

Discretionary Death Benefits *Frequently* Asked Questions



The processes around the decision and payment of discretionary trust death benefits can be quite confusing, especially at a very distressing time for family and friends of a loved one recently lost. We have put together this Frequently Asked Questions (FAQs) document to help.

Q: If a 'Nomination of Beneficiary' or 'Expression of Wish' form has been completed does this mean that the Trustee will automatically pay the benefits to those named?

A: No, this will not be the case. Under the rules of a discretionary trust the benefits must be paid at the absolute discretion of the Trustee so that they can normally be paid free of tax. As a result, unlike valid Wills, these forms are **not** legally binding. However, the Trustee will take the information fully into account when making its decision.

Q: What is a discretionary trust?

A: A discretionary trust, under which the SEI Master Trust (SEIMT) operates, is a legal arrangement where benefits are paid at the absolute discretion of the appointed trustees, meaning the SEIMT Trustee makes the decision as to who should receive the benefits due. The Trustee is **not** legally bound to pay the benefit to any specific individual(s). A discretionary trust is used as it usually allows any death benefits paid to be free

of inheritance or other taxes that might otherwise be payable.

Q: Do the death benefits form part of the estate?

A: No, the death benefits payable do not automatically form part of the estate and therefore are **not** subject to any valid Will that might be in place. The settlement of the estate does not need to be delayed in the unlikely event there is a delay in the decision and payment of the death benefits. On very rare occasions the Trustee might decide to pay the monies to the estate, but this would normally only be when no potential beneficiaries can be identified by the Trustee.

Q: Will the Trustee contact anyone else other than the person submitting the requested information?

A: Potentially yes. The Trustee might ask questions directly to any potential beneficiaries that have been provided with the information, or any other party who might be able to provide relevant information to assist the Trustee in making its decision. It is important to note that all information

provided to the Trustee is treated as confidential and will not be shared with any other potential beneficiaries or anyone else.

Q: How does the Trustee go about making its decision?

A: You will be sent a potential beneficiary form that asks for key information. In most cases the contents of the form, and the requested documents in the form, should provide all the necessary information to allow the Trustee to make its decision. However, the Trustee is very aware that personal circumstances will be different for all members so there may be additional questions that it may wish to ask once it has reviewed the initial information provided.

Generally speaking, the Trustee will initially consider who paid the funeral costs and it will consider reimbursing these costs out of the benefits payable if they have not been paid by the estate, or been covered for instance by some form of funeral plan (subject to provision of the documents requested in the form).

Then consideration will be given to those who have evidence of financial dependency on the deceased. After that the Trustee will consider all other relevant information before making its final decision.

Q: Will the Trustee's decision be shared with the next of kin and all beneficiaries?

A: The agreed beneficiary or beneficiaries will receive details of the benefit being paid to them individually. No additional information will be provided to them as to whether there are any other beneficiaries or any other benefits to be paid.

The next of kin is regarded as the point of contact for gathering the initial information to help the Trustee make its decision. If the Trustee decides the next of kin is a beneficiary, they will only automatically receive information as above.

This is to ensure full compliance with General Data Protection Regulations (GDPR). If the next of kin is the 'Legal Personal Representative' (LPR) they will receive certain information as detailed in the next question.

Q: Could any taxes be payable on the death benefits received by the beneficiaries?

A: The death benefit will normally be free of tax. However, if the total benefits paid under all discretionary trusts in relation to the deceased, e.g. other pension or life assurance arrangements, exceed what is called the Lifetime Allowance there may be tax to pay on the excess. The Lifetime Allowance is currently £1,073,100. Details of this possibility is provided in the communication to each of the agreed beneficiaries.

The Trustee is obliged to notify the LPR of the total death benefit monetary amounts paid out to meet HMRC requirements, but again details of the actual beneficiaries will **not** be provided. The LPR is legally responsible to provide appropriate details to HMRC if the Lifetime Allowance is exceeded by either benefits from SEIMT alone or if the total benefits from all arrangements exceeds the Lifetime Allowance. If any tax is due HMRC would contact SEIMT for details of the beneficiaries in order that they may contact them directly. More information of the LPR's responsibilities will be provided when they are written to.

It is important to note that SEIMT cannot give any tax planning advice to the LPR and if advice is required they would need to consult an appropriate taxation professional.

