



# IIPM

Irish Institute of Pensions Management

October Seminar



Remember to update your details on the CPD portal:  
[iipmcpd.ie](http://iipmcpd.ie)

*Dates for your diary:*

- 15 November 2019
  - Education Services Provider Launch & Seminar
  - Annual Dinner
- 4 December 2019
  - CPD Seminar





## Fellowship Applications 2019 Now Open

Contact [info@iipm.ie](mailto:info@iipm.ie) for application forms,  
or visit [www.iipm.ie](http://www.iipm.ie) → Membership



# Employee Benefit Global Programmes

**Michelle Leahy**

**Head of Utmost Corporate Solutions**

# Agenda

- About Utmost Corporate Solutions
- Introduction to Employee Benefit Programmes
- Global Underwriting Programme
- Multinational Pooling
- Captive arrangements
- Case study

# About Utmost Corporate Solutions

- Based in Ireland and Guernsey, we are a leading Irish and cross-border European insurer in the employee benefits market

## **Our Irish operation:**

- Over 300 clients operating in all sectors of the economy
- Over 30% of the top 50 companies in Ireland have chosen us as their Group Risk provider\*
- Experienced group risk professionals based in our offices in Navan, Co Meath and Tara Street, Dublin
- Exclusive partnership with Generali Employee Benefits Network (GEB)
- Fitch A rating with Stable Outlook

\*Irish Times Top 1000 companies



# Employee Benefit Programmes

A network of local insurance companies coordinated via a central administration function, servicing the employee benefit needs of a multinational company, which also enables leverage and economies of scale

1

The networks:

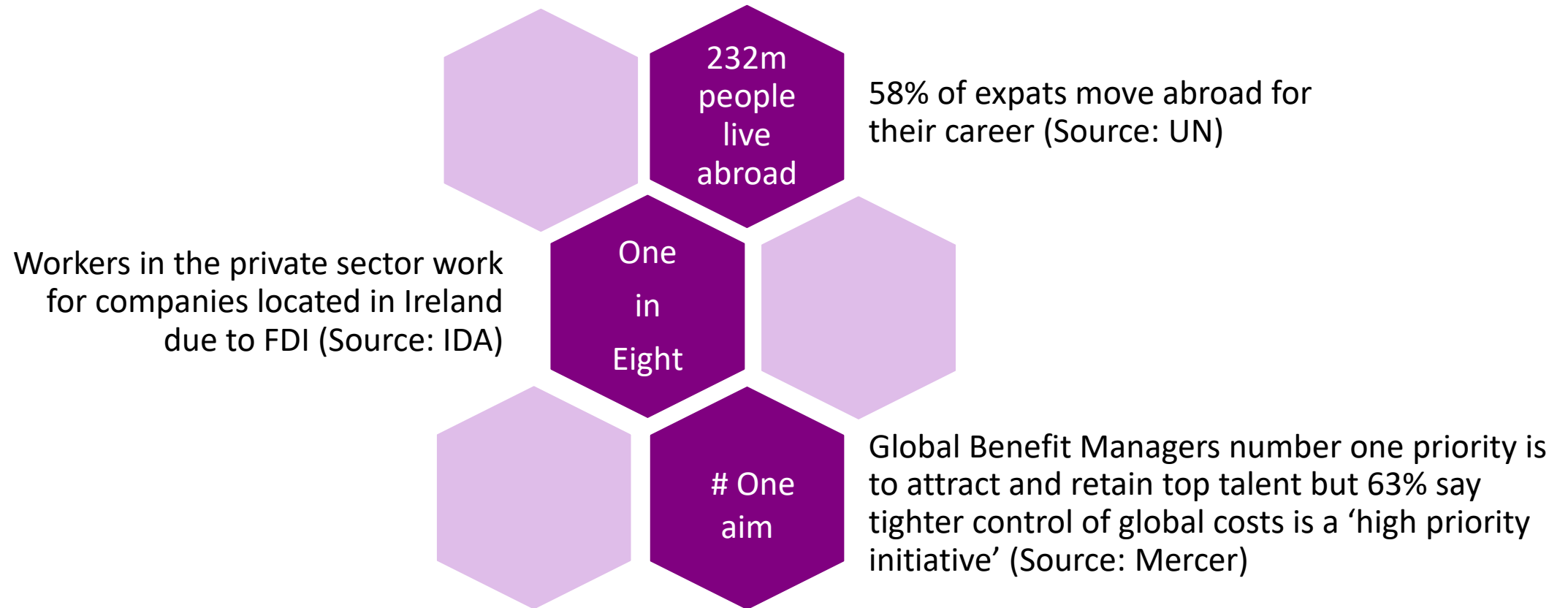
- 8 employee benefit networks
- Network structure can be a reinsurance model, a distribution or profits model or a hybrid of the two

2

Selecting a network:

- Solvency
- Service
- Solutions
- Spread

# Employee Benefit Programmes





# Employee Benefit Programmes

Central gateway into the Global Network and management support. Services include:

## Solutions

- Local country, cross border and expatriate employee benefits including life, disability, accident, medical and pension
- Central – multinational pooling, reinsurance to captive and Global Underwriting programmes

## Reporting

- Profit and loss reports, tracking documents, medical utilisation reports, online capabilities...

## Country expertise

- Overview of local social security system and the usual and customary supplemental benefits offered
- Access to local market expertise including advice on trends and legislation

## Single point of contact

- An individual or team who will be a single point of contact for the head office and who act as the gateway to the network

## Conferences / newsletters

- Provide clients with news and information about the field of international employee benefits and the programmes available to manage them efficiently

# Employee Benefit Programmes

## Partnership model:

### Collect data

- Current benefits
- Recent claims experience

### Study

- Global terms and conditions and premium optimisation

### Plan

- Priority countries
- Coordination

### Implement

- Communication: Client – Consultant - Network
- Engagement: Client holds the key to succeed

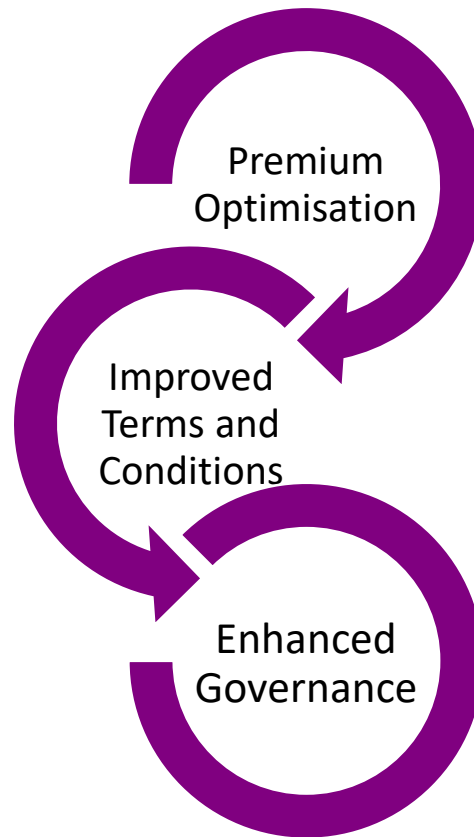
### Manage and expand

- Active management
- Long term effort

# Employee Benefit Programmes

- Global Underwriting Programme
- Multinational Pooling
- Captive arrangements

# Global Underwriting Programme

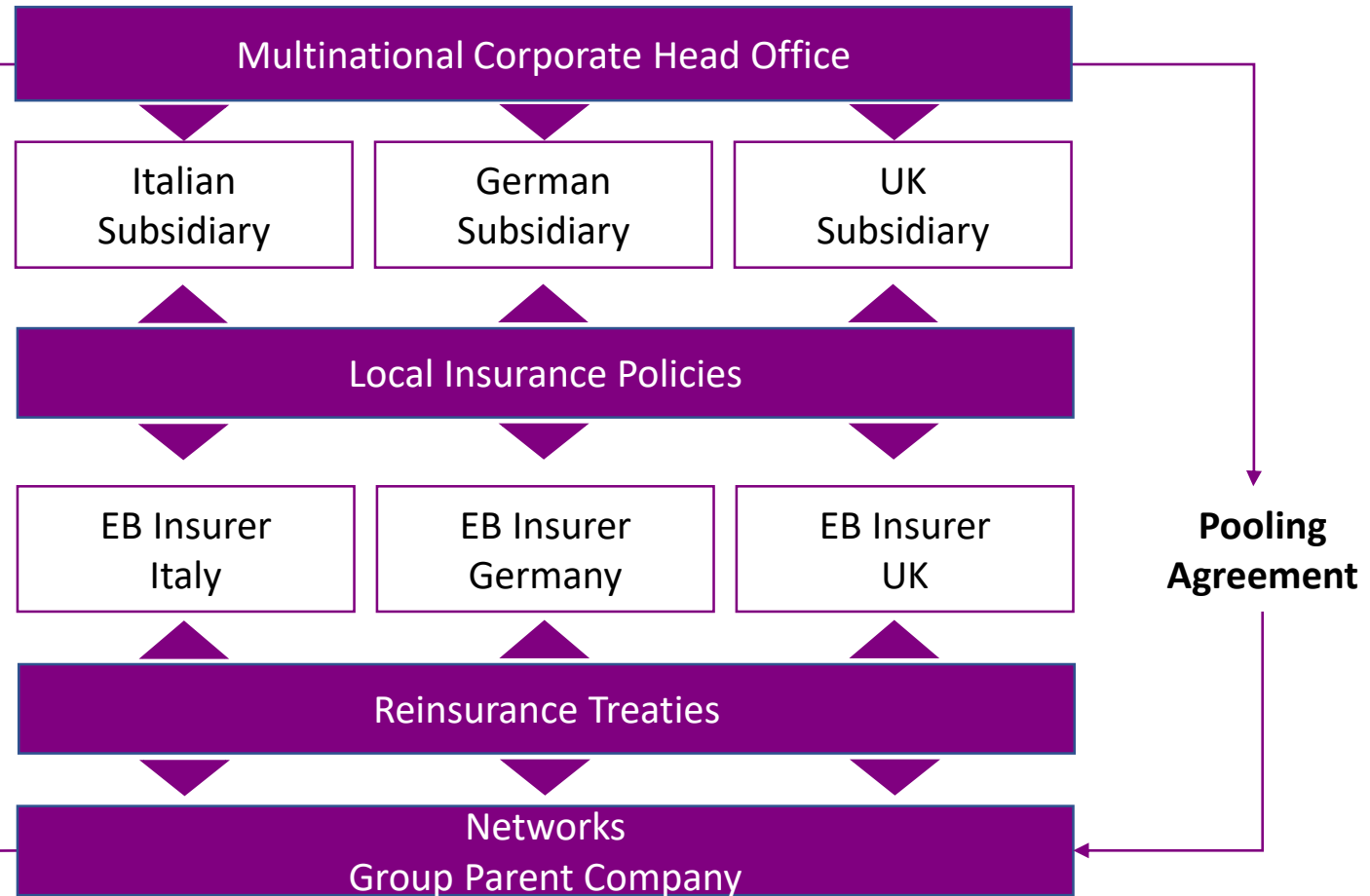


# Global Underwriting Programme

Pooling Setup	v	Global Underwriting Approach
Protection <ul style="list-style-type: none"><li>• Individual Excess of Loss Protection</li><li>• Combined Stop Loss Protection</li></ul>		Protection <ul style="list-style-type: none"><li>• Risk carried by insurer/re-insurer</li></ul>
UW on contract level <ul style="list-style-type: none"><li>• Potential discounts agreed on contract performance</li></ul>		UW on global level <ul style="list-style-type: none"><li>• Potential discounts agreed across the book of business in scope</li></ul>
Annual contract		Typically 3 year contract
Close monitoring = key to success		Very close monitoring = requirement
Potential dividend		No dividend payment

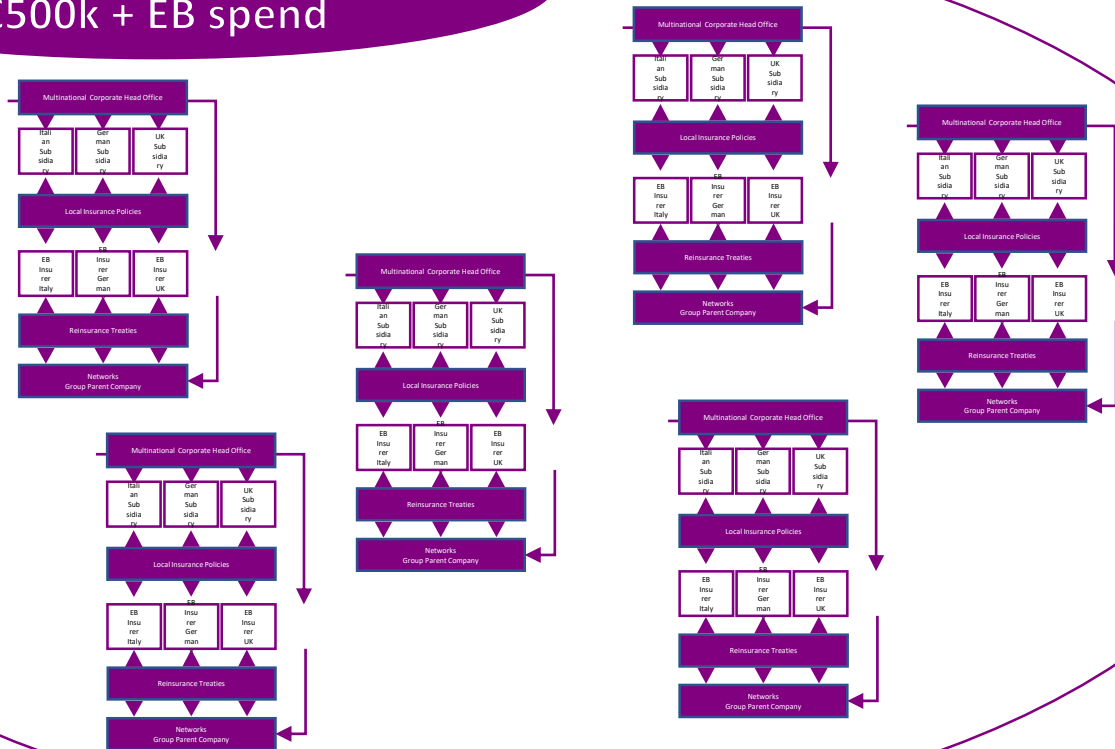
# Multinational Pooling

- Increased leverage with network
- Better local T&Cs
- Improved Governance and MI
- Reduction in EB spend through dividends



# Multinational Pooling

Self experienced pool–  
€500k + EB spend

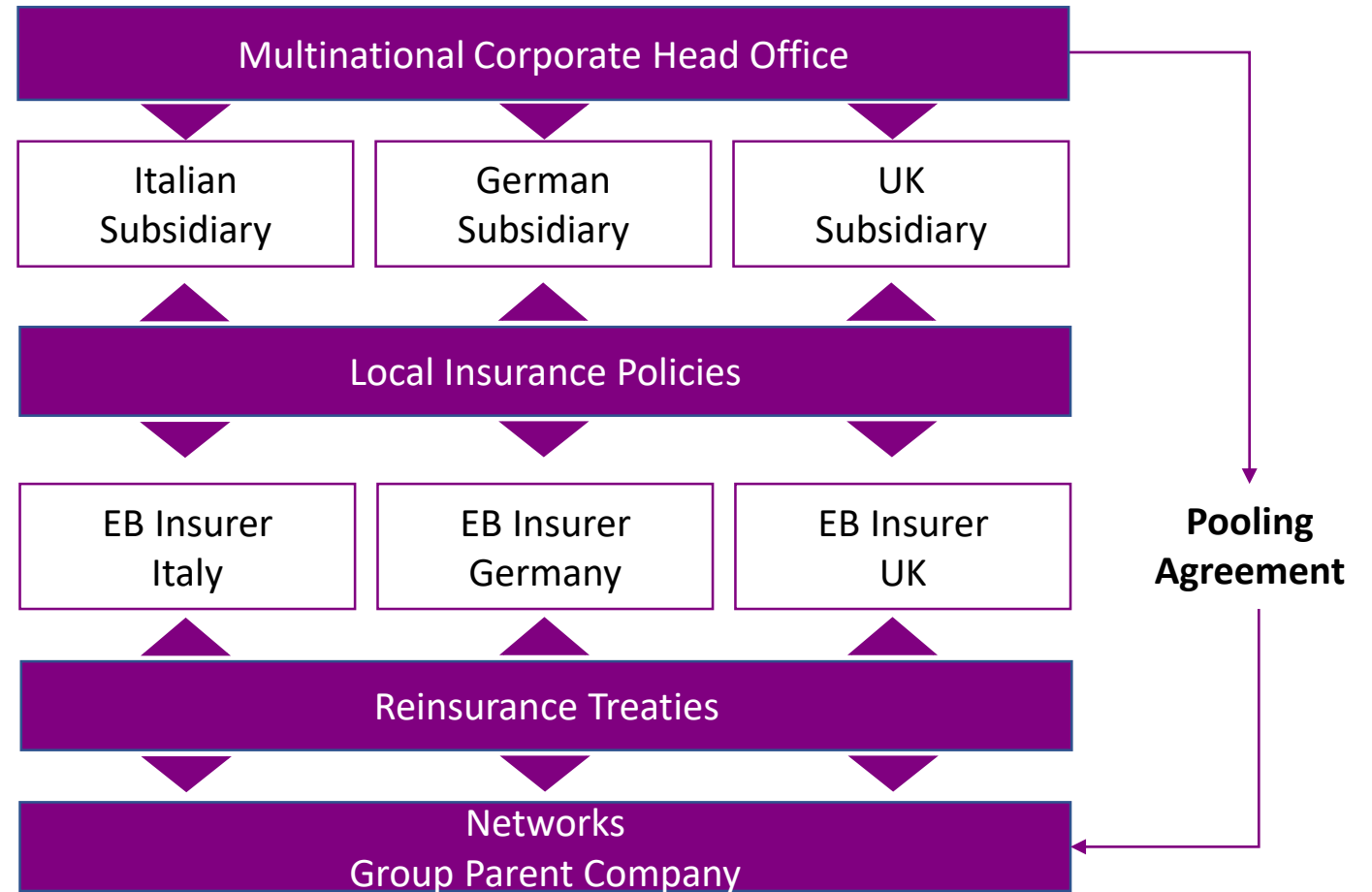


- Small to medium multinational companies
- Only one network selected
- Can be used as natural or starter pools
- Less data and sophistication
- Dividend potential is lower and based on portfolio
- No losses carried forward

# Multinational Pooling

Small Groups – less than  
€500k EB spend

- Medium to large companies
- Use of multiple networks
- Dividends payable based on own companies experience
- Higher dividend potential
- More leverage with network
- Losses carried forward
- Protections available

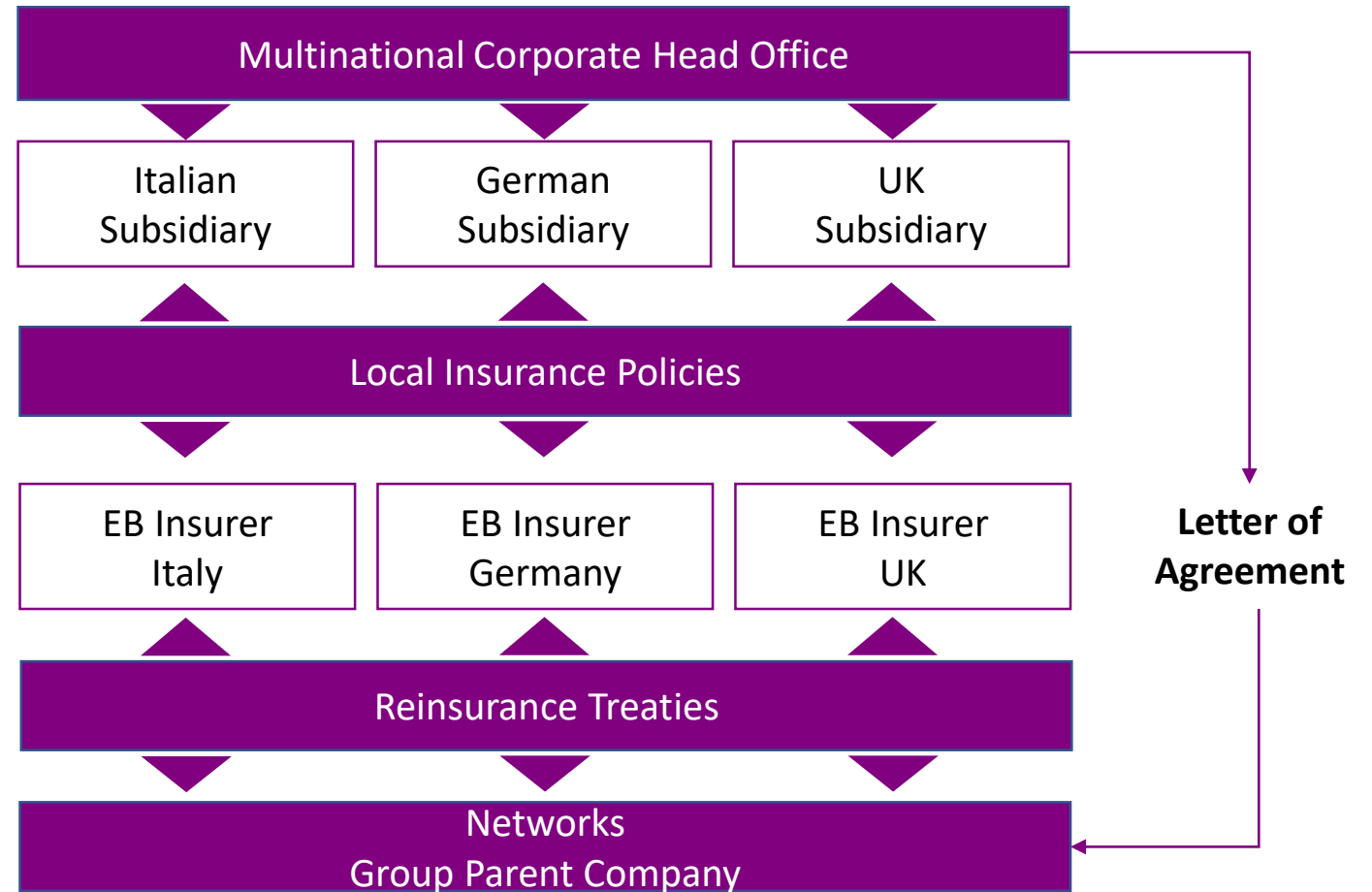




# Multinational Pooling

Group Underwriting  
Programmes - €5m + EB  
spend

- Central underwriting
- Aligned terms
- Increased governance
- Upfront discounts
- Extended guarantees
- Strong HO control
- Commitment from HO

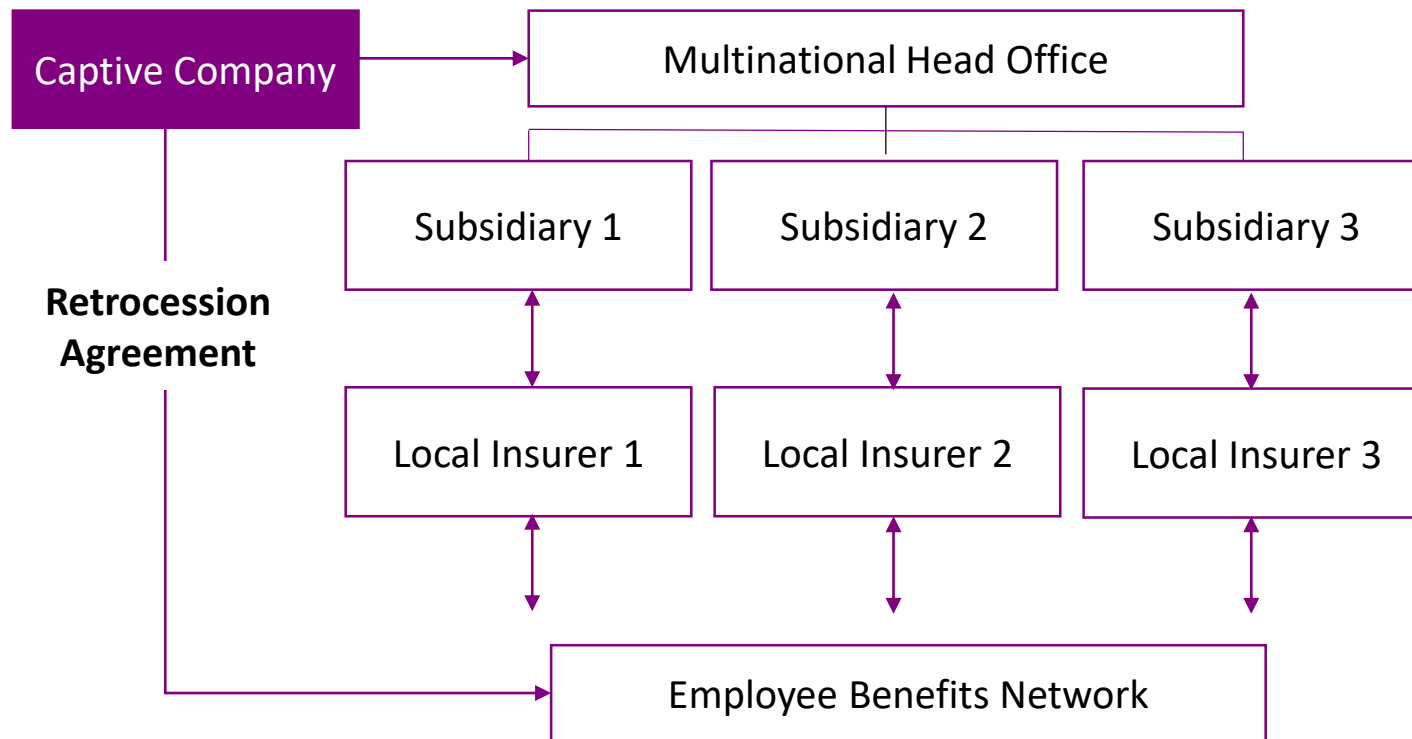


# Multinational Pooling

Local and regional advantages	Global advantages
<p>Leverage global size:</p> <ul style="list-style-type: none"><li>• Leverage economies of scale and global buying power</li><li>• VIP service also in locations with small employee populations</li></ul> <p>Customised solutions – administered locally</p> <ul style="list-style-type: none"><li>• Locally admitted insurance companies</li><li>• Local coverages comply with local legal and tax requirements</li><li>• Local claims administration in local language and currency</li></ul>	<ul style="list-style-type: none"><li>• Payback of international dividend if global experience is positive</li><li>• Leverage global size and buying power in all worldwide locations</li><li>• Dedicated global account team as single point of contact</li><li>• Global overview of premiums, coverages and experience through consolidated report</li></ul>

# Captive Solutions

Reinsurance to Captive provides a global approach with customised local employee benefit solutions



A captive is an insurance company formed by a multinational corporation to insure the risks of its subsidiaries. It represents a strategic approach to the management of a company's insured benefit plans, and it offers attractive ways to govern, finance and deliver competitive employee benefits programmes on behalf of the parent company.

# Captive Solutions

## Keys to successful implementation of the captive:

### Initial captive set up

- Define goals for captive strategy (local cost savings vs. central cash flow generation)
- Agree on implementation approach for tiered country by country implementation

### Assure buy in of local countries

- Set up communication strategy with regional key contacts to assure local buy in
- Increase captive size to achieve a stable mix of countries, coverages, premiums and lives

### Manage and review operations

- Regularly review alignment of risk management philosophy and captive operations
- Assure influence from local head office on local decision making to maintain strong local engagement

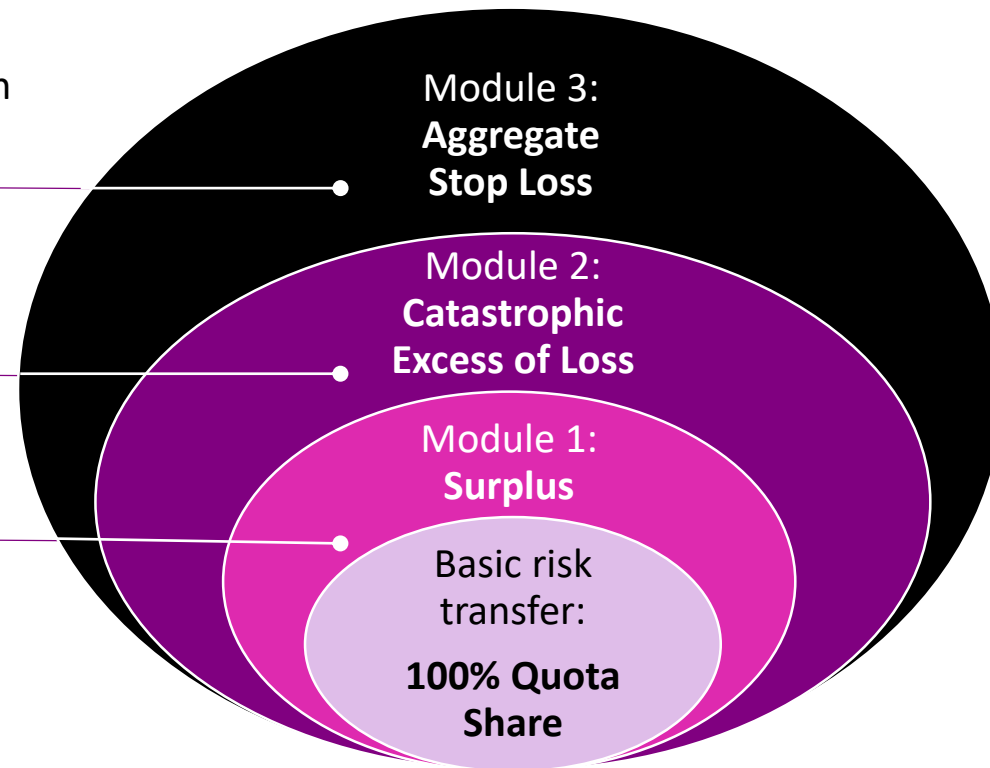
# Captive Solutions

A number of risk management tools to manage the captive's exposure are available:

Protection against aggregated losses (often due to high frequency / low severity claims)

Protection against catastrophic claims

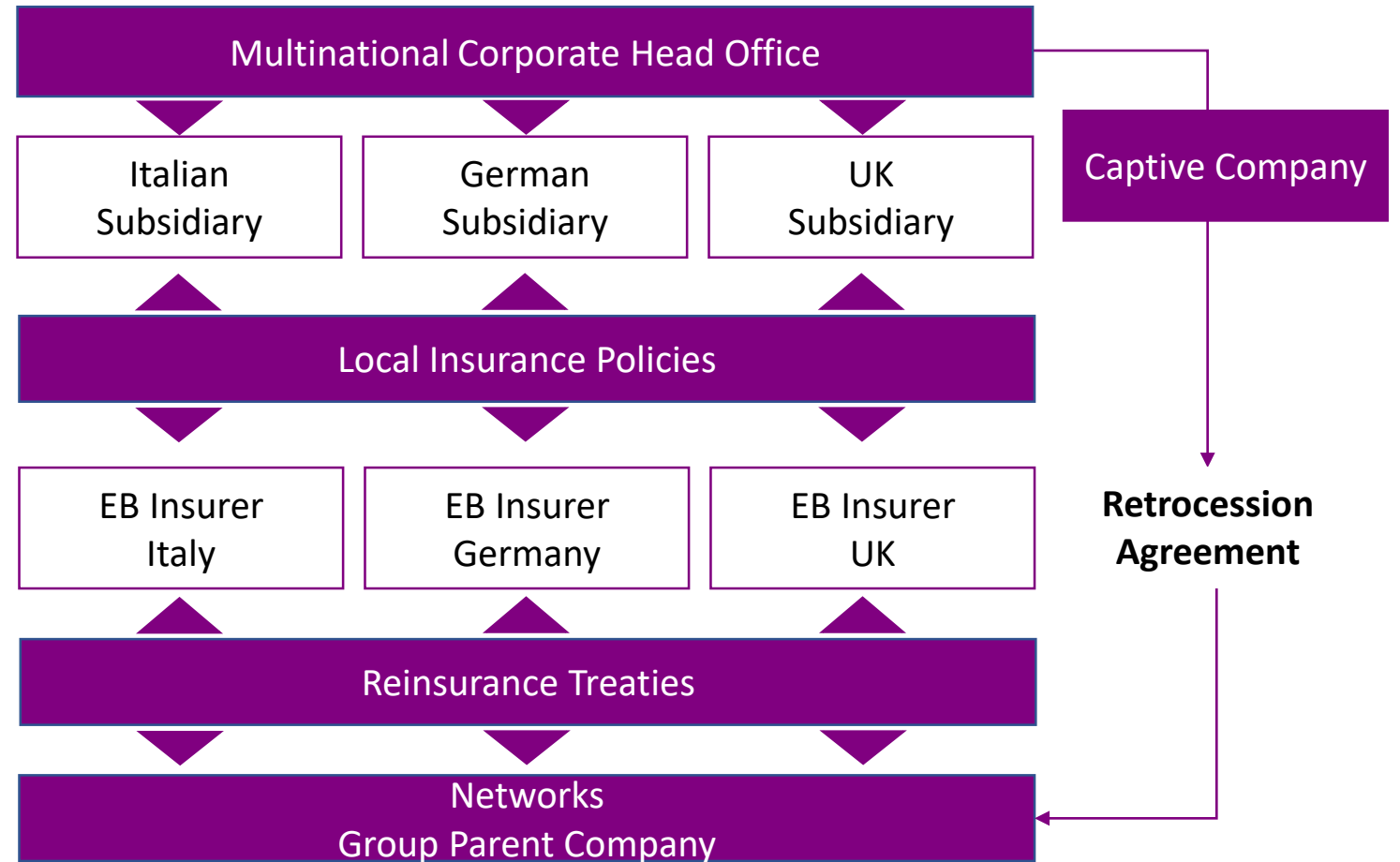
Protection against high severity / low frequency individual claims ('peaks')



# Captive Solutions

Captive Arrangements  
- €5m + EB spend

- Risk transferred to captive
- Full control
- Comprehensive MI



# Case studies

## GUP

- The programme has been running since 2009.
- 40 countries are currently involved.
- The programme started with a premium volume of +- 5 mio and now it has reached a consolidated total premium of +- 20 mio.
- Typical discount potential up to 25%.
- All in all, the consolidated results over 2 Global Underwriting Periods are:
  - Active management of €75M
  - Stable technical balance.
- The split of premiums by Line of Risks can be summarized as follows:

Year #6	<u>Life</u>	<u>Acc</u>	<u>Dis</u>	<u>Med</u>
<b>Premiums</b>	9.5 Mio€	1.5 Mio€	1.0 Mio €	6.5 Mio €
<b>Discounts Equivalent (*)</b>	2.0 Mio€	0.375 Mio€	0.250 Mio€	0.150 Mio €

(\*) based on the median upfront discount per line of risk

- Consequently this represents a roughly consolidated cost reduction of 15% over +/- 20Mio; thus 3Mio EUR.
- Such a Global Underwriting Programme requires the intervention and expertise of a Global Broker / Consultant.
- Consequently, for each and every case, a unique approach and different tools and strategies (like “quote trackers”) have been set up based on a tailor made solution.

# Case studies

## Captive

- Large FMCG company
- 31 countries
- \$50m
- 57,000 lives
- Started as a multinational pool
- Company was bought by another company with a captive arrangement so an integration then took place
- Owners wanted more control over the risk and exercise the risk management on local benefits
- New arrangement led to better governance and spread the risk in the captive which reduced solvency capital requirements

## Pool

- Global outsource provider in the pharma and medical industry
- 25 countries
- \$5.1m
- 6,160 lives
- Existing pool relationship that was not working to its best potential
- Change in ownership – Aon became involved and decided to choose two networks
- Cost savings achieved through dividend
- New arrangements allowed changes to terms and conditions e.g. free cover and exclusions
- Leverage with the network and this allows you to escalate service issues
- Cover for small populations
- Much improved data, reporting and governance



These materials and the information contained herein are provided by Utmost PanEurope and are intended to provide general information on a particular subject or subjects and are not an exhaustive treatment of such subject(s). Accordingly, the information in these materials is not intended to constitute professional advice or services. The information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser. These materials and the information contained therein are provided as is, and Utmost PanEurope makes no express or implied representations or warranties regarding these materials or the information contained therein. Without limiting the foregoing, Utmost PanEurope does not warrant that the materials or information contained therein will be error-free or will meet any particular criteria of performance or quality. Utmost PanEurope expressly disclaims all implied warranties, including, without limitation, warranties of merchantability, title, fitness for a particular purpose, non-infringement, compatibility, security and accuracy.

Your use of these materials and information contained therein is at your own risk, and you assume full responsibility and risk of loss resulting from the use thereof. Utmost PanEurope will not be liable for any special, indirect, incidental, consequential or punitive damages or any other damages whatsoever, whether in an action of contract, statute, tort (including, without limitation, negligence) or otherwise, relating to the use of these materials or the information contained therein. If any of the foregoing is not fully enforceable for any reason, the remainder shall nonetheless continue to apply.

Utmost Corporate Solutions is a brand name used by Utmost PanEurope dac.

Utmost PanEurope dac is regulated by the Central Bank of Ireland. Utmost PanEurope dac is a designated activity company registered in Ireland (number 311420), with a registered office at Navan Business Park, Athlumney, Navan, Co. Meath C15 CCW8, Ireland.

# Thank you

Q&A

# Death in Service Benefits: The Light at the End of the Tunnel is an Oncoming Train



Liam Connellan, Partner & Head of Pensions, ByrneWallace

# Death in Service Benefits

- Provide valuable benefits to the employee's beneficiaries
- Contractual entitlement to death in service benefits usually set out in employee's contract of employment and/or employee handbook
- Can be a lump sum death in service benefit (e.g. 4 x Salary) and/or a spouse's/civil partner's/nominated dependant's death in service pension (e.g. an annual payment of 30% of the Member's Salary at date of death)
- Subject to acceptance of terms by the insurer

***“You can’t put a value on a human life,  
but my partner’s employer made a  
pretty fair offer”***

# When setting up a scheme ...

- Complete an Employer/Trustee Application Form
- Who is the Employer appointing as trustees of the Scheme ?
- What are the eligibility conditions for joining the Scheme ?
- Meaning of “Eligible Employee” and “Salary” are important
- What benefits are to be provided under the Scheme e.g. lump sum, spouse’s/civil partner’s/children’s death in service pensions, etc. ?
- What free cover limits apply ? What medical and/or financial underwriting is required before members are put on cover ?

# Death in Service Schemes

- Scheme is then set up under trust
- Trust - a legal entity in its own right
- Independent
- Death benefits are either part of a pension scheme or a stand-alone group life scheme
- Managed by trustees for the benefit of the Scheme beneficiaries
- Rules governing the Scheme are set out in the Scheme's governing trust deed and rules
- Death in service policy conditions also apply





# Where is the Oncoming Train ?



# Group Life Schemes and Governing Legislation

- Revenue approved occupational pension schemes
- Pensions Act & Taxes Consolidation Act
- Revenue Pensions Manual
- Protection of Employees Acts
- Family Law Acts (Family Law Act 1995, Family Law (Divorce) Act 1996 and Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010)

# Legal Potholes

- Admission of Participating Employers to the Scheme
- Eligibility for membership – is everyone covered who should be covered ?
- Payment of death in service benefits

# Participating Employers

- Principal Employer – Scheme sponsor
- Associated Employers – degree of association
- How many employers are participating in your Scheme ?
- Has each employer adhered to the Scheme by deed in accordance with the Scheme's trust deed and rules ?

# Eligibility for Membership

- What are your Scheme's eligibility conditions ?
- Is there a waiting period before employees are allowed to join ?
- Are the eligibility conditions clearly set out in the Scheme's trust deed and rules ?
- Do they match the employee's contractual entitlements ?
- Are members covered for both pension and/or death in service benefits under the Scheme ?
- Are employees allowed to opt out of joining and/or participating in the Scheme and if so does opt out include opting out of both pension and death in service benefits ?

# Payment of Death in Service Benefits

- Irish family has changed dramatically since the introduction of divorce in 1996
- Assessment of death in service claims has become much more complex
- Claims by disappointed “beneficiaries” on the rise

# Lump sum death in service benefits

- Trust Deed and Rules
- Wide-ranging definition of “Named Class”
- Group Life Policy Conditions

# Sample Rule re Payment of Lump Sum

*“The Trustees shall have power to pay or apply any amount which is expressed to be payable in accordance with this Rule to or for the benefit of such one or more of the Named Class or to the personal representatives of a deceased Member in such amounts at such times and generally in such manner as the Trustees in their absolute discretion shall from time to time think fit including in particular, but without prejudice to the generality of the foregoing, to be held for the benefit of one or more of the Named Class on separate trusts (including discretionary trusts) outside of the Scheme provided that any balance of the said amount remaining unpaid or unapplied as aforesaid after the expiration of a period of two years from the date of the Member’s death shall be paid to the Member's personal representatives.”*



# Sample Definition of “Named Class”

## **Named Class**, includes:

- any spouse or former spouse, Civil Partner or former Civil Partner, child, brother or sister (whether of the whole-blood or the half-blood) of a Member;
- any parent or grandparent or descendant of a grandparent (whether of the whole- blood or the half-blood) of a Member;
- any person who is or was or in the opinion of the Trustees is or was wholly or in part dependent upon the earnings of a Member or whose maintenance and support the Member had undertaken immediately before his death;
- any person or body (whether or not incorporated) who or which is entitled to any interest in the Member's estate under any testamentary disposition made by the Member or upon his intestacy;
- any person or body (whether or not incorporated) the names and particulars whereof have been notified to the Trustees in writing by the Member as being a person or body who or which the Member wishes the Trustees to consider as a possible recipient of any benefit payable on the Member's death

# Issues to consider ...

- Who makes the decision ? Usually, it's at the discretion of the Trustees.
- Definition of “Beneficiaries”/“Named Class” usually very wide-ranging.
- “Beneficiaries” often includes the deceased member's:
  - spouse or civil partner,
  - children,
  - descendants,
  - those persons named in a will or
  - those named in a letter of wishes,
  - financial dependants, etc.
- Is there is a pension adjustment order in place ?

# Trustee decision

- Don't rush your decision – know all the facts
- Carry out due diligence on all potential beneficiaries
- Investigate deceased member's civil status and family circumstances
- Write to immediate family, known dependants, employer, HR Department, friends including co-workers, solicitor, etc.
- If a potential beneficiary is a financial dependant, request proof e.g. mortgage/rent repayments, bank statements, electricity and gas bills, sharing of household expenses, etc.
- Do not make a decision on incomplete information
- Discretion to pay to the deceased member's legal personal representatives

# Letters of wishes

- Non binding
- Issues that can arise on letters of wishes:
  - Wrong Scheme (e.g. when the deceased member completed his letter of wishes, the death in service benefits were provided under a different scheme)
  - Not addressed to the Trustees
  - Out of date (e.g. a member's circumstances have changed considerably since he/she completed the Letter of Wishes)
  - The allocated percentages don't add up to 100%
- Keep Letters of Wishes under regular review

Trustees should ...



# Exercising the Trustee's discretion

- How should Trustees approach the payment of a death in service claim ?
- Case-law is very clear that the Trustees must:
  - exercise their discretion in accordance with the Scheme's trust deed and rules,
  - act honestly and in good faith, and
  - take only relevant factors and considerations into account.

# Exercising the Trustee's discretion

- **Greene v Coady & Ors [2014]**
- High Court – The Courts should “*avoid the temptation to listen to the evidence and to make its own conclusion as to what should have been done by the trustees.*” Instead the Court should consider the decision through the eyes of the trustees, informed by the same material and relevant considerations that were then property to have been considered by them.
- The Court also confirmed that the weight to be given to particular relevant circumstances is a matter for the discretion of the Trustees.

# Conclusion

- Death in service claims are not as straightforward as they seem
- Trustees should consider each claim in the context of the Scheme's trust deed and rules
- Trustees should carry out a full due diligence on the potential beneficiaries
- Do not make the decision on incomplete information
- If in doubt, seek appropriate advice



# Liam Connellan

Our Team

Liam Connellan

Home / Who we are / Our Team / Liam Connellan

Profile

Share This

Liam Connellan is partner and Head of the ByrneWallace Pensions Team.

He is described as an "excellent pensions lawyer, with considerable experience and great attention to detail" (Legal 500, 2017).


He has extensive experience and advises many leading employers, both private and public sector, scheme trustees and individuals. His expertise ranges from advising on the pensions aspects of corporate M&As and reorganisations, drafting and amending pension scheme documentation, restructuring pension schemes, the application of pensions regulatory and tax legislation, trusteeship and scheme governance, to advising on pensions disputes and pensions litigation.

In particular, he advises on:

- The establishment and day-to-day operation of Revenue approved pension schemes;
- Scheme trust documentation;
- Trusteeship issues;
- Trustee governance and the implementation of the IORP II Directive;
- Employee benefit structures;
- Changes in members' normal retirement dates;
- Pensions regulatory issues and compliance;
- Pension scheme changes and restructuring (e.g. changing contribution rates or benefits or moving from defined benefit scheme provision to CARE or defined contribution provision, Section 50 applications to reduce defined benefit scheme benefits and winding-up defined benefit and defined contribution plans);
- Investment and liability management issues and agreements relating thereto;
- Dispute resolution;
- Pension products;
- Equality and family law issues; and
- Pension aspects of corporate M&A transactions.

Liam also works closely the ByrneWallace Employment Law Team advising on the pension provisions of contracts of employment, the negotiation of settlement agreements, and the resolution of pension disputes.

Prior to joining ByrneWallace, Liam was head of pensions in another leading Irish law firm.



LIAM CONNELLAN

PARTNER

lconnellan@byrnewallace.com

+353 1 691 5251

+353 1 691 5010

AREAS OF EXPERTISE

Litigation and Dispute Resolution

Employment Law

International / FDI

Mergers & Acquisitions (M&A)

Outsourcing

Pensions Litigation and Risk Management

Pensions Law

Q&A



**Thank you for attending.**

**Please join us  
for drinks & canapés outside!**

