CURTIS BANKS

CASE STUDY

TRUSTS AS BENEFICIARIES

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The ability for pension benefits to be passed down through multiple generations is one of the big draws of the current death benefits rules in defined contribution pensions. However, what happens if a member wants to maintain greater control over the beneficiaries than the pension rules allow?

The Challenges

Gabby is 60 years old. She is single with two adult children and three siblings. Gabby's health has been deteriorating for a number of years and a recent bout of illness has prompted her to review the death benefits arrangements for her Your Future SIPP with Curtis Banks. She believes that each of the beneficiaries she is considering would use beneficiaries' drawdown.

Gabby's older brother Louis, 74, has been struggling financially since the death of his partner, and Gabby would like him to inherit her pension first. However, if there are remaining funds after Louis's death, Gabby would like them to go to her children rather than Louis's daughter, with whom Gabby has an uneasy relationship. Her other two siblings have no need of the funds.

Gabby's oldest child, Sara, has always been very sensible with money. She makes a reasonable living and is not struggling financially, but Gabby would still like her to benefit from any remaining funds. However, Gabby is concerned about her second child, Henry, who has a history of being irresponsible with his spending. She would like money to be available to Henry but if possible would like to ensure that he doesn't waste it.

The Actions

Gabby writes an expression of wishes to send to Curtis Banks. She tells them that she would like the funds paid to her brother first, and for any residual funds on his death to be split equally between her two children. In a side letter to Curtis Banks, she explains her fears about Henry wasting the money and asks if there would be any way to restrict his payments, such as requiring someone else's authorisation first.

Archie, a Curtis Banks representative, receives Gabby's letter and decides to call her to discuss her request further.

Firstly, Archie confirms that unless a beneficiary is a minor or has a power of attorney in place, Curtis Banks would take the beneficiary's instructions in relation to income payments. Curtis Banks would not be able to place the kind of restriction on the payments which Gabby is asking about.

Archie explains that the second problem, however, is that Gabby isn't able to make an expression of wishes in respect of any remaining funds after her brother's death. Once the funds have been placed into beneficiaries' drawdown in Louis's name, it is his expression of wishes which will be taken into account on his death. There is no way for Gabby to prevent Louis from asking Curtis Banks to leave the funds to his daughter instead of her children.

Gabby also realises that even if there was a way, there would still be nothing to prevent Louis from simply exhausting the fund and giving the money to his daughter before his death.

Gabby asks Archie if there is any way for her to maintain greater control over how the money is distributed and used. Archie asks whether Gabby has explored the option of using a trust. Archie emphasises that he cannot say whether it would be appropriate for Gabby's requirements and she would need to seek professional advice first, but that it is possible to name a trust as the beneficiary of her pension instead of her brother and children. On her death, assuming Curtis Banks decided to follow her expression of wishes, a lump sum death benefit would be paid to the trust. The trustees would then control payments to the underlying beneficiaries and the fund could no longer be affected by pension rules.

In the event that any lump sums were paid after the two year deadline had expired, or that exceeded Gabby's remaining Lump Sum and Death Benefit Allowance (LSDBA), tax would be payable at 45% for the 2024/2025 tax year. The LSDBA for the 2024/2025 tax year is £1,073,100.

The Results

Gabby speaks to a financial adviser and a solicitor about naming a trust as the beneficiary of her pension. Together they draw up a trust which has Louis, Sara and Henry as beneficiaries and appoints Gabby's other two siblings as the trustees. Gabby documents her wishes that the fund should provide for Louis's needs during his lifetime and her children thereafter, and explains her concerns about Henry's spending in greater detail. She is confident that her siblings would only make payments to him in line with her wishes. Gabby then completes a new expression of wishes naming the trust as her beneficiary.

Her adviser explains that there is another potential benefit of using a trust because of Gabby and Louis's ages and Gabby's poor health. Gabby is unlikely to live to age 75, so the benefits from her pension should be paid tax free. Louis, however, is likely to live past age 75. If this was the case and the benefits went into beneficiaries' drawdown for Louis, he would be able to receive tax free income but Gabby's children would end up paying income tax on the funds they received. Removing the funds from a pension environment into a trust after Gabby's death will mean that the tax treatment won't change with subsequent deaths.

Important points to consider

The value of pension funds may fall as well as rise. Your money is tied up until you take your benefits. Benefits can generally be taken any time after age 55, although this is due to increase to 57 in 2028.

Contact Details

If you'd like to speak to us about anything in this case study, please contact us on:

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We may record and monitor calls. Call charges will vary.

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Please remember not to send any personal, financial or banking information via email as it is not a secure method of communication.