

## Ombudsman's Determination

Applicant	Mrs N
Scheme	The LV Personal Pension Scheme ( <b>the Scheme</b> ) - The Flexible Transitions Account ( <b>the Plan</b> )
Respondent	Liverpool Victoria Financial Services Limited, trading as Liverpool Victoria ( <b>LV=</b> )

## Outcome

1. I do not uphold Mrs N's complaint and no further action is required by LV=.

## Complaint summary

2. Mrs N has complained that LV= failed to provide the Trustee with full and accurate information to enable it to arrive at a fair and reasoned decision when distributing the lump sum death benefits. In particular:-
  - The Trustee relied on a nomination that her father made in 2015, which may have been fraudulent. LV= failed to provide the original copy for forensic examination and ignored the discrepancies they had highlighted.
  - LV= accepted information provided by her late father's partner (**the Partner**) in preference to the information provided by his family. The lump sum death benefits should have been distributed in line with her father's will (**the Will**) or shared equally between his wife (**Mrs S**) and his Partner.

## Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the key points. I acknowledge there were other exchanges of information between all the parties.
4. Mrs N has complained to The Pensions Ombudsman (**TPO**) in her capacity as co-executor of her father's estate (**the Estate**). Mrs N is represented by her legal adviser (**the Representative**).
5. On 23 September 2015, Mr S, Mrs N's father, became a member of the Scheme by taking out the Plan. He received advice from an independent financial adviser (**the**

**IFA**) whom he had appointed in March 2015. The IFA remained his adviser until his death.

6. In his application to join the Scheme (**the Application form**), Mr S nominated his Partner for 50% of any benefits payable on his death.
7. In a letter dated 23 June 2015 (**the June 2015 Letter**) to Douglas Baillie Ltd, the advice firm, the IFA highlighted the following:-
  - Mr S was married but had not lived with his wife for 18 years. Over the same period, he had been in a relationship with his Partner.
  - Mr S was concerned that in the event of his death his wife, rather than his Partner, would be the beneficiary of any death benefits payable from his defined benefits (**DB**) pension arrangements.
8. Before an advice firm gives a personal recommendation concerning a designated investment to a retail customer, it must take reasonable steps to obtain sufficient personal and financial information relevant to the services it has agreed to provide. The document used to record this information is often referred to as the Fact Find. The Fact Find Mr S signed on 29 June 2015, included the following handwritten comments:-

“I WANT ANY DEATH BENEFITS TO GO TO MY PARTNER [XXX], NOT MY ESTRANGED WIFE.

I NEED THE LUMP SUM TO PURCHASE A PROPERTY. I ALSO WANT TO MAKE SURE THAT MY LONG TERM PARTNER BENEFITS IF I DIE, RATHER THAN MY ESTRANGED WIFE”.
9. Regarding any other family circumstances, the Fact Find recorded that Mr S had been estranged from his wife for 18 years. It also recorded that Mr S had lived with his Partner for 18 years. This section of the Fact Find was completed in the third person.
10. The Fact Find recorded that Mr S had total assets worth £109,000, of which £100,000 was in respect of the value of a property that was not his primary residence (**Property One**). It recorded that Mr S was living with his Partner at ABC Street at the time, which he was renting. They held a credit card in joint names, which they had used to buy a car. The Fact Find showed their joint monthly expenditure and the value of their contents and personal effects.
11. The Governing Trust Deed and Rules of the Scheme (**the Rules**) were made between Liverpool Victoria Friendly Society Limited and NM Pensions Trustees Limited on 15 June 2015. It replaced the Trust Deed and Rules that established the Scheme, and subsequent amending deeds, with effect from 6 April 2015.

12. The Rules name NM Pensions Trustee Limited as the Scheme Administrator and the Trustee. Liverpool Victoria Friendly Society Limited is named as the Provider of the Scheme; it subsequently transferred to Liverpool Victoria Financial Services Limited.
13. A plan set up under the Scheme consists of several identical arrangements for the purpose of providing benefits in respect of the member. Each arrangement is subject to the provisions of the Deed and any additional terms, as LV= shall decide, and consists of one or more Member's Personal Account.
14. Mr S transferred in £251,061 from a DB arrangement on joining the Scheme. In November 2015, he transferred in £121,624 from a separate DB arrangement and took a tax free lump sum of £93,171 via flexi-access drawdown.
15. Douglas Baillie Ltd provided financial advice in connection with the transfer of Mr S' DB benefits to the Scheme. According to information published on the Financial Services Compensation Scheme's website it was under investigation as at December 2016. It is also one of the advice firms associated with claims in respect of the British Steel Pension Scheme. Douglas Baillie Ltd was dissolved on 3 April 2021.
16. On 9 November 2015, LV= notified Mr S that the Plan had been set up and confirmed that his tax free lump sum had been transferred into his bank account (**the November 2015 Letter**). LV= advised that it had enclosed a pack containing information about his Flexible Transition Account.
17. On 2 December 2015, Mr S signed an expression of wishes form (**the EoW form**) nominating his Partner for 98% of the death benefits payable under the Plan. He nominated his two daughters for the remaining 2%, in equal shares.
18. The EoW form included a section for details of a separate trust that Mr S would like the Scheme Administrator to consider when distributing any lump sum death benefits. LV= advised that this was subject to the discretion of the Scheme Administrator.
19. The notes on the EoW form (**the Notes**) explained that the nomination replaced any previous nomination. In the event of Mr S' death, the Scheme Administrator would take his wishes into account when paying out any death benefits.
20. The Notes explained that the nomination could be amended in writing at any time. LV= strongly advised that nominations were reviewed regularly and when a life-changing event occurs. The Notes included the following caveat:

“Your wishes cannot bind the Scheme Administrator but if you have any specific request that you would like the Scheme Administrator to consider please tell us here”.
21. On 16 December 2015, LV= wrote to Mr S. It acknowledged his EoW form and confirmed that his wishes had been noted on its records (**the December 2015 Letter**).

22. LV= explained that the Trustee of the Scheme had discretion over the distribution of any death benefits and would take Mr S' wishes into account. A copy of the December Letter was sent to the IFA.
23. In June 2016, Mr S purchased a property (**Property Two**) using a buy to let mortgage (**the Mortgage**).
24. On 10 February 2017, Mr S made his Will with assistance from a solicitor and appointed his two daughters to be his executors (**the Executors**). He appointed his Trustees as those of his Executors who obtained probate of his Will and the trustees for the time being of any trust arising under his Will. Mr S' personal address recorded on the Will was the address of Property Two. Regarding Property Two, clause 4 of the Will states:

“I give (free of tax) to my Trustees my property (free of tax and free of any money charged or otherwise **secured on it which shall be paid out of my residuary estate as shall the cost of discharging any security and any interest falling due before discharge**)...[emphasis added in bold].”

25. Clause 4.1 of the Will provides that the Trustees shall permit the Partner to occupy Property Two rent free. The Partner must keep Property Two in good repair and condition, insured in the names of the Trustees, and pay all outgoings in respect of Property Two. Clause 4.1 provides that the Partner's right of occupation will end if she ceases to reside in Property Two, other than through temporary absence. It will also end if she marries, or fails to pay for the outgoings, repairs or insurance. Clause 3.1 of the Will sets out similar conditions in respect of Mrs S' tenure of Property One.
26. Clause 4.2 provides that when the Partner has ceased to be entitled to live in Property Two, the Trustees shall hold Property Two on trust for Mr S' two daughters and his grandchildren in equal shares. Clause 3.2 sets out similar conditions in respect of Mrs S and Property One.
27. Clause 5 states:

**“MY TRUSTEES** shall hold the rest of my estate on trust:

...

- 5.1. **TO** pay my debts including mortgages secured on freehold or leasehold property and my funeral and executorship expenses.

...

- 5.3. **TO** pay the residue (“my Residuary Estate”) to be divided into ten equal shares and to pay:

- 5.3.1 **THREE** shares to my [Partner]...

5.3.2 THE remaining seven shares (or all ten shares if the provisions in subclause 5.3.1 above fail) to my wife...[and] my daughters...and my grandchildren...in equal shares”.

28. On 11 July 2019, the IFA notified LV= of Mr S' death in June 2019. He was survived by his wife, Partner, two daughters and grandchildren. Mr S' usual address recorded on the death certificate is the address of Property Two.
29. The value of the total units in the Plan, which were encashed as at Mr S' date of death, amounted to £301,999.
30. Rule 4.2 of the Rules contains provisions for the payment of lump sum death benefits. It allows the Trustee discretion to pay some or all of the funds remaining in the Member's Personal Account and/or his Drawdown Pension Fund, as a lump sum in accordance with the provisions of Rule 6.6. The payment must constitute a lump sum death benefit in accordance with the provisions of Section 168 of the Finance Act 2004.
31. The Member's Personal Account broadly consists of pension contributions, transfers and other receipts made in respect of the Member, and any other assets held in the Personal Account. It excludes any expenses or other payments made out of the Personal Account.
32. Rule 6.6: Payment of lump sum death benefits, states:
  - “6.6.1 Where on the death of a Member or other beneficiary an amount is stated to be paid in accordance with this Rule 6.6, the following provisions apply.
  - 6.6.2 Where permitted by the Provider or under the terms of his Arrangement, a Member, Beneficiary or Successor may appoint trustees to hold on discretionary trust any lump sums payable on the death of the Member. Provided such appointment is valid and effective, any amount payable under this Rule 6.6 shall be paid to the trustees so appointed. Any such appointment must be by deed in such form as the Scheme Administrator may require. The Scheme, Provider and Scheme Administrator shall be discharged from all liability in relation to that lump sum on payment to the appointed trustees. Except where it purports to relate to Protected Rights and the death occurred prior to 6 April 2012, any appointment under this Rule shall override any prior or subsequent direction by the Member or other beneficiary under Rule 6.6.2.
  - 6.6.3 Where Rule 6.6.2 does not apply, the Trustee shall pay or apply any lump sum payable under this Rule 6.6 to or for the benefit of one or more of the Relatives, Beneficiaries, personal representatives (or executors) or nominated beneficiaries of the deceased Member or any person who is entitled to an interest in the Member's estate, in such

shares as the Trustees shall decide. The following provisions apply to any such payment.

...

- (b) The Trustee may make interim payments to any beneficiary in advance of its final decision as to the total benefits to be paid under this Rule.

...

- (e) The Trustee may have regard to any document signed by the Member or other beneficiary expressing his wishes for the disposal of the sum, and any person[, ] charity or unincorporated association named in the document will be [a] nominated beneficiary”.

33. Under the Rules, the expression ‘Beneficiary’ means a Dependant or Nominee. The expression ‘Dependant’ includes any individuals other than a child of the Member. In the opinion of the Trustee the individual must have been financially dependent on the Member, or dependent because of disability, or had a financial relationship of mutual dependence with the Member at the time of the Member’s death. It also includes any children of the Member who have not reached the age of 23 or who were dependent on the Member because of disability at the time of his death.
34. The expression ‘Nominee’ means an individual nominated by the Member or Trustee in accordance with paragraph 27A of Schedule 28 of the Finance Act 2004. Broadly, this means an individual who is not a dependant of the Member. The expression ‘Relatives’ includes the member’s spouse, former spouse(s), children and grandchildren.
35. On 15 July 2019, the Representative contacted LV= and questioned the validity of the EoW form. He advised that the Executors considered it to be wholly inconsistent with the Will and had questioned whether it had been completed by someone other than Mr S. He highlighted that the sections of the EoW form, where Mr S was required to state his daughters’ relationship to him, had not been completed. He pointed out that Mrs N’s forename had been misspelt. Mr S had always referred to Mrs N by her family name, as noted in the Will; while the EoW form showed her married name.
36. The Representative asked the Trustee to make adequate financial provision for Mrs S. He advised that they had been married for 47 years and had remained in regular contact. He asked for a full copy of the EoW form.
37. On 19 July 2019, the Partner wrote to LV=. In response to the questions that had been raised concerning the authenticity of the EoW form, she advised that:-
- Mr S owned a small grocery shop (**the Shop**) and continued the business for several years after they met. Mrs S worked in the shop and later sold the business. Mr S did not receive any of the proceeds from the sale.

- Mr S also owned a house (**the House**), which he rented out. All the rental proceeds went to Mrs S. When Mrs S later sold the House, he did not receive any of the proceeds from the sale.
  - Mrs S sold his car (**the Car**) and the number plate, which he cherished.
  - Mrs S lived in Property One rent free and did not contribute towards the upkeep of Property One.
  - Mr S was able to pay the mortgage on Property One because of their joint income. They paid for external painting and for the upkeep of Property One. Mr S took out a loan to convert the loft, so that his daughter and her children could move into Property One. This was a further expense that they had to factor into their household budget.
  - Mr S took out an endowment policy in respect of Property One. He took out a further mortgage but carried on paying into the policy. When the policy reached maturity, he gave Mrs S half of the proceeds.
  - He also gave Mrs S 50% of his pension from a personal pension arrangement.
  - She worked full-time during the 23 years they were together. All her income went towards their household expenses at ABC Street and subsequently towards household expenses in respect of Property Two. She left employment in April 2019, so that she could bring Mr S home for a few hours whenever he was able to leave hospital.
  - She understood Mr S' reasons for not wanting to divorce his wife and respected his loyalty. So, she changed her surname to Mrs S.
  - She is in her 70s and her only source of income is her State pension.
38. On 16 August 2019, the Representative submitted a potential beneficiaries claim form (**the Claim form**), which had been provided by the IFA. He asked LV= to provide a copy of the EoW form, as it appeared to be inconsistent with the Will.
39. The Claim form had been completed by Mrs N and provided details of Mr S' surviving sibling, his wife, and two daughters.
40. Mrs N also provided details in respect of the Partner. Mrs N explained that the Trustee should consider the Partner, as a potential recipient of the death benefits, as she was named as a beneficiary in the Will.
41. A summary of the additional information Mrs N considered relevant to the Trustee's decision concerning the distribution of the death benefits is set out in Appendix One.
42. On 21 August 2019, LV= asked the IFA to provide copies of any statements that supported the nomination on the EoW form. Once it had received the statements, it would present all the evidence to the Trustee for a decision. The IFA explained that

Mr S' rationale for transferring his DB benefits to the Scheme was to protect the Partner's income stream. He had retained a copy of the original Fact Find and supporting statements.

43. On the same day, the Representative contacted LV= and queried whether it had provided him with a full copy of the EoW form.
44. On 27 August 2019, LV= replied to the Representative and confirmed that it had shared copies of the relevant pages.
45. On 28 August 2019, the IFA provided an original copy of the Fact Find.
46. On 29 August 2019, the Representative wrote to LV=. He advised that:-
  - Mr S' signature on the EoW form differed significantly from the signature on the Will, on a Credit Agreement dated 2011, and a receipt he signed in 2005 (**the Receipt**). The signatures on those documents were remarkably similar despite the time span.
  - The page showing details of the nominees, had been taken from the standard version of LV's nomination form. However, the page showing Mr S' signature had been taken from the non-standard version. This further supported their position.
  - Mr S did not discuss the EoW form with his daughters or give any indication to potential beneficiaries that he had made a nomination. The Executors were convinced that it was not genuine. So, the Trustee should disregard it when making its decision.
47. On 3 September 2019, LV= provided the Representative with a summary of the evidence it had gathered in connection with the Plan (**the September 2019 Letter**). Namely:-
  - Mr S was survived by his wife and two children. He had separated from his wife and was living with his Partner at the time of his death. They had been in a relationship for around 23 years.
  - Mr S took out the Plan in September 2015. LV= received the EoW form in December 2015.
  - The Will provided for life tenancies for Mrs S and the Partner. The Will also contained provisions for the residual Estate to be paid to Mr S' family.
48. LV= asked the Representative to highlight information that was inaccurate and provide any outstanding evidence, including the approximate value of the Estate, within 14 days. The Trustee would then make a final decision based on the information LV= had gathered.
49. On 5 September 2019, the IFA provided LV= with details of the approximate value of the Estate, as noted on the Fact Find. He explained that he looked after Mr S' pension savings and held limited information on the Estate. Property One had an



approximate value of £100,000 while Property Two had an approximate value of £110,000. Mr S held approximately £30,000 in three separate accounts as at June 2015.

50. On 13 September 2019, the Representative replied to the September 2019 Letter. The Representative said it was inaccurate to suggest that Mr S was estranged from his wife, as he remained in everyday contact with his wife and family. The Representative clarified that:-
- They had ceased to live together as a married couple for some 23 years. However, he would return to live with his wife during times of stress.
  - The Plan was set up using the pension Mr S had accumulated during his marriage.
  - Mr S purchased Property Two using a buy to let mortgage; he assumed it was rented out to the Partner.
  - The Will placed Property One and Two in trusts to provide conditional rent free accommodation for Mrs S and the Partner. On termination of the trusts, the properties would transfer to Mr S' daughters and grandchildren in equal shares.
51. The Representative advised that there were insufficient funds in the Estate to discharge the Mortgage. Consequently, the residual Estate was currently in deficit. He enclosed a copy of HM Revenue & Customs return of estate information (IHT205) as supporting evidence.
52. On 30 September 2019, LV= requested the following information before making a final decision:-
- The outstanding mortgage on Property One and Property Two.
  - Confirmation on whether the Partner was aware of the full details of the Will.
  - Any further evidence or comments the Partner wished to provide in connection with the Will.
53. On 1 October 2019, the IFA clarified that he did not arrange the mortgages on the properties. However, the Fact Find indicated that the mortgage on Property One had been repaid. He explained that the Mortgage was interest-only and had an outstanding balance of £50,000; the Partner did not know whether Mr S had taken out life insurance.
54. On 7 October 2019, LV= wrote to the IFA and the Representative separately (**the October 2019 Letter**). It explained that the Trustee was considering whether to award £51,543 to the Executors to discharge the Mortgage. The remainder of the death benefits would be distributed in line with the EoW form. LV= explained that it wanted to establish if there were any other assets available to cover the debts owed

by the Estate. The parties were invited to provide their comments by 15 October 2019.

55. In the intervening period, there were exchanges between the Representative and the Partner concerning money that had been withdrawn from Mr S' bank account. A summary of the information the Partner provided to the Representative is set out in Appendix Two.
56. On 15 October 2019, the Representative confirmed that Mr S did not have life insurance although the bank had urged him to obtain cover in the Mortgage offer letter. Mr S consolidated all his pension savings in the Scheme.
57. The Representative clarified that there were no residual funds in the Estate. Consequently, there would be no residual funds available to distribute in accordance with Mr S' wishes, as expressed in his Will. Taking into account the provisions of the Will, and legal fees, £51,556 was required to discharge the Mortgage.
58. The Representative repeated the concerns the Executors had expressed regarding the authenticity of the EoW form. He asked LV= to confirm how much weight the Trustee had attached to it.
59. The IFA provided the information below in response to an enquiry from LV=-
  - Mr S was adamant his DB benefits should be transferred, for the main purpose of protecting his Partner.
  - He considered that he had adequately provided for his wife and daughters, which was further evidenced by Mrs S' life interest in Property One.
  - Given the Partner's financial position, the Trustee should consider making an interim payment and reserve making a decision on the balance of the death benefits until the value of the Estate had been confirmed.
  - The Executors had provided misleading information to LV= regarding the funeral expenses. The expenses had been settled, as there were sufficient funds in the Estate.
60. During the intervening period, the bank advised the Representative that the Mortgage, which was in Mr S' sole name, was now payable in full. The bank warned that Property Two would need to be sold if the Estate had insufficient funds. The bank asked for confirmation that Property Two had been vacated and placed on the market.
61. The grant of probate showed that the value of the Estate amounted to £238,462 (gross) and £179,370 (net).
62. On 5 November 2019, LV= replied to the Representative's letter of 15 October 2019. LV= clarified that the EoW form did not comprise of two separate forms; it had

previously sent the Representative only the relevant pages. LV= enclosed a full copy of the EoW form and the Fact Find.

63. LV= advised the Representative that the IFA had completed the EoW form with details of the nominated beneficiaries.
64. The Partner's legal adviser (**the Legal Adviser**) then contacted LV= in connection with the 7 October 2019 Letter to the IFA. He highlighted that the Will made clear the Mortgage should be discharged by the residual Estate. He said his client believed Mr S had sufficient funds in various bank accounts; copies of the interim accounts and bank statements had been requested from the Executors.
65. On 12 November 2019, LV= reassured the Legal Adviser that a final decision would not be made until he had received sufficient evidence from the Executors. The Trustee subsequently made an interim payment of £20,000 to the Partner in advance of its final decision.
66. On 28 November 2019, the Representative wrote to LV=. He said it was evident that the Fact Find had been completed by someone other than Mr S and questioned whether Mr S had completed it. The Representative again asked LV= to confirm the weight the Trustee had attached to the EoW form. Also, the decision it would otherwise have reached.
67. On 3 December 2019, LV= informed the Representative that it was waiting for information from the Legal Adviser. LV= said there was insufficient evidence to doubt the validity of the EoW form. In response, the Representative provided a letter from Mr S' family as supporting evidence. A summary of that letter is set out in Appendix Three.
68. On 6 December 2019, LV= informed the Representative that it was collating information to ensure that all relevant information had been considered. It reassured the Representative that it had not disregarded the information the family had provided. LV= explained that it regularly reviewed and updated its forms. Consequently, the format of the nomination form available on its website was not identical to the nomination form Mr S completed at the time.
69. On 10 January 2020, the Representative replied to LV=. He said the Executors considered that Mrs S had been unfairly treated. Mr S transferred in the sum of £251,081 in respect of DB benefits he accrued before he met his Partner. If Mrs S had divorced him, she would have been entitled to a substantial share of his pension. The Representative asked LV= to confirm whether the Trustee had taken this into consideration.
70. On 14 January 2020, LV= said it was not in a position to comment on what might have occurred if Mr and Mrs S had divorced. It could only consider the facts presented to LV= and was still waiting for some outstanding information.

71. On 20 January 2020, the Legal Adviser wrote to LV=. He said, in summary:-

- His client should be considered for the death benefits as she had been Mr S' long term partner for 20 years. They had cohabited for most of that time and she had contributed to the household bills. Without her contribution, Mr S would not have been in a financial position to pay the mortgage on Property One. Her salary had been paid into Mr S' bank account since September 2017. It was effectively used as a joint bank account and the money was used to pay all the household bills, including payments due in respect of the Mortgage.
- Property Two was registered in Mr S' sole name. However, his client had invested time, money and hard work to bring Property Two up to its current standard. His client acknowledged that there were insufficient funds available to repay the Mortgage.
- Mr S made no financial provision for his Partner in his Will; she could potentially make a claim against the Estate for reasonable financial provision under the Inheritance (Provision for Family Dependents) Act 1975. However, Mr S nominated her for 98% of the death benefits, which he considered reasonable financial provision following his death. If Mr S wanted the death benefits to be applied to discharge the Mortgage he would have directed LV= accordingly.
- The Executors already stood to benefit substantially under the terms of the Will. Mr S did not intend for his Executors to receive a higher proportion of the death benefits, or for his Partner to receive less than 98%.
- His client did not agree that the Executors should receive more than the percentage Mr S had specified in the EoW form. She should be free to decide how to spend her share of the death benefits and would prefer to vacate Property Two. This would enable the Executors to sell it and discharge the Mortgage. Should the Trustee decide to make a higher award to the Executors, his client should, at the very minimum, receive a beneficial interest in Property Two.

72. On 4 February 2020, LV= informed the Representative that it operated a paperless office and did not have the original copy of the EoW form on file. LV= explained it was received via a regulated financial adviser and that it had written to Mr S at the time to acknowledge receipt. LV= had examined the Fact Find. It was satisfied that the nomination, in favour of the Partner, was consistent with Mr S' reasons for wanting to transfer his pension benefits to the Scheme. In light of the information it had received since the October 2019 Letter, the Trustee did not consider it appropriate to distribute funds to the Executors to discharge the Mortgage.

73. On 4 February 2020, LV= asked the Legal Adviser to clarify if there was a mortgage on Property One before making a final decision. Later the same day, the Legal Adviser informed LV= that the case was having a profound effect on his client. He subsequently advised that:-

- The mortgage on Property One was discharged in 2018.

- Mr S and his Partner lived together at ABC Street before moving to Property Two. He restated that because of the financial contribution his client had made during their relationship, Mr S had sufficient available income to meet the monthly Mortgage payments.
  - The death benefits should be distributed in line with the EoW form. His client did not agree that a proportion of the death benefits should be used to discharge the Mortgage because she only had a life interest in Property Two.
74. On 7 February 2020, the Representative wrote to LV= and again expressed concerns regarding the validity of the EoW form. He explained that the Executors considered that the Partner had unduly influenced the IFA.
75. The Representative asked for details of the information LV= had received following the October 2019 Letter, which had influenced its decision not to distribute funds to discharge the Mortgage.
76. On 12 February 2020, the Trustee Discretionary Panel (**the Discretionary Panel**) made a final decision to distribute the death benefits in line with the EoW form. It had identified Mrs S, the Partner and Mr S' daughters as potential beneficiaries. The information the Discretionary Panel considered when making its final decision is set out in Appendix Four. Appendix Four also includes the information the Discretionary Panel did not consider.
77. On 13 February 2020, LV= notified the Representative of the decision. It said it was unable to disclose evidence provided by third parties, except in limited circumstances. The beneficiaries were subsequently notified of the lump sum death benefits they had been awarded.
78. On 2 March 2020, the Executors complained to LV=. The main points are summarised below:-
- The Executors questioned whether LV= had considered all the information they had provided in connection with the case. At no point did LV= ask for any supporting evidence to substantiate their claims.
  - LV= had failed to disclose the information it had subsequently received which had influenced its final decision.
  - The Will was the only legal document that had been signed by Mr S in the presence of a solicitor. It was at odds with the EoW form, which LV= had accepted as a valid nomination.
  - If Mr S had completed the EoW form, he would not have misspelt his daughter's forename or used her married name. This was supported by the Will and the details he provided to the hospital in respect of his next of kin. If the IFA had completed it, Mr S would have corrected the spelling of his daughter's forename. The EoW form had been completed using different pens, which Indicated that information had been added at different times. LV= had ignored their concerns.

- They questioned the reluctance on the part of LV= to have the EoW form forensically examined. The fact that they had been unable to obtain a full copy added to their concerns regarding its validity.
- They were astonished that LV= had chosen not to make an award to the Estate to repay the Mortgage. Mr S would have used the proceeds of the Plan for this purpose. LV= had ignored his wish, as expressed in the Will, for his Partner to remain living in Property Two. They could only conclude from this that LV= had been provided with false information, on which it had then relied. If so, the Partner had deliberately misled LV=.
- The Partner had admitted using Mr S' bank cards to cover household expenses. She had also admitted making additional withdrawals from a bank and savings account held in his sole name.
- They previously questioned why LV= had not considered Mrs S as a potential beneficiary of the death benefits. A significant proportion of the DB pension Mr S transferred into the Plan accrued as far back as 1983, when he was still living with his family. LV= had also ignored several other issues they had raised.

79. On 1 April 2020, the Representative informed LV= that the Executors had reported their concerns about the bank transactions to the Police.

80. LV= considered at the time that there was sufficient reason to believe the EoW form was genuine and reflected Mr S' wishes. However, the Plan was referred to its Financial Crime Investigations Team and the case was put on hold pending the outcome of the Police investigation. A summary of the information the IFA provided to the Police in connection with their investigation is set out in Appendix Five.

81. The Financial Crime Investigations Team concluded that no financial crime had been established against or involving LV= in connection with the Plan. It noted that the Police were closing their investigation. It further concluded, based on the information that had been provided by the Police, that the allegations were vexatious in nature. LV= has provided TPO with a redacted copy of the report completed by the Financial Crime Investigations Team (**the Financial Crime report**). Regarding the investigation undertaken by the Police, the report said:-

- The Police enquiries with the IFA confirmed that he knew Mr S in a professional capacity. The EoW form was completed and witnessed by the IFA while Mr S was present. This accounted for the misspelling of his daughter's forename and insertion of a "X" where Mr S was required to sign. The IFA subsequently renewed his advice annually.
- The alleged theft from Mr S' bank/savings accounts was a civil matter, as Mr S and the Partner were living together at the time as common law partners. The money was transferred into a joint account and the Partner had accounted for the transactions.

82. On 29 April 2020, LV= issued its response to the Representative but did not uphold the complaint. It said the Trustee was satisfied that it could proceed, based on the available evidence. The Will made clear that the Mortgage should be discharged from the residual Estate.
83. Supporting statements from a family friend, a former colleague of Mr S, and Mr S' former employer, questioning LV= decision, are set out in Appendix Six.
84. Following the complaint being referred to TPO, the Representative and LV= made further submissions that have been summarised in paragraphs 85 and 86 below.

85. **A summary of Mrs N's additional submissions:-**

- Mrs N has queried the Partner's relationship with the IFA. In the period leading up to the Plan being set up, Mrs N said that the IFA had regular email exchanges with the Partner. Mr S was not copied into those emails, although they concerned his finances.
- The Financial Conduct Authority (**FCA**) questioned the IFA's ethics. They are still awaiting a full response from the FCA.
- The Executors identified several discrepancies in the IFA's statements to the Police. Contrary to those statements, Mr S knew the IFA outside of a professional setting. They played in the same darts team. This was confirmed by the IFA during a telephone call on 4 July 2019. The Partner and the IFA also met socially while playing darts. He failed to mention that the Fact Find was challenged by the bank due to discrepancies.
- Their suspicions were further supported by the fact that one of Mr S' bank accounts was changed while he was in hospital. Mrs N suspects that the Partner forged his signature; the signature was also challenged by the bank.
- The Partner did not disclose to LV= that in addition to her State pension she had a private pension, as confirmed in the Fact Find. While this is insignificant, there are small inaccuracies in nearly all of the Partner's statements to LV=.
- LV= portrayed the family in a negative light presumably based on information provided by the IFA and the Partner. The Partner had to vacate Property Two because the bank wanted the full outstanding balance of the Mortgage paid off.
- It is not correct that Mr S did not make provisions for his Partner in his Will. Mrs S and the Partner were given equal standing in regard to their respective properties. If the death benefits had been distributed in accordance with the Will, the Partner would have been the main beneficiary. There would have been no Mortgage on Property Two; the Partner could potentially outlive the Executors.
- LV= failed to give sufficient weight to their concerns because it considered that the allegations were vexatious. Mrs N is concerned that LV= has failed to provide

TPO with copies of emails the Partner exchanged with the IFA. Also, the emails the Partner exchanged with the Legal Adviser.

**86. A summary of LV='s additional submissions:-**

- LV= has satisfied itself that the EoW form is genuine and reflected Mr S' wishes. Having considered all the available information, the Trustee made the correct decision to pay the death benefits in line with those wishes.
- The case was discussed at several meetings. Exceptional meetings were also held to discuss the case further. However, the minutes do not go into detail regarding all the points that were considered at the time.

**Adjudicator's Opinion**

87. Mrs N's complaint was considered by one of our Adjudicators who concluded that no further action was required by LV=. The Adjudicator's findings are summarised below:-

- The applicable scheme provisions will determine the circumstances in which beneficiaries are eligible for/or may be considered for death benefits. Also, the party responsible for making any discretionary decisions. When exercising discretion, TPO would expect the decision-maker to take into account some well-established principles. Broadly, the decision-maker must:
  - take into account all relevant matters and no irrelevant ones;
  - ask themselves the correct questions;
  - direct themselves correctly in law (In particular, they must adopt a correct interpretation of the rules or regulations that apply to the scheme); and
  - not arrive at a perverse decision.
- The Adjudicator said this was an emotive case. However, she could only look impartially at whether the decision had been reached correctly and was not so irrational that no reasonable decision-maker could have reached the same decision.

*The Scheme provisions*

- The Adjudicator said that there was no evidence the lump sum death benefits in respect of the Plan were written under trust. Consequently, the provisions under Rule 6.6.2 did not apply in this case; the relevant provisions were contained in Rule 6.6.3.



- The Adjudicator noted that NM Pensions Trustee Limited, in its capacity as the Trustee, had discretion to pay or apply the lump sum death benefits payable under Rule 6.6 to or for the benefit of the designated categories of beneficiaries.
- The Adjudicator explained that the Trustee had wide discretion when deciding how to distribute the lump sum death benefits. Before making a decision, the Trustee was expected to weigh up the available evidence. However, the weight to attach to a particular piece of evidence was for the Trustee to decide, including whether to give some of the evidence little or no weight.
- The Adjudicator acknowledged that the contents of the Will were a relevant consideration for the Trustee. However, the Trustee was not under any obligation to follow the provisions in the Will. So, while Mrs S and the Partner were given equal standing in the Will, in regard to the properties they were living in, it was for the Trustee to decide how to distribute the lump death benefits.

### *The EoW form*

88. Regarding Rule 6.6.3, the Adjudicator noted it states that the Trustee:

“may have regard to any document **signed** by the Member or other beneficiary expressing his wishes for the disposal of the sum...[emphasis added in bold]”.

- The Adjudicator also noted that Mrs N had highlighted that the signature on the EoW form differed from the signature on the Will, the signature on the Credit Agreement, and on the Receipt. Mrs N had emphasised that the signatures on these documents were very similar.
- The Adjudicator considered that the issue was not whether Mr S completed the Fact Find and the EoW form; it was whether he had in fact signed the documents. The Adjudicator observed that the signature on the EoW form was similar to the signature on the declaration to the transferring scheme, which formed part of the Application form. This was dated 21 August 2015.
- The signature on the declaration on the Application form, where Mr S agreed to the IFA's fees, which was dated 2 December 2015, was also similar to the signature on the EoW form. The Adjudicator explained that it was not the role of TPO to forensically review signatures. However, it was material to the outcome whether the documents in dispute were consistent with Mr S' actions.
- Notwithstanding the result of the Police investigation, the Adjudicator was not persuaded that there were sufficient grounds to disregard the nomination in the EoW form. In taking this view, the Adjudicator explained that she had considered the EoW form in conjunction with other contemporaneous evidence to assess whether the nomination conformed to Mr S' desired outcome. While the veracity of the signatures on the EoW form and Fact Find might be debatable, when

compared with the signatures on the documents Mrs N had submitted as supporting evidence, there was a clear agenda that Mr S was working towards.

- The Adjudicator said the Fact Find indicated that Mr S' main objective, in transferring his DB benefits to the Plan, was to purchase property and to provide financial security for his Partner. This was consistent with the nomination he made in the EoW form. The Adjudicator noted that after transferring in benefits in November 2015, Mr S purchased a second property.
- If LV= did not receive the EoW form at the time, there would have been no need for LV= to notify Mr S, in the December 2015 Letter, that his wishes had been noted on its records. Furthermore, if Mr S did not make the nomination, it would be reasonable to assume that he would have contacted LV= on receiving the December 2015 Letter.
- Regarding Mrs N's request for a forensic examination of the EoW form, the Adjudicator said that it was not unreasonable for LV= to take a proportionate view in light of its own investigation and the outcome of the separate Police enquiry.
- The Adjudicator considered that any alleged undue influence on the part of the Partner would be a relevant factor if there was evidence that Mr S lacked mental capacity at the time he made the nomination. The Adjudicator said there was nothing in the evidence to suggest this. Similarly, there was no evidence that he subsequently amended his nomination in writing. Mrs N had acknowledged that Mr S was in a long term relationship with his Partner. The fact that he did not discuss the nomination with his family, friends, or acquaintances, did not change the outcome in the circumstances.

### *The Mortgage*

- The Adjudicator noted that LV= invited comments from the parties on whether it should pay sufficient funds to cover the Mortgage because the Partner was residing in Property Two at the time. However, the Partner objected to this. In the Adjudicator's view, this was a relevant consideration for the Trustee because Mr S had nominated his Partner for 98% of the death benefits.

### *The decision-making process*

- In the Adjudicator's opinion, LV= had interpreted the Rules correctly in identifying the Partner as a Dependant. LV= also considered other potential beneficiaries, including Mrs S, as the surviving spouse. The Adjudicator noted that Mrs N was given the opportunity to make representations on behalf of Mrs S.
- Regarding Clause 3.1 of the Will, the Adjudicator noted that it stated the Trustees shall permit Mrs S to live in Property One rent free, subject to the conditions stipulated in the Will. The evidence indicated that Mr S paid for the upkeep of Property One, which was held in his sole name, and the cost of renovations.

- The Adjudicator said that the evidence supported the view that Mr S provided financial support to Mrs S, to the extent that he also paid for the utilities in respect of Property One.
- The Adjudicator acknowledged that Mr S made further provision for Mrs S in the Will by bequeathing a proportion of his residual Estate. The Adjudicator said that Mrs S may qualify for extra pension payments in respect of Mr S' State pension or National Insurance contributions.
- The Adjudicator acknowledged that Mrs S may otherwise have been entitled to a pension under the ceding arrangements, as the surviving spouse. The Adjudicator said that Mr S made clear that he wanted to provide financial security for his Partner. While his wishes did not legally bind the Trustee, the Adjudicator was not convinced based on the evidence that the Trustee had made a serious administrative error by distributing the death benefits in line with the EoW form.
- The Adjudicator noted that Mr S was living with his Partner at the time he applied to join the Scheme. At the time of his death, he had been separated from his wife and had been in a relationship with his Partner for over 20 years. The evidence supported the view that they were in a relationship of mutual interdependency for several years before Mr S was hospitalised and that the Partner was financially dependent on him at the time of his death.
- The Adjudicator concluded that LV= had followed a correct process and had considered all the relevant evidence. In view of the circumstances, LV='s decision to distribute the death benefits in line with the EoW form was within a range of reasonable outcomes.

89. Mrs N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs N has provided further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the following additional points raised by Mrs N:-

- Mrs N has expressed concerns regarding the evidence LV= relied on to reach its decision. She has been denied the opportunity to challenge the validity of the evidence, including the contents of the Fact Find.
- Regarding the competing claims for the death benefits, Mrs N said she expected both sides to provide accurate information to LV=. However, this proved not to be the case. Mrs S now finds herself widowed, in her late 70s, with her State pension and pension credit as her only source of income since retiring in 2008 due to ill health. Whereas the Partner received 98% of Mr S remaining pension savings, the majority of which was accrued during and with the help of Mrs S.
- As she was still married to Mr S, Mrs S assumed she would be awarded a least a proportion of his pension.

- In making provisions for both Mrs S and his Partner to live in their respective properties, Mr S recognised their financial position. Moreover, he would not have left either his wife or his Partner to struggle financially.
- Regarding the nomination Mr S made in the Application form, Mrs N considers that it would not be unreasonable to assume that he intended for the remaining 50% of any death benefits arising on his death to be awarded to Mrs S or shared among members of his family.
- However, in December 2015, Mr S nominated his Partner to receive 98% of the death benefits. Then in 2017, he included Mrs S as a beneficiary in his Will. While she concedes that Mr S only bequeathed 10% of the value of his Estate to Mrs S, this indicates that he wanted Mrs S to be supported financially should something happen to him. Mrs S has not received a single penny from any of Mr S' private pension arrangements. The endowment policy, in respect of Property One, was in joint names and matured in 2018; Mrs S has yet to receive her share of the proceeds.
- Mrs N has provided additional information to counter statements which she considers are either inaccurate or potentially misleading. Those statements mainly concern the ownership of assets and property that were held by Mr and Mrs S during the course of their relationship. Mrs N has clarified that Mr S did not own the Shop. Mrs S owned the House; it was eventually sold and the proceeds from the sale were used to pay off the remaining mortgage on the property.
- Mrs N has also clarified that the Car and vehicle logbook (V5) were in Mr S' name. Consequently, he would have been required to sign the V5 to transfer ownership. Mr S did in fact sign the V5 and he received the proceeds from the sale.
- Regarding information the Partner provided to LV=, as set out in paragraph 37, Mrs N has clarified that while Mrs S lived rent free at Property One, it is not correct that she did not contribute towards its upkeep.
- Although some of the bills were in Mr S' name, they were paid by Mrs S through her bank account with her own money. Mr S was able to pay the mortgage because he was only co-habiting with his Partner at the time. The loan he took out for the loft conversion was for the benefit of his grandchildren, rather than Mrs S. Regarding, the upkeep/painting of Property One, Mr S & Mrs S shared the cost equally.

## **Ombudsman's decision**

90. It is not the role of TPO to question the outcome of the police enquiries or to conduct a separate investigation into the IFA's alleged conduct or credibility, as this does not fall within TPO's jurisdiction. The evidence indicates that the Police found no

evidence of wrongdoing. I am not persuaded on reviewing the evidence that Mrs N's further comments materially changes the outcome in the circumstances.

91. The question for me to consider is twofold. Firstly, whether Mr S knowingly signed the EoW form and the Fact Find. Secondly, whether the extent of Mrs S' financial dependency/interdependency with Mr S calls into question the decision LV= reached in this case.
92. Having reviewed the evidence, I am satisfied, on the balance of probabilities, that Mr S did in fact intentionally sign the EoW form and the Fact Find. It is not possible to know whom Mr S intended to nominate for the remaining 50% of the death benefits at the time he completed the Application form. Even if I accept that Mr S intended to nominate Mrs S, and/or other family members, the nomination would have been superseded by the EoW form which he subsequently signed in December 2015.
93. I note that Mrs N has raised concerns regarding information LV= considered at the time but did not disclose to either Mrs N or the Representative. It was a matter for LV= to consider its GDPR obligations, and any internal policies concerning third party personal data, and decide what information, if any, it wished to disclose to Mrs N. It is open to LV= to anonymise/redact third party personal data provided this does not affect TPO's ability to properly investigate the complaint.
94. I am satisfied that during the course of TPO's investigation, the documents LV= sought to rely on in its representations to TPO, were shared with the Representative. Consequently, Mrs N has been given the opportunity to comment on those representations.
95. It is for the Trustee, as the decision-maker, to apply the relevant Scheme provisions and determine how the death benefits should be distributed. As the decision-maker, the Trustee had to ask itself the correct questions, take into account all relevant matters, and disregard any irrelevant considerations. The sequence of events, and the information that the Discretionary Panel considered at the time, as set out in Appendix Four, supports the view that the Trustee followed a reasonable process when exercising its discretion.
96. The decision, to distribute the lump sum death benefits in the proportions Mr S specified in the EoW form, was within a range of decisions that a reasonable decision-maker, properly directing itself, could arrive at based on the same facts. While I appreciate this finding will provide Mrs N with little comfort, in view of her mother's status as the surviving spouse, the decision cannot be classed as perverse.

CAS-52503-J0P5

97. I do not uphold Mrs N's complaint.

**Dominic Harris**

Pensions Ombudsman

31 May 2024

## **Appendix One**

### **A summary of the additional information Mrs N submitted with the Claim form**

- Mr S formed a relationship with his Partner in 1996. However, he remained in daily contact with Mrs S. When he suffered a minor heart attack in January 2019, while spending time with Mrs S she drove him to hospital.
- Mr S also remained in close contact with his daughters, grandchildren, and great grandchild. He was very generous towards his family and relied on them in times of need.
- Mrs S retired eleven years ago. Mr S continued to provide for her until his death. He paved the garden in 2017, installed a new bathroom in March 2018 and replaced her cooker in January 2019. Mr S would arrange for Property One to be painted on a regular basis and paid for household repairs from time to time. He also paid for the utilities. All of his post was delivered to Property One. However, in January 2020, for no apparent reason, he arranged for it to be sent to Property Two.
- The Executors suspect that Mr S may have been unduly influenced by his Partner. In view of the error in the completion of the EoW form, and undue haste with which the Partner contacted the IFA following his death, it is possible that the Partner completed the EoW form on behalf of Mr S. It had since come to light that the Partner had transferred money from Mr S' sole bank account to their joint account while he was unconscious in intensive care.
- The Executors wished to carry out Mr S' wishes, as set out in his Will. The Trustee should pay off the Mortgage and distribute the remaining lump sum death benefits in the proportions stipulated in the Will.

## Appendix Two

### A summary of the information the Partner provided to the Representative

- She was unable to confirm whether Mr S had life insurance. All of his paperwork and bank statements had been handed to the Executors/the Representative.
- Mr S had approximately £54,000 in his bank accounts. She was certain that he left sufficient funds to settle the funeral expenses and outstanding balances on his credit cards. The funeral directors had confirmed that the funeral expenses had been paid in full.
- When Mr S was hospitalised, he entrusted his bank cards to her so that she could carry out any transactions required to run the household in his absence and ensure that his current accounts remained in credit. Before making the transactions, she contacted the solicitor Mr S had appointed. She was advised that she could use his bank cards, as long as it was for household expenses.
- She also paid for an electrician to fit some lighting they had already purchased for the living room.
- Mr S' son in law covered his part-time job when he was hospitalised and she withdrew money to pay him. The money was given to Mrs N during hospital visits.
- She purchased a foot exerciser for Mr S, as the hospital advised it would help with his circulation. She also bought replacement locks for the front door and a garden trimmer. She had some of the radiators in Property Two repaired.
- She gave up her job so that she could visit Mr S in hospital twice a day. He relied on her to make sure that payments were kept up to date. Neither of them expected at the time that he would not return home. She paid for the insurance on Mr S' car. The household utilities and council tax amounted to £750 per month. So, she transferred money from one of Mr S' accounts.



## Appendix Three

### A summary of the letter from Mr S' family

- There was a lack of consideration on the part of LV= towards the family. LV= had dismissed their concerns and failed to answer some of the questions they had raised.
- The family was convinced that the EoW form comprised of two separate forms. One part was taken from LV='s standard nomination form, while the other part had been taken from its non-standard nomination form. The copy of the nomination forms they had obtained from LV='s website supported their position.
- Mr S did not use Mrs N's marital name. The Will, hospital records, and information held by the coroner supported their position. He did not at any time misspell her forename.
- It was clear that the EoW form had been completed using different pens and that their date of birth and addresses had been added at a different time. They provided LV= with copies of documents showing Mr S' signature that had also been countersigned.
- They question why he would have provided for his Partner in the Will if there were insufficient funds in the Estate to clear the Mortgage. Mr S would not have left the Mortgage outstanding for the family to sort out after his death.
- The sentiment in which the Fact Find was written did not come from Mr S. Neither does it appear to have come from the IFA. It completely contradicts the provisions Mr S made for his wife in the Will. The Fact Find referred to Mr S as being estranged from his wife. The family are distressed by this, as they had been in a very close relationship until his death.
- Mr S visited the family home every day, including on Christmas day. He would telephone Mrs S several times a day. The telephone records confirm this. Mrs S was by his side when he died and she was the first person he contacted when he needed to go into hospital following his first heart attack.
- The family questioned how the IFA could have a close friendship with the Partner, given that she was a nominee under the Plan. They also questioned the reliability of any information LV= had obtained from other sources.
- Mr S was a very fair man who loved his family dearly. He made the Will; the individual who completed the EoW form was certainly not the same person.

## **Appendix Four**

### **The information that was considered by the Discretionary Panel includes:-**

- The EoW form, including the points the family raised concerning its authenticity. It was discussed with the IFA, who provided a reasonable explanation regarding those points. The Trustee decided, on balance, that the EoW form should be relied on. It was submitted by a financial adviser who had been authorised by the FCA. LV= considered that it was a reasonable nomination to make in the circumstances.
- The reports prepared by the IFA at the time, which provided detailed evidence concerning Mr S' intentions in respect of the lump sum death benefits.
- The fact that the IFA was acting in a professional capacity. It did not appear that the IFA had been reported to the FCA, or was under investigation because of his alleged conduct.
- The Will, including the provisions in the Will concerning the distribution of the residual Estate.
- The fact that there appeared to be insufficient funds in the Estate to cover Mr S' intentions, as expressed in the Will, including redeeming the Mortgage. The Trustee considered paying sufficient funds into the Estate to cover the Mortgage because there was a suggestion that Property Two may otherwise need to be sold. The Partner objected to this, which further informed the Trustee's deliberations.
- Mr S' financial relationship with each of the potential beneficiaries and whether there was any financial dependency or interdependency.
- The date the EoW form was completed and the date Mr S made the Will.
- The points raised regarding the period over which the DB benefits that were transferred into the Plan had accrued.
- Disputes regarding the Estate would be a matter for the Police and the Representative to resolve.
- The supporting statements (See Appendix Six for a summary). LV= accepted Mr S remained in a close relationship with Mrs S, his daughters and grandchildren. However, it is not the case that Mr S did not make provisions for his family in his Will. Mrs S was given tenancy of Property One rent free. Both properties would eventually be passed onto the daughters and grandchildren in any event.

### **The information the Discretionary Panel did not consider:-**

- The Trustee did not consider any evidence that could not be substantiated.

- The Trustee noted that Mr S nominated his Partner to receive 98% of the lump sum death benefits and for his daughters to only receive 1% each. The Trustee acknowledged that pension providers suggest that nominations should be made on these lines. This would provide secondary beneficiaries with the option of a drawdown pension, in certain circumstances, rather than solely a lump sum.
- The Trustee concluded that there was a strong possibility Mr S made the nomination in respect of his daughters for this reason and that he actually intended for his Partner to receive 100% of the death benefits. However, LV= could not make this inference and took the EoW form at face value.

## Appendix Five

### A summary of the information the IFA provided to the Police on 1 April 2020

- His only dealings with Mr S and his Partner were in a professional capacity. He was initially contacted by Mr S' accountant, as he required detailed pension advice.
- They completed the EoW form together. He witnessed Mr S signing it, his Partner was also present at the time.
- The financial advice Mr S received in connection with the transfer of his DB benefits to a personal pension plan was provided by a pension transfer specialist. He subsequently met with Mr S, on a yearly basis, so that he could continue to monitor his pension investments.
- The reason Mr S was seeking financial advice at the time was due to the inflexibility of his two DB arrangements with regard to access and the percentage of tax-free cash available. And most importantly, the payment of any death benefits.
- "The two ceding schemes only allowed for death benefits to be paid to a married spouse should [Mr S] die". Mr S had been estranged from his wife for more than 20 years and she was living in the family home. The transfer of the DB benefits made it possible for Mr S to make financial provisions for his Partner.
- From his discussions with Mr S, it was clear that he had left the marital home to his wife and Property Two to his daughters, with his Partner having the right to reside at Property Two. He had provided for his family sufficiently and he was adamant that his pension benefits should be paid to his Partner in the event of his death.
- Mr S explained that he had helped his daughters out financially and would continue to do so, as they would be the beneficiaries of Property Two. However, Mr S had left him in no doubt that his priority, with regard to his pension, was to provide for his Partner. The allegation of fraud made by the Executors was a response to their disbelief that Mr S had provided for his Partner, rather than his daughters.

## **Appendix Six**

### **Supporting statements**

#### **A summary of a letter from Mr R, a long standing friend of the family**

- Mr R said that he visited the family home frequently. However, due to his busy work schedule, he would visit on random days and times.
- Mr S was usually at the family home. He was family-orientated and formed strong ties to his daughters and grandchildren. In the months before his death, he was always at the family home being cared for by Mrs S and his daughters.

#### **A summary of a letter from Mr D, a former colleague of Mr S**

- He first met Mr S in 2017. They were of a similar age and would talk about family life and death. Mr S would often talk about his daughters and grandchildren; he thought the world of them. He would often say that he would be leaving his daughters a property, with no mortgage.
- He would also say that he would be leaving a share of the property to his grandchildren and that they would all be well looked after. He would frequently talk about his Mortgage; he mentioned he had sufficient investments to repay it. He finds it totally out of character that Mr S would leave most of his investments to his Partner.

#### **A summary of the letter from Mr S' former employer**

- Mr S joined his company two years before his death. Due to the nature of his job, Mr S frequently had spare time and loved talking. Perhaps because of his age, and the fact that some of his colleagues were of a similar age, the conversations would turn to funerals, retirement homes and wills.
- Mr S explained that he was still married but had been living with his partner for twenty years. He would regularly visit his wife and daughters several times a week as he felt at home there. They thought it was odd but he was happy. On a few occasions, he told them that his wife, daughters and grandchildren had all been provided for in his Will and he would not be leaving his family with any debts. He was very proud of his grandchildren and glad that he had provided for them.
- Mr S got on well with his Partner. He said family would come first but his Partner would be provided for.
- He was very surprised to discover that Mr S left the majority of his investments to his Partner. He is convinced that this is not consistent with Mr S' wishes. He found it odd that his daughters were made executors of his Will but then denied any money. Mr S was a very fair man; he would have expected him to have divided his investments up equally.