

To: HM Revenue and Customs  
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15 January 2025

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

Thank you for the opportunity to respond to the above consultation. I am doing so on behalf of the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC) which is the public body responsible for administering the Local Government Pension Scheme for Northern Ireland (LGPS (NI)).

#### **Background**

The LGPS (NI) is a large public service pension scheme with approximately 165,000 members. The LGPS (NI) is a defined benefit pension scheme and is structured to provide a package of benefits as follows:

- for active and deferred members - a pension for the member, eligible survivors' pensions and a death grant which is akin to life assurance. The death grant cannot be commuted for additional survivors' pensions.
- for pensioner members – a pension, eligible survivors' pensions and a death grant which is any balance of pension due to either a five or ten year period from the pension commenced. The death grant cannot be commuted for additional survivors' pensions.

Scheme survivor pensions can only be paid to dependants (spouses, civil partners, eligible cohabiting partners and eligible children) of the deceased member but the death grants can be paid to a wider range of beneficiaries. At present, members can nominate whom they would like to receive their death grants. However, NILGOSC has absolute discretion to pay the death grant to, or for the benefit of, the member's nominee, personal representatives or any person appearing to have been a relative or dependent of the member at any time. A similar discretion applies to any life assurance sum due on death from the in-house Additional Voluntary Contribution Schemes.

The benefits payable on death differ, depending on the status of the member (active, deferred or pensioner), the date the member left the LGPS (NI), and how long a pension has been in payment. The focus of this response is on death grants and I have not referred further to survivors' pensions as I understand they are out of scope for this consultation.

If an active contributing member dies, a death grant is payable of three times their assumed pensionable pay. As at 31 March 2024, the LGPS (NI) had 78,324 active members. The average annual pay is £17,251 and the average death grant per active member record can therefore be estimated as £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. As 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 can therefore be estimated to be either £5,220 or £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 special lump sum death benefit tax charges. The average annual pension paid by the LGPS (NI) is £5,800 with an estimated maximum average death grant payable of either £26,000 or £58,000, reducing with each year the person is a pensioner and nothing is payable after either 5 or 10 years on pension.

If a member has records of different status i.e. an active record, a deferred record and a pensioner record, only the highest death grant across each of the different statuses is payable, and not a combined death grant. For 258 deaths within the year 1 April 2023 to 31 March 2024 with a death grant paid, the average death grant that has been paid per deceased member was £31,285. The highest death grant paid was £171,059, the lowest was £56 and the median was £18,819.

As a public service pension scheme with a defined package of benefits for survivors prescribed by the Regulations, it is not possible for the pension scheme to be used as a tax-planning vehicle to pass on wealth free of tax.

**Q1 – Do you agree that PSAs should only be required to report unused pension funds or death benefits of scheme members to report to HMRC when there is an Inheritance Tax Liability on those funds or death benefits?**

Our preference is that the reporting element remains the responsibility of the personal representatives and Pension Scheme Administrators (PSAs) can, if instructed, pay a portion of the IHT liability directly to HMRC when instructed by the personal representatives. I understand that this would mirror the current process where payments or part payments towards IHT can be made

directly from the deceased's bank account/s to HMRC on the instructions of the personal representative using the Direct Payment Scheme and form IHT 423. This form currently allows for payment from pension contracts. It states the amount of IHT to be paid and included the IHT Reference Number.

As set out in the Background section above, the average lump sum death benefit paid by the LGPS (NI) is low and it is expected that the estates of very few members would be liable for Inheritance Tax. It would be disproportionate to report all death benefits of members to HMRC.

However, the administrative difficulty is that the Pension Scheme Administrator (PSA) will not know when Inheritance Tax (IHT) is due on a death grant payment and therefore, even if only reporting those affected, would have to hold **all** death grant payments until such time as advised by the personal representative that either IHT was due or not due. This extended timescale is likely to result in delays, additional distress and hardship to families, PSAs having to provide more support to personal representatives and increase the likelihood of incurring tax charges for late payment.

**Q2: 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?**

I understand from the consultation that late payment tax charges (7.25% per year) apply at the point of the IHT payment, if that payment is made later than six months after the month ending with the date of death. It needs clarified where this charge is paid from – either a reduction to the death grant payable or paid by the PSA and reclaimed from the personal representative or beneficiaries. The PSA cannot control the process, which is complex with different parties involved, and cannot be responsible for funding these charges from a public service pension fund.

In some cases, the PSA may not even have been advised that the member had died before the six-month payment deadline has expired. Who is responsible for the late payment charge in these cases? There are also sad situations where, due to the cause of death, the entire process moves very slowly. Again, this is not the fault, nor should be made the responsibility of the PSA.

The entire process of compiling a list of assets and liabilities, obtaining valuations, determining if IHT applies and having to pay IHT before probate or letters of administration can be granted is extremely complicated and lengthy. It is difficult for an ordinary person to deal with. It is inevitable that more executors will have to appoint legal firms to wind up estates with associated fees. A non-lawyer cannot charge an estate for their services as a personal representative, though they can charge out-of-pocket expenses.

As a PSA, to avoid late payment charges, and get a death grant paid as quickly as possible, I expect there would need to be regular steps to chase progress with the personal representatives. In the run

up to the six-month payment limit, the period of time between each chaser would need to reduce. Without doubt this will add further stress to the personal representative. It is normal for beneficiaries to contact the PSA regarding when a death grant payment will be made. This extended process is more likely to increase the number of calls and hardship cases that the PSA will have to deal with in addition to more complaints.

The LGPS (NI) is a discretionary pension scheme. My understanding of the process set out in the consultation is that the PSA must provide the total death grant amount to the personal representative along with the respective beneficiaries and when advised must pay any IHT directly to HMRC. Within a discretionary pension scheme, it takes a considerable amount of time to gather data and decide on whom should receive the death grant or how it should be split amongst multiple beneficiaries. It is not uncommon to have several beneficiaries. There may be some time savings if the Scheme's Regulations were changed to make it a non-discretionary pension scheme with payment made directly to the personal representatives. Such an approach would require public consultation by the Department for Communities and regulation amendments.

For deferred and pensioner members who have died, supplementary pensions increase is due on the original death grant amount and must be paid each year within three months of the pensions increase date (the first Monday after 6 April each year). As this is paid at a later date (usually June), a breach of the six-month payment deadline is likely to arise. It is suggested that the Government excludes supplementary pensions increase from IHT as otherwise the value of the total death grant payable cannot be determined until after the first Monday after the following 6 April.

It is unclear in the consultation how the different layers of taxation on death interact. For example, if a special lump sum and death benefits tax charge or lump sum allowance and death benefits charge apply, are these deducted before or after IHT.

**Q3: What action could the Government take to ensure that PSAs can fulfil their IHT liabilities before the IHT payment deadline while also meeting their separate obligations to beneficiaries?**

A PSA's overriding objective will be to make payment to the relevant beneficiaries as soon as possible following a death. This proposal means that PSAs must delay making payment of a death grant in all cases until they know the IHT position for that deceased member. It is difficult to see how such a complicated process can be streamlined and allow appropriate time to accommodate those that are grieving. The statistics for payment periods for death grants of members who died in the year from 1 April 2023 to 31 March 2024 are set out at the end of the response to this question but in that year 17% of death grants were paid outside the six month payment deadline. When we consider all the death grants paid in the year 1 April 2023 to 31 March 2024 and, in this case, many deaths may

have predated 1 April 2023, 25% of death grants were paid outside the six month payment deadline. Given the proposed changes, these percentages can only be expected to increase.

At a basic level, education will be needed for personal representatives on the steps that need to be taken and the priority order. This varies across jurisdictions. For example, when registering a death, the person registering needs to know how many certified copies of the death certificate they will need. One can be insufficient as organisations holding assets may want sight of an original certificate. In the UK mainland this process may be streamlined by 'Tell Us Once' but that facility is not available in Northern Ireland. I further understand that 'Tell Us Once' does not give the cause of death – this can be a critical factor in determining the beneficiaries, particularly in some circumstances relating to the death. In the absence of 'Tell Us Once', the death certificate still needs to be seen by a PSA so that the person registering the death can be identified and contacted.

The Government could assist this process by driving forward an initiative such as 'Tell Us Once' in Northern Ireland along with contact details for the person who reported the death and consent for them to be contacted. Ideally it would also include the cause of death.

The situation is further complicated when members die abroad.

Other than the deceased person was very organised, there is no easy way to collate a comprehensive list of assets and liabilities relating to a deceased individual. Assets have become less easy to identify with so many transactions now being online and no paper evidence. It takes time to identify and then contact each provider requesting valuations. In some cases, property and business valuations must be obtained. Identifying the deceased's pensions can be difficult particularly where they are not in payment and therefore there are no incoming bank account entries. As part of the Pension Attention Campaign in October 2024, The Pensions Policy Institute identified £31.1 billion in unclaimed, inactive or lost pension pots relating to around 3.9 million pension pots. It is possible that some of these relate to unclaimed pensions of deceased individuals.

The Government could make the Pensions Dashboards initiative available to personal representatives so that they can check for pensions that are not in payment. The Pensions Dashboard only holds details of pensions that are not in payment and does not have details of any pensions that are already in payment.

The Government could consider whether there should be a *de minimis* amount that could be paid as a death grant or an easement that would permit a percentage of a death grant to be paid in advance in cases of hardship, say up to 50%. A balancing payment could then be made once the estate was cleared for IHT. However, this approach would increase the administrative burden and risk of error on PSAs as it is more complex and less efficient to administer.

Another action the Government could take is to consider extending the reporting and payment deadlines for pension schemes.

Within the LGPS (NI) there are 1,349 deaths recorded for the period 1/4/2023 – 31/3/2024. These deaths relate to 1,496 records, i.e. multiple records relating to one member. From these records 291 death grants have been paid relating to 225 deceased individuals, averaging £36,033 per deceased individual. The majority of records relating to the remaining deaths have no death grant payable.

Analysis of the period from the end of the month in which death occurred for the period from 1/4/2023 – 31/3/2024 to the date of payment of the death grant has shown that 17% of death grants were paid outside the six-month period. Extending the period to nine months reduces the number of death grants paid outside a nine-month period to 8.5%, and extending the period further to twelve months reduces the number of death grants paid later than twelve months after the end of the month in which the deceased died to 4%.

**Q4: Do you have any views on PSAs reporting and paying Inheritance Tax and late payment interest charges via the Accounting for Tax return?**

This is an additional administrative burden for PSAs and will require more resources and more data to be held, presumably with additional pensions software programming costs.

I understand the current process of using the HMRC form IHT423 enables personal representatives to make direct payments of IHT from certain asset holders to HMRC. This is a simple process for the personal representative and straightforward for the bank or pension fund. This straightforward simple process with the responsibility firmly with the personal representatives would be our preferred method of paying IHT.

If HMRC wishes to process with the Accounting for Tax (AFT) return then it will need to ensure that the AFT return is able to cope with the new reporting requirements and allow for any IHT charges to be formatted correctly with date of payment recorded so that late payment interest charges are only levied on the correct cases. It also needs to correctly write the submitted data to the deceased member's tax account.

The issues of supplementary pensions increase as outlined in our response to Question 2 above and its payment date being later than the death grant payment apply here too. Are these also to be reported on an AFT return?

Our experience is that it is already impossible to meet the current deadline of six months from the end of the month in which the death occurs in all cases. As set out in our response to Question 3, 17% of death grants paid from the LGPS (NI) in relation to deaths during the period from 1 April 2023 to 31 March 2024 were paid later than the six-month time period. That means the PSA will quite often be late reporting and paying the IHT and then be subject to interest charges. We strongly urge the Government to consider extending the reporting and payment deadlines for pension schemes.

As explained already in this response, analysis of the period from the end of the month in which death occurred for the period from 1/4/2023 – 31/3/2024 to the date of payment of the death grant has shown that extending the period to nine months reduces the number of death grants paid outside the time period from 17% (at six months) to 8.5% at nine months. Extending the period further to twelve months reduces the number of death grants paid later than twelve months after the end of the month in which the deceased died to 4%.

**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 seems perfectly reasonable for the beneficiaries to become jointly and severally liable but it does seem unreasonable to make the PSA jointly and severally liable.

Our experience, as a large pension scheme, is that it is extremely difficult to track down beneficiaries of an estate after a member has died and the original death benefit payments have been made. In the proposed changes, the pension scheme would wish to make payment to the beneficiaries as soon as the IHT liability has been determined, agreed by HMRC and the estate is cleared for probate or administration. Once monies are paid, either to the beneficiaries or to both HMRC and the beneficiaries the pension scheme administrator will have no further death grant funds in relation to that deceased person that could be used to meet any additional tax charges.

In the reverse situation, if overpaid IHT is apportioned and returned to the Fund at a later date, it is likely to be difficult and time consuming to trace the original beneficiaries and there is the potential that they would have subsequently died.

It is not clear from the consultation document if overpayments are apportioned and returned to each body that made the original payments to HMRC.

**Question 6: What is the most appropriate means of identifying or contacting beneficiaries if either the PR or HMRC realised 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?**

NILGOSC retains details of beneficiaries for a certain period. However, beneficiaries of death grants are not Scheme members and would not feel any responsibility for keeping the PSA up to date with changes in their contact details, names etc. Perhaps HMRC is best placed to do this and trace individuals through their personal tax accounts? In addition, our experience is that it is often difficult and time consuming to trace overseas beneficiaries.

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

The proposals expect much from a personal representative. In the LGPS (NI), most personal representatives encountered are not individuals experienced in taxation, financial or legal matters, pensions or winding up estates. Indeed, they may not even be computer literate.

It is inevitable that this change will result in the winding up of more small estates being passed to legal firms with increased charges falling on the deceased's estate. Even gathering details of the pensions that a deceased person had, especially while deferred, is very difficult. It is easier when an incoming pension payment can be traced from a bank account. Please see our response to Question 3.

There is a long list of actions that must be undertaken before any payment of a death grant can be made. The first steps for a PSA following notification of a death, as set out in the consultation document, are to determine within two months:

- whether any unused pension funds exist or death benefits are payable
- who the nominated beneficiaries are (and whether they are surviving spouses or civil partners) including designatory information
- the amount(s) due to each beneficiary
- the amount of Lump Sum Allowance (LSA) the member has used in their scheme.

At present, the nominated beneficiaries are not necessarily those who will receive the death grant and considerable time is spent determining the correct beneficiaries. It would be challenging to do all of the above within two months, particularly where identification of actual beneficiaries is complicated. At present, only the amounts due need to be disclosed within two months. Two months is insufficient to exercise discretion and properly determine the distribution of a lump sum death grant.

If these proposals proceed, it is inevitable that the periods from date of death to payment of death grant will increase, with consequent late payment charges.

**Question 8: Are there any scenarios which would not fit neatly into the typical process outlined above**

The typical process scenario assumes it is easy and quick to gather valuations for all the assets in a deceased person's estate. As set out already in this response, it can be very difficult and time consuming to firstly identify all the assets and liabilities and then gathering valuations for each asset takes a considerable amount of time. Each 'asset-holder/provider' will usually require sight of an original certified copy of the death certificate, and these tend to get passed from 'provider' to personal representative to the next 'provider' and so on. It takes a lengthy period of time other than a personal



representative has the foresight and finances to request multiple certified copies of the death certificate when reporting the death or appoints a legal firm to act for them.

The process outlined is lengthy and assumes that the beneficiaries are identified along with the amounts due to each at the beginning of the process. In practice, determining the beneficiaries is currently the final step and the first step is the calculation of the death grant. Then time is spent contacting and validating the beneficiaries stated on any Expression of Wish and exercising discretion on the split of payments between potential beneficiaries.

The LGPS (NI) has many multijobbers/multi-record members and consequently multiple small death grants per deceased individual. These will each need to be assessed separately and then determinations on which amount is payable. As described already, for multi-status members only the highest death grant by status is payable and not the combined death total of death grants.

The LGPS (NI) 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 personal representative, they are taxed at 45%. The same also applies if lump sum death benefits 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.

The issue of supplementary pensions increase also does not fit neatly into the typical process. Our views on this are set out in the response to Question 2 and are replicated below:

For deferred and pensioner members who have died, supplementary pensions increase is due on the original death grant amount and must be paid each year within three months of the pensions increase date (the first Monday after 6 April each year). As this is paid at a later date (usually June), a breach of the six-month payment deadline is likely to arise. It is suggested that the Government excludes the supplementary pensions increase from IHT as otherwise the value of the total death grant payable cannot be determined until after the first Monday after the following 6 April.

In the LGPS (NI), a member may supplement their death grant life cover by buying additional life cover (e.g. like term assurance as the cover ceases when the payments cease or at the end of the contract) through the in-house AVC arrangement. I understand that the life cover purchased under these arrangements is not in scope of this consultation as they are a 'life product purchased with pension funds'. The current proposals will create member confusion as it is very difficult to deliver a mixed message with any clarity – the death grant/life cover provided under the LGPS (NI) is liable for IHT but that bought through the in-house AVC scheme is exempt from IHT. Yet, both are effectively the same thing – life cover provided through a pension scheme and paid on death.

Finally, I 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 all of the dependant's

entitlement to a dependant or survivor's pension. Within these types of lump sum payments, 25% of the payment is tax-free and the remainder is taxed at the survivor's marginal rate. Since survivors' pensions are out of scope from these changes, we feel that the trivial commutation lump sum death benefit should also be out of scope because 75% of the payment is already subject to income tax and the amounts are very small.

**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 a PSA is to administer the pension scheme, pay pensions to members and provide protection for dependants through survivor pensions and death grants. We do not believe that a PSA should have joint and several responsibility for payment of IHT. This should remain the responsibility of the personal representatives, as it currently is, even when pension funds are involved.

The consultation fails to recognise that death grants paid by the LGPS (NI) are not unused pension funds but are a form of life assurance provided by the scheme as part of a package of benefits. I suggest that further consideration is given to the 'life assurance element' of the death grants that are paid from the LGPS (NI) and how these are treated for inheritance tax purposes.

If this proposal is implemented, it will delay the payment of death grants for **all** deceased members, irrespective of whether their estates are of a value to be liable for IHT. From the statistics quoted in the consultation, a minority of estates (fewer than 10% annually) will be affected, yet the revised process effectively delays payment of all death grants, not just those where an IHT payment may be due.

I hope the above responses are helpful. Please do not hesitate to contact me if you have any queries on the above responses.

Yours faithfully,

Zena Kee  
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