approximately either five or ten years pension less the pension already paid is payable. There is no age limit on these death grants so they can be paid to the beneficiaries or personal representatives of deceased members who are over age 75 at date of death with associated lump sum death benefit tax charges. The average annual pension paid by the LGPS (NI) is £5,800 with a maximum average death grant payable in the range of £26,000 to £58,000 reducing with each year the person is a pensioner and nothing payable after either five or ten years on pension.

Similarly, for the LGPS (Scotland) at 31 March 2023, the last formal triennial valuation, there were 262,045 active members with an average death grant of £70,174.

Where a deferred member dies, depending on the date of leaving the LGPS (Scotland) a death grant of either three or five times the annual pension is paid. At 31 March 2023, the LGPS (Scotland) had 192,731 deferred members with an average deferred pension of £2,020 per annum. The average death grant is, therefore, in the range of £6,060 to £10,100.

If a pensioner member dies, depending on the date of leaving the LGPS (Scotland) a death grant of approximately either five or ten years pension less the pension already paid is payable providing the deceased is under the age of 75 at date of death. The average annual pension paid by the LGPS (Scotland) is £6,292 with a maximum average death grant payable in the range of £31,460 to £62,920 reducing with each year the person is a pensioner and nothing payable after either five or ten years on pension or age 75 if earlier.

In addition, under both schemes, active and deferred members may have contributed to Additional Voluntary Contribution schemes and death benefits may be paid by lump sum on a discretionary basis.

The following paragraphs are based on actual experience from deaths occurring across all 12 of the SPLG funds between 1 April 2023 and 31 March 2024 representing a total membership of approximately 840,000.

Average death grant paid was £39,629.13

Median death grant paid was £22,431.89

Lowest death grant paid was £0.74

Highest death grant paid was £302,035.91

Total number of deaths resulting in a death grant payment was 1698

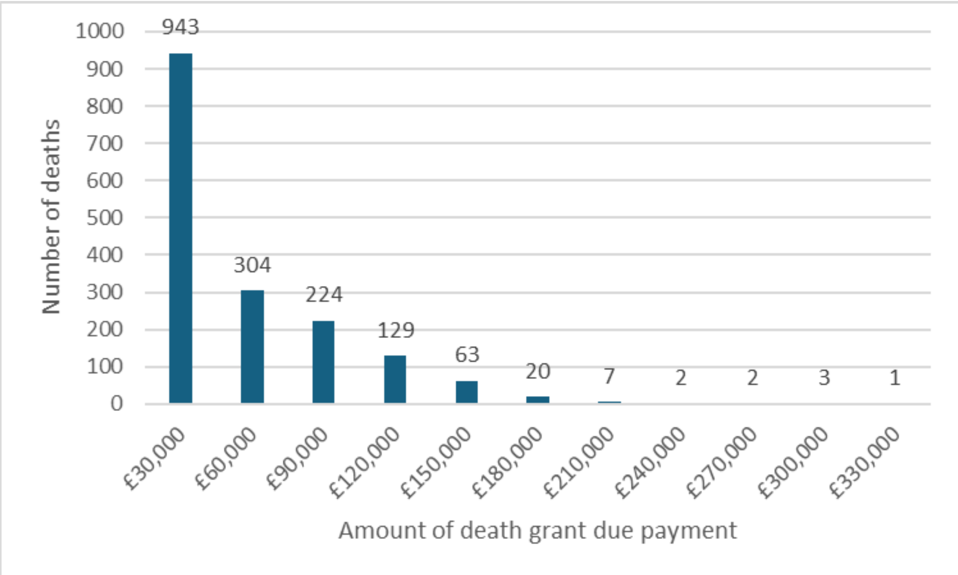
The number of death grants paid in respect of deceased men was 815 with an average death grant of £42,640.22.

The number of death grants paid in respect of deceased women was 883 with an average death grant of £36,849.93.

Age range for death grants due in respect of the 1698 deceased members was 19 to 85.

The death grants for 262 out of 1561 cases were paid after 182 days. The date of payment was not held in an extractable field for 137 cases. This clearly demonstrates a regional variation between the LGPS (Scotland) which uses TUO and LGPS (NI) which does not and which we would expect to play out in the private sector who likewise do not have access to TUO. NB as reported in question 3, approximately one in four cases take longer than six months to settle in Northern Ireland.

The spread of the death grants paid across the 12 funds is illustrated in the graph below.



Funds representing a membership of 137,371 were able to provide data on how death grants were distributed to beneficiaries and showed that of the 309 death grants paid, 115 of these death grants were paid to two or more beneficiaries (of which 30 were paid to three or more beneficiaries).

We close by thanking you for the opportunity to respond to the above consultation.

For and on behalf of:

Dumfries and Galloway Council Pension Fund

Falkirk Council Pension Fund

Fife Pension Fund

Lothian Pension Fund

North East Scotland Pension Fund

Northern Ireland Local Government Officers' Superannuation Committee

Orkney Islands Council Pension Fund

Scottish Borders Council Pension Fund

Shetland Islands Council Pension Fund

Strathclyde Pension Fund

Tayside Pension Fund

The Highland Council Pension Fund