Background

•SSAS established 1984

•2 member 2 Trustee Scheme Mr Mehta age 80 Mrs Mehta age 81

•2 Children Meera age 48 and Romee age 51

•Meera has two young children under 10

•Meera is a director of Kearsley Airways and earns £40,000 per year

•Romee has limited mental capacity and living independently from the parents, however, he has help from the local authority

•Pension Practitioner have structured this pension scheme to protect the members from the tax assessment that would otherwise arise at a rate of 55% on the excess above £1.5 million, which is now £1m as an individual cap.The scheme has been structured so that neither Mr or Mrs Mehta are subject to a 55% excess surcharge and in respect of the family, income is paid at the marginal rate on death.

•Scheme Assets of £11,000,000 including a property of around 2.4 million and an outstanding loan note of 4 million which in time we think will be written off so a true valuation of the pension fund would be £7,000,000

•Current Advisers Glen Hurstfield Berkeley law please see letter of wishes on file no nomination is in place

•Trusts in Jersey set up and we are not Privy to this

Mr and Mrs Mehta only require guidance in relation to the SSAS pension scheme and the distribution of death benefits. Mr Glen Hurstfield their adviser from Berkeley Law is dealing with the general death and lifetime planning.

On death pre-April 2016 the fund will pay 45% tax if distributed to beneficiaries other than the spouse. On death post-April 2016 the beneficiary will pay the marginal rate of tax on the income unless the spouse is the beneficiary. . If a beneficiary has chosen to take Flexi-Access Drawdown then on their death there may still be remaining funds in the pension. The beneficiary can name their successional beneficiaries to receive the remaining funds in much the same was as if they had been their funds originally. Their beneficiaries are called successors and need not be associated in any way with the original member. The tax treatment is determined by the current beneficiary’s age when they die, this is an unknown. On the death of Mr and Mrs Mehta it could, of course, work out that Meera if a beneficiary dies before 75 and her drawdown is passed to her children tax-free yet the drawdown the children receive as nominees of the scheme from the grandparents would be paying tax at the marginal rate on the income. Whilst the pension fund is accessible to the beneficiaries outside of the trust it will be at threat to Divorce, Creditors and Bankruptcy, Means testing for Disabled beneficiaries, Taxation and Generational IHT, care fees etc.

Mr and Mrs Mehta are looking for a bespoke nomination form to be drawn up and a Family Pension Death Benefit Trust where the nominations are contingent on the Trustees accepting or refusing to accept the funds. Meera has just started the process of a divorce, after a discussion with Berkeley Law, it was felt that it would not be wise for Meera to be a Trustee on the trust or a nominee on the expression of wish during this process. The son Romee does not have mental capacity to be a Trustee although lives independently and therefore, can only be a beneficiary of the Trust. Mr and Mrs Mehta do not want Romee to receive more than the single person tax allowance as a result of being a stated beneficiary on the expression of wish. The grandchildren can be stated as nominees on the Expression of Wish. The Trustees of the family pension Trust for now will be Mr and Mrs Mehta and AN other