

PASA Consultation response

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

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PASA 



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

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About PASA

The Pensions Administration Standards Association (PASA) was created to provide an independent infrastructure to set, develop, guide and assess administration standards.

PASA acts as a focal point and engages with industry and Government to create protocols for understanding good administration - but also appreciates there's no one size fits all. PASA develops evidential Accreditation practices allowing benchmarking across and between the industry regardless of how the administration is being delivered.

As well as raising the profile of pension administration generally, PASA focuses on three core activities:

1. **Defining good standards of pensions administration relevant to all providers, whether in-house, third party or insurers**
2. **Publishing Guidance to support those standards**
3. **Being an independent Accreditation body, assessing the achievement of good standards by schemes**

There's no organisation providing such services across schemes, yet there's a demand for evidence of service quality from scheme trustees, sponsors, administrators, insurers, savers and regulators.

1 Summary

The proposals in HMRC's consultation introduce unnecessary complexity and impose inequitable burdens on Pension Scheme Administrators (PSAs). The proposals risk poor outcomes for savers and their beneficiaries through increased operational and financial impacts.

Key concerns

1. Inadequate consideration for PSA requirements

The consultation proposes PSAs be accommodated within the existing IHT regime, failing to account for the operational realities of managing a pension scheme, incompatibility with its own regime, or the impact this may have on beneficiaries.

2. Unrealistic timescales

PSAs are expected to meet deadlines which depend on timely and accurate information from Personal Representatives (PRs). This information is often delayed due to the complexities of Estate management or personal circumstances such as grief. This reliance places PSAs in an untenable position, exposing them to potential penalties for delays beyond their control.

3. Disproportionate administrative and financial burdens

The proposed approach introduces significant responsibilities for PSAs, including areas which would traditionally be within the remit of HMRC. The proposals will almost inevitably lead to increased fees for savers and reduce service quality.

4. Negative impact on savers and beneficiaries

The complexity and inefficiencies introduced by these changes could result in delayed payments to beneficiaries during a challenging time and introduce them to process risks.

Recommendations

To address these challenges, we recommend:

- Adapting the IHT System for PSAs. Design processes which align with the operational practices and systems of PSAs, rather than forcing PSAs to fit into the existing IHT framework
- Introduce equitable timescales. Allow PSAs to meet obligations based on the receipt of required information from PRs, rather than imposing rigid deadlines which won't be possible to meet
- Reallocate Responsibilities. Restrict the responsibility of PSAs to providing necessary pension-related data to PRs and HMRC

There's a strong case for the proposed approach to be fundamentally changed. A possible alternative is to remove the concept of discretionary payments as suggested in section 3 below..

2 Consultation questions and answers

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?

Yes, PSAs should only be required to report unused pension funds or death benefits to HMRC where the PSA has sufficient information to establish an IHT liability arises. At the same time as reporting, PSAs should provide a certificate to PRs. As was provided for Benefit Crystallisation Events.

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?

PSAs can't respond to HMRC if they don't receive the relevant information. As a result of this, PSA's would be liable for fines/penalties at the point they get the information and make a late report. Potential impacts of this are:

- PSAs would need to consider how to make allowance for this delay risk – such as keeping a float to pay such charges
- How will PSA's be reimbursed by their clients/trustees for whom they are acting? How would this be incorporated into an administration services contract?
- How would PSAs mitigate the reputational risk of being reported by HMRC as repeat offenders, through no fault of their own

Where possible and practical, PSAs will take steps to identify and issue reminders concerning the outstanding information. But if they don't know about a death, they will be unable to do so. This is a distinct possibility, as there are currently situations where PSAs haven't been notified of a death or had contact with a PR within the six-month deadline.

Such tight deadlines could have several results:

1. Processing death cases must be prioritised to the detriment of other case types. This will harm savers' experience of the industry when accessing their own benefits and reduce their trust in pensions. Only PRs (not the savers themselves) will receive prompt service from the industry
2. Schemes may seek early notification of deaths through increased use of mortality tracing services. This may increase costs for PSAs and won't fundamentally address the issue, as action can't be taken until PRs submit the relevant information. This will further stretch tight administration budgets and/or lead to increased costs for savers and trustees
3. The deadlines won't necessarily ensure PSAs are provided with the required information on time. Experience of death processes within the current environment for handling deaths suggests the process can often be very extended especially where there are family disputes or a lack of information.

4. It's highly likely PSAs will not be able to respond to HMRC because they don't have sufficient information.

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?

It's unreasonable to create a late payment liability for PSAs based solely on IHT liability being met six months from the date of death. The process should be aligned to the existing requirements of the Accounting For Tax (AFT) process, with the liability to pay applying from when notice is received and then being accounted for in the relevant AFT return. Penalties/interest can then be applied within the existing AFT regime if the payment misses the appropriate return.

It also shouldn't be the responsibility of PSAs to enforce or encourage actions to be taken by the six-month deadline. At the six-month point, we suggest PSAs are empowered to either pay gross funds, advising beneficiaries HMRC may contact them about tax due, or payments are made net of 40% tax, advising beneficiaries they can contact HMRC to discuss potential tax reclaims. This could provide an incentive for the PRs to provide information within the relevant timescales.

An overarching deadline is unfair to PSAs and PRs, meaning they rely on each other to act promptly, likely leading to disputes. A better approach would be to set incremental time limits for each step, meaning each party is only responsible for their own response time.

It's critical the Government provides clear guidance to enable PRs to communicate promptly with savers' pension arrangements. PRs are often ordinary members of the public in a time of grief, but the proposals will place additional and challenging demands on them. The additional complexities around discharge of PR duties may make this role difficult to fulfil and could increase reliance on professional/ legal advice and in turn fees payable from the Estate.

PSAs will need a long lead-in time to liaise with platform and other IT suppliers to update systems, undertake testing, and train administrators. **It's essential clear guidance on what's required is made available well in advance.**

While returning values for pensions in payment isn't in the current version of pension dashboards, consideration should be given as to whether it would be possible for dashboards to be extended to include returning potential death benefit values for pensioners/crystallised benefits. This would allow PRs to find deceased members schemes and gain access to information, speeding up the process.

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?

Using the AFT process, which PSAs are already accustomed to, makes sense as a method for paying tax. However, the proposals are geared towards meeting IHT deadlines, even though the rules and deadlines for AFT payments and submissions are fundamentally different from those for paying IHT. For example:

- IHT - the payment deadline is six months after the end of the month in which the death occurs
- AFT – the submission deadline is within 45 days following the end of the quarter relevant to the payment of scheme administrator tax charges

Unless a review and adjustment are planned in respect of both procedures in tandem, problems and unnecessary tax penalties could arise because AFT and IHT requirements aren't yet designed to be coordinated.

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?

It's unreasonable to expect PSAs to have liability for payments unless and until notification and information have both been received. This liability should then be extinguished once a payment is made and appropriate reporting to HMRC and PRs completed.

The process outlined in 2.34 of the consultation is complicated and onerous for PSAs. Resolving such issues with HMRC, which often involves significant time in practice, and means diverting resources from day-to-day business as usual functions, such as setting up pensions in payment.

We believe a less onerous approach would be the option outlined in 2.36 of the consultation:

“One option is that PSAs are required to retain beneficiaries’ details for a certain amount of time and provide these to either the PRs or HMRC if any further Inheritance Tax amendments are required.”

An alternative, and preferable, approach would be to supply beneficiary information to the PRs, providing HMRC with one point of contact for any subsequent changes.

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?

PSAs normally keep records for at least six years, and as long as necessary, in line with legislative requirements.

The PR would be best placed to retain information and, if necessary, contact beneficiaries if an adjustment to IHT is required. The PR will have a complete view of the entire Estate and may have access to additional funds if required. An overpayment of IHT should be returned to the beneficiary via the Estate.

The role of the PSA should be complete once reporting completed and a payment has been made. The reporting could include a requirement to provide contact details for the PR and any other information required to identify the beneficiary, the scheme and the benefits paid.

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

There are substantial issues with the process suggested in the consultation. The changes will result in additional complexity for PSAs and, ultimately, higher costs for trustees. These extra costs may be passed to savers, and this won't be restricted to those with IHT liabilities.

An alternative approach is set out in our response to question 9, which tackles several of the issues highlighted.

Whatever approach is adopted, it will be critical to ensure a broad review of existing legislative and regulatory requirements to ensure there aren't conflicting obligations. Examples of areas to consider include disclosure and data protection requirements.

In addition to the areas covered in other consultation questions, we have concerns about the following areas.

Timescales

The proposed timescales are unrealistic and don't reflect how PSAs settle death benefits. Frequently, death lump sum benefits are payable at the trustee/PSA's discretion, and this involves considering the late member's circumstances at the time of death to help decide who the beneficiary/ies will be and aligning with Trustee meeting cycles where decisions can be made. Unlike a will, which instructs the PR on the beneficiaries, a member may nominate a beneficiary for pension benefits; under Trust Law, the trustees/PSA take this nomination into account and make enquiries to gather the information they need to decide on who should receive the benefit. This discretionary decision process for Trustees sits at the very heart of Pension Scheme Trust requirements.

Determining the beneficiary/ies can take months of correspondence and inquiries, and this can be longer if the death isn't notified immediately or if there's a delay in identifying the PR (or vice-versa). These timescales can't be accommodated within the IHT rules requiring an estate benefit is settled within six months of the date of death.

This is an example scenario of the two mechanisms working in conflict with each other:

- 01 December - Member dies on 01 December 2027, so six months later is 30 May 2028
- 25 January - PR appointed
- 25 February - Death notified to PSA
- 25 April - PSA decides on beneficiaries after due diligence and notifies PR
 - **Under the current regime, the PSA could pay beneficiaries on or around this date.**

- **Note, if a Trustee discretionary decision is required there's likely to be a much longer timescale at this stage. Trustee committees will often meet on a three monthly basis**
- 25 May – PR receives final information on the Estate, enabling them to complete the IHT apportionment calculation tool
- 29 May – PR submits IHT return to HMRC
- **30 May – Six-month deadline**
- 8 June – PR provides apportionment information to PSA
- 15 June – PSA makes an out-of-cycle AFT submission and payment to account for the IHT liability and the late interest payment
 - The PSA has had no opportunity to avoid late interest payments
- 15 June – PSA makes payments to the beneficiaries

The payment is almost two months later than it otherwise would have been. Note the earlier comment that Trustee decision making timescales may extend this case further.

Any payment and tax due aren't dependent on who receives it. There could be an optional interim step in the regulations for notifying HMRC of the gross, tax and net amounts of a payment before they're actually due to be paid. Submission of this data could trigger an extension to the payment deadline to accommodate further complexities, such as exercising discretion.

Values to be included in the IHT calculations

For defined benefit (DB) arrangements, the death lump sums payable are predictable, and therefore, the information provided to the PR is certain. However, this isn't the case for unused funds and/or sums payable from a defined contribution (DC) arrangement or additional voluntary contribution (AVC) benefits, where the final amount will fluctuate. HMRC's own guidance (see [PTM073200 - Death benefits: lump sums: uncrystallised funds lump sum death benefit - HMRC internal manual - GOV.UK](#)) on such arrangements where an uncrystallised funds lump sum death benefit (LSDB) is paid says:

“The maximum amount that can be paid as an uncrystallised funds lump sum death benefit is referred to in the legislation as the ‘permitted maximum’. This is the amount of the sums and assets representing the member’s relevant uncrystallised rights held under the arrangement when the member died. The valuation is done at the point of the lump sum payment. So any growth of those uncrystallised funds between the date of the member’s death and the date the lump sum is paid may be included in the payment.”

Therefore, it's possible the amount used to calculate the IHT liability isn't what's eventually paid out to the beneficiaries. HMRC would need to provide guidance how these arrangements should value the funds for IHT purposes. This may include requiring funds to be crystallised before they are reported to the PR.

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

Further clarity should be provided on the impact of the proposals on annuities, particularly joint life policies. Also the effect on death in service benefits, which can be either insured or self insured by pension schemes.

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 approach outlined in the consultation is overly complex and inefficient and could negatively impact beneficiaries. It places an unreasonable administrative burden on PSAs, primarily driven by the attempt to fit PSAs within the current IHT framework.

Given most estates aren't expected to incur IHT liabilities, it's crucial to ensure PRs can efficiently demonstrate no IHT is due or to remove liability for PSAs once reporting on a particular case has been done in good faith based on information provided by the PR. This part of the process isn't covered in the consultation. A comprehensive and transparent process is key to reducing administrative friction and enhancing the overall efficiency of the regime.

A straightforward declaration by PRs to the PSA should suffice to confirm no IHT is payable including through a template provided by HMRC on their website. PSAs should be able to rely on this declaration without the obligation to conduct further investigations. Furthermore, PSAs must be protected from liability for any actions or omissions arising from the information provided by PRs.

While this is described as a technical consultation, a collaborative strategy involving industry groups should precede the drafting of legislation. Engaging with stakeholders at this stage will enable a thorough exploration of scenarios and lead to a comprehensive, practical executable approach.

3 Proposed approach: making it fit for purpose

We've provided detailed feedback on the individual consultation questions and hope this will guide adjustments to the proposed approach.

One critical area which requires attention is how PRs evidence and confirm to PSAs when no IHT is payable. The consultation acknowledges most Estates shouldn't incur IHT, making this pivotal.

A straightforward declaration by PRs to the PSA should suffice to confirm no IHT is payable. PSAs should be able to rely on this declaration without the obligation to conduct further investigations. Furthermore, PSAs must be protected from liability for any actions or omissions arising from the information provided by PRs.

Alternative approach: removing discretionary payments

There's a compelling case for introducing a statutory override which makes all pension death benefit payments non-discretionary and requires PSAs to pay benefits directly to a saver's Estate. The procedural burden currently associated with discretionary payments is significant and includes:

- Obtaining and maintaining Expressions of Wish
- Conducting due diligence to identify potential beneficiaries
- Reviewing evidence and scheme rules to exercise discretion
- Arranging payments to multiple beneficiaries
- Managing queries or complaints related to the exercise of discretion

These steps were justifiable when discretionary payments kept benefits outside the IHT regime. However, the proposed changes eliminate this advantage, rendering the associated administrative burden unnecessary. Some schemes are already exploring rule amendments to make death payments non-discretionary.

Alternative approach: benefits

From a broader perspective, an alternative approach would be to:

- Grant PRs full control over the IHT process
- Streamline payments to HMRC through a single source—the PRs—within the existing IHT process
- Simplify and align requirements for late interest liability and post-submission adjustments

Specifically for PSAs, the alternative approach would:

- Allow death benefits to be paid promptly
- Eliminate the need for AFT reporting, though high-value payments could instead be flagged through Scheme Event reporting
- Reduce complexity and establish consistency across PSAs, supporting the Government's drive for greater scheme consolidation within the industry

Conclusion

Simplifying the IHT process for pension death benefits is essential to alleviate the burdens on beneficiaries, PRs, and PSAs. The alternative approach outlined above addresses these challenges directly, offering a streamlined, equitable solution which aligns with the objectives of the consultation. We encourage further dialogue with industry stakeholders to effectively refine and implement this framework.

PASA



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