Economic Affairs Committee

Finance Bill Sub-Committee

Corrected oral evidence: Draft Finance Bill 2025-26

Monday 20 October 2025

4 pm

Watch the meeting

Members present: Lord Liddle (The Chair); Lord Altrincham; Baroness Bowles of Berkhamsted; Baroness Fairhead; Lord Leigh of Hurley; Lord Pitkeathley of Camden Town.

Evidence Session No. 3 Heard in Public Questions 21 - 28

Witnesses

I: John Bunker, Consultant Solicitor and Chartered Tax Adviser, Irwin Mitchell LLP, Chartered Institute of Taxation (CIOT); Annie Pearson, Member, Tax Law Sub-Committee, Law Society of Scotland; John McArthur, Member, Technical Committee, Society of Trust and Estate Practitioners (STEP); Ian Bond, Member, Wills & Equity Committee, Law Society of England and Wales.

Examination of witnesses

John Bunker, Annie Pearson, John McArthur and Ian Bond.

Q21 **The Chair:** Welcome, everyone, to this meeting of the Finance Bill Sub-Committee, where we will look to our expert witnesses to answer questions on inheritance tax, pensions and agriculture and business tax relief. I would like the panel to introduce themselves. We have three people live and one online.

John Bunker: I am a solicitor and chartered tax adviser with Irwin Mitchell. I am also a STEP member, but I am here to represent the Chartered Institute of Taxation.

John McArthur: I am a solicitor with Gillespie Macandrew in Edinburgh, here on behalf of the STEP technical committee.

Ian Bond: I am a solicitor for Dignity Legal Services and I am here for the Law Society of England and Wales.

Q22 **The Chair:** We cannot hear Annie Pearson. We will move on for now and I will ask the first question. In your written evidence, you each set out concerns about the burden that this measure will place on personal representatives when an estate includes the relevant pensions. Can you summarise briefly your key concerns on this point?

John Bunker: In the CIOT, we have appreciated the engagement of the HMRC technical team in looking at some of the issues, but we appreciate that it is down to Parliament to decide on this at the end of the day. Our concern is that the only way that the current rules could work is if the PRs of an estate, if they are liable for tax on something they do not control, hold on to the whole assets of the estate until they have clearance and nothing is distributed, because otherwise they could be liable for tax on an asset that they do not control and it is outside their hands.

We see these risks: becoming a PR becomes unmanageable, because the risk is unknown, and executors will renounce probate because they cannot get involved. Once you get involved in doing anything, like inquiring into what the assets are, you have intermeddled in the estate and you cannot then renounce. Therefore, professional indemnity cover will become a huge problem. The premiums are likely to go up significantly and the burdens may get so much that many professionals will stop doing the work entirely. The end result for the Revenue will be that they end up with the loss of tax revenue, there will be delays in getting the tax and they will have the extra burden of dealing with lay people, whether lay personal representatives or lay people for whom solicitors or somebody is acting but where there is no professional to act as an executor. There are other issues as well, but the problem is that all those things contract the market of people who are able to do this work, and create problems for the Revenue.

John McArthur: I agree with all of that. There is also the question of tax risk. The risk under the proposal seems to be all on the personal representatives, the executors, not on the pension scheme administrators. That is a big issue for executors and personal representatives.

Ian Bond: I agree with everything that has been said. Personal representatives being liable for inheritance tax on the unused pensions when they do not control the asset will put a lot of people off wanting to be professional personal representatives or professional executors named in wills. It will have potential impacts just from saying that the fiduciary duty for those who remain is to the beneficiaries of the estate, yet they are getting involved in dealing with a matter for the beneficiaries of the pension, when there can be tensions between the two. No one would ask you to pay my tax bill in the hope that I might pay you back, and that is how it is shaped from this point of view. Personal representatives will have to take a long, hard think about whether they want to carry on in that role.

Annie Pearson: Apologies for the earlier technical hitch. I agree with everything that the others have said. The Law Society's main concerns are two planks: the additional administrative burden on the personal representatives and the difficulty of balancing competing interests of estate beneficiaries versus pension beneficiaries, which will make the role of personal representative extremely unattractive.

Q23 **Lord Leigh of Hurley:** Do you see a problem with solicitors and professionals acting as advisers to personal representatives? You focused on the problems of solicitors and professionals being executors, but I am thinking of them as advisers. Secondly, there are proposals for sharing information between pension schemes and PRs. Can you outline briefly the main things that the PRs and the schemes must do to get this information-sharing process going? Do you think the PRs will be able to do that within the six months allowed?

John Bunker: To answer the first question, I think that there is still a problem for professionals in acting for a lay PR, because the PRs will expect you to guide them and the responsibility will be on you as a professional adviser. Obviously, you would put a lot of effort into writing your letter of engagement as to the terms on which you work for somebody, but at the end of the day they will look to you if there is a liability. It will fall back on your professional indemnity cover.

John McArthur: That is right. The executors are responsible for paying the tax; it is their personal responsibility. They have the estate behind them to do it. I think advisers will be reluctant to say that it is okay to distribute unless they are absolutely clear that there is no additional IHT liability about to come out of the woodwork. It therefore becomes virtually impossible to complete the administration of the estate, which impacts on beneficiaries, who are going through a grieving process anyway as well as having to deal with the formal administration of the estate of their deceased relative, a parent or whatever.

Ian Bond: Not everybody writes wills, so not everyone's personal representatives will be readily identified and they may not have had the questions beforehand. You sometimes have conversations as a solicitor advising clients who are appointed by virtue of the intestacy rules to be the personal representative for someone who has passed away, and you have to explain to them that they are in a fiduciary position, the entirety of the role that they will have to carry out in administering the estate, and the personal liability that they are taking on. This puts us in a situation where we will have to explain a lot more, so that the clients understand that it is not just the assets in the estate but also the pension. You may, as the personal representative, find that there is a letter of wishes or some guidance that says that it is not coming to anyone within the estate, so you will have to take on responsibility for somebody else who is potentially benefiting, but you are answering to the beneficiaries under the estate—two different masters, as it were.

Annie Pearson: I agree with all of that. The additional administration burden will have to be paid for from somewhere. John Bunker mentioned previously that if it becomes economically unviable for commercial firms to engage in this sort of work, they will drop out of the marketplace.

The Chair: What about the second part of the question?

John McArthur: The second part was the six-month period. In most executories, there are four stages to an executory of the administration of an estate. There is the investigation stage—finding out what the person owned, where it is, who controls it and what its value is. Then you move on to apply for probate, or a confirmation in Scotland. At the same time, you are completing the IHT forms. When you start off with a blank sheet of paper, six months is quite a short period of time to bring everything together. The experience with PSAs is mixed, in the information that we get. Information-sharing powers will help, but nevertheless there is a big learning curve to be put on PSAs to deal with this. That may be problematic for the interaction between the PRs and the PSA and in working out the inheritance tax, let alone raising the money to pay the inheritance tax within six months.

Q24 **Baroness Fairhead:** The Government are suggesting that in most cases the PRs should pay any pension-related IHT from the estate assets and then reclaim it from the beneficiaries. What is your view on this? What are the risks for the PRs and, in particular, what is their personal liability?

Ian Bond: There will be some incredibly complex situations. As we have alluded to, you may have an estate going to a different set of beneficiaries from those receiving the pension, and people very rarely die tidily. People who pass away rarely expect to do so and things are not always in the best of order. That includes trying to identify assets and liabilities to administer the estate. You are now layering on applying this same situation to deceased pensioners, who may not just have one pension. You can have between eight and 10 pensions during your working lifetime, on average, because people move from job to job. You now have to start looking for and collecting the assets and liabilities from the estate. At the same time, you are making all the enquiries about pensions, and there could be lots of pensions that you have to go back and have a look at. The onus is on the personal representatives to go and look for this information. As John said, there has to be some assistance from the pension industry, because it just has to sit back and wait whereas the personal representative, as Annie said, has to go out and do all this work. That work has to be paid for.

Anyone who has dealt with the death of a loved one knows that it is not a quick process. The IHT clock starts ticking as soon as someone dies. The interest rates will start to apply if you do not pay your inheritance tax by the end of six months after the date of death. That is a very short timetable just for administering the estate as it stands, and you are layering pensions on top of that, which means that it is an incredibly tight window and it will be very difficult. The government proposals for sharing information are welcome, but there is no detail on what the pension administrators will provide to us. The difficulty is where people pass away intestate, as I have alluded to. Most of the time when we contact pensions for information, they will say, "Come back when you have the authority; you need a grant to talk to us". They want us to have the authority. We cannot get the authority because we do not have the pension information, so we go around in a little circle of not getting things done completely. The pension system administrators will have to provide information consistently and in a standardised way, and they will have to provide it fairly sharpish to make sure that we do not end up delaying the administration of the estates.

John Bunker: One of the complications is the practice of the last 10 years. Ten years ago, the whole law and tax here was totally reformed by George Osborne when he was Chancellor. That opened up opportunities and arrangements which have meant that, for 10 years, people have been doing things in a particular way—rewriting wills, rewriting letters of wishes, new nominations and so forth. We now have to rethink all of that because the tax has completely changed. That means that you will not necessarily get a decision within six months from the PSA about who will get the benefit. Even if it is fairly clear-cut who the beneficiaries are, how do you choose within them as between, for example, a spouse, who would get spouse relief, and other beneficiaries? There is a huge amount of work to be done there, and six months is a totally unrealistic timetable.

Baroness Fairhead: As a committee, we thought we should follow this up. One suggestion was that there are particular issues when different beneficiaries benefit from the pension as from the free estate or the will. That has been highlighted as an issue. Apart from better information and information sharing and the time question that you have mentioned, are there any other mitigating actions that could be taken for those split beneficiary cases, which I understand are quite tricky?

John McArthur: They are and will be tricky. One mitigating factor would be to have the pension scheme responsible for its own tax, because then the risk of non-payment of inheritance tax moves from the PRs to the scheme administrator. Yes, they have to work together and you still have to have information sharing, but nevertheless there is a sharing of the risk for paying tax. At the moment, the proposals are such that it sticks with the PRs. They are responsible for paying inheritance tax and that becomes a personal responsibility if they do not keep sufficient of the estate back to pay that tax. That is where the advisers will have to say: "It is not safe to pay out at the moment because we do not know the inheritance tax liability".

John Bunker: Alongside that, one suggestion made to HMRC is that the PSAs might retain 50% of the pension pot as a matter of course until there is clearance about whether it will go to an exempt spouse or whatever. Therefore, you have that 50% retention to cover the tax, interest and costs in relation to that. That would be a way to make the thing a little bit more workable.

Baroness Fairhead: That was the other issue we had alighted on—when there is not enough money, what happens and what are the possible solutions? The point on the 50% is one. Are there any others that you would suggest?

Ian Bond: There are some unsavoury solutions in that there will be a growing market for inheritance tax loans; there is a pension pot with a large tax bill due and the estate does not have the assets to pay it, so they will be looking for open-market loans with interest and charges that go with that. That opens up personal liability for the personal representatives. When someone needs money, hopefully there will be some sort of regulated products out there, but they will also find that they may not be using regulated providers of loans, and that could cause issues for personal representatives.

Annie Pearson: Another option for alleviating some of the practicalities would be, instead of asking the pension beneficiaries to ask the PSAs to pay the tax, to make it the default position that the PSA pays the tax and to allow the beneficiaries to opt out of that process rather than have it be an opt-in process, reversing the default position in the proposals as they are now.

John McArthur: Another possibility would be to look at the rate of interest paid on inheritance tax or unpaid inheritance tax. Rates of interest work to encourage people to pay tax when they are in charge of the income tax, capital gains tax or corporation tax, but the executors are not really in charge of the estate until they get probate or confirmation, yet they are stuck with paying a fixed rate of 8%. There is nothing we can do about that and it is not in their control to pay the tax, because often it is in other people’s hands.

Q25 **Baroness Bowles of Berkhamsted:** Is this not a great little money spinner for lots of interest for the Treasury? There will be lots of new products and new indemnity covers and insurance policies to cover tax, but they will not be here in time to help the personal representatives. I see some nods for my proposition there. Have the Government given sufficient consideration to the impact of their proposals on personal representatives? We have talked informally to some of them. You have obviously talked informally to people at HMRC. What are you getting back?

John Bunker: In the CIOT we have had a good interaction with the technical team, who seem to understand the issues, but of course they are advising Ministers who then have to carry out a proposal with Parliament. We see a lot of understanding of the issues, but the whole thing changed in July with the Finance Bill and everything being put on the PRs. Our collective view is that this is unworkable unless you can put in sufficient provisions to make it work.

Baroness Bowles of Berkhamsted: Is there time to put in legislative changes to make a difference before it comes in or is it too complicated?

John McArthur: One of the problems with inheritance tax is the ripple effect of any changes. For example, there is no ability at the moment to claim loss-in-sale relief in a pension if assets are sold to pay inheritance tax and the shares have dropped in value. That needs to change to help the executors; as the residence nil-rate bands are allocated, if the pension does not reduce in value, this is fixed, and the estate or the pension goes down in value, but it is still fixed because you cannot claim loss-in-sale relief, and then there is more of the residence nil-rate band allocated to the pension because it is a bigger proportion of the whole. That becomes slightly unfair to the beneficiaries of the estate. All of these ripple effects take place when you start tinkering around with inheritance tax. The answer to your question is that it will depend on the parliamentary draftsman's time, and I do not know anything about that, I am afraid.

Ian Bond: In a practical sense, you have asked us to advise personal representatives to do a lot more work before they put in the deadline for paying out inheritance tax. The one thing that Parliament can do is take that six months and make it 12 months to give more time, or even say that the tax due on the pension is not payable until after the grant of probate, or six months after the date on which the grant of probate is issued. There are things that can be done. Yes, you want to take the tax—we understand that, and it is not for us to concern ourselves with that—but change when the tax will be paid so that it can be paid legitimately at a later point. You are still getting the revenue, but you will not have the negative impact on the personal representatives or where the beneficiaries of the pension and the estate are different people.

Baroness Bowles of Berkhamsted: So you would extend the time limit only in certain instances, when the beneficiaries are different?

Ian Bond: You could just say that the deadline for the tax on the pension side of things to be paid is six months after the date of the grant of probate being issued. Therefore, you have the access and the ability to do a lot more. The estate can still pay it six months from the date of death; you have hard dates because you have the date of death, which is on the death certificate, and the date of the grant of probate being issued, which is on the date of the grant issued from HMCTS. If there is a difficult estate that will not go through probate quickly, there will not be the issue where things are tied up, scrabbling to get tax paid and having all sorts of issues. You are just changing it so that the bit that is added in and that we will extend the time on is the pensions, so you pay it after the event.

The Chair: Can we move on to agriculture and business relief? Lord Altrincham, can you kick that off?

Q26 **Lord Altrincham:** These questions are primarily for Annie, Ian and John. For people moving from zero IHT to some liability, how easy will it be for those eligible for the reliefs to work out the impact of the proposed changes on IHT at death?

John McArthur: I am afraid there has been a bit of confusion, because we thought that was coming in the next session. We are dealing with pensions and our colleagues behind us are dealing with the APR and BPR. While I can answer a bit of that, my colleagues behind are better able to.

John Bunker: We are happy to do more on the subject of pensions if you would like anything else on the pensions side, but if you want to move on to the APR and BPR, you need to call in our colleagues.

Q27 **The Chair:** There is a general question about how the Government have approached their consultation on these measures. Do you have any comments, before we go on to the detail, about how the Government have handled this and what they think the principles of their policy are?

John Bunker: As I say, the CIOT has been engaging quite well with the HMRC technical team. We would have been very happy to do that at some point after the Budget, before 21 July. It was quite late in the day and quite a short amount of time to be looking at that in August, particularly during holiday time, and suddenly try to liaise on the detail of that after these proposals had been published. It is disappointing that the problem was not anticipated enough for them to have looked ahead and thought, "We need to consult with the professionals ahead of that". It would certainly have helped if we had had more time.

Annie Pearson: Broadly on the APR and BPR consultation, the consultation put out in January 2025 was extremely narrow in its focus. It was very technical and focused purely on how the new proposals would affect trusts. There was not really any consultation on how it would affect business owners and farmers more generally.

Q28 **Lord Leigh of Hurley:** It is not for us to comment on government policy as such, but is there any technical reason why APR and BPR relief cannot be given to assets inside a pension fund?

John Bunker: I do not think so, no.

John McArthur: I do not think so. You may have to amend part of the APR and BPR sections to allow it to apply to pensions and you would also have to think about the trust it is held in—it is a discretionary trust—and how it applies to that. Many would be set up before the Budget and these changes will have effect from October last year. There would have to be quite technical changes to allow that to happen, but nevertheless it should be possible. However, I come back to saying we should watch out for unintended consequences.

Lord Leigh of Hurley: Of doing it or not doing it?

John McArthur: Whatever you do, there will be some unintended consequences. That is why we like tax.

Ian Bond: The position of the Law Society is that we do not comment on the fact of levying of taxes. It is just a case of looking at the practical instances of how it can be done better, the impact that it will have on the professions and the ripple effect, as John has mentioned.

On both the pension side of things and for agricultural and business property reliefs, the valuations—the finding and gathering of information—are lengthy and complicated, and you can have some very complicated circumstances. In that whole process of valuing assets, whether for agricultural property, business property or pensions, across the whole gamut you are putting a lot more extra effort and time into doing this and you have not been given any extra time, to go back to the time point. It applies to both. You have only six months from the end of the month of the date of death to get all this information together. Valuing a family-run business will not be simple or straightforward. Valuing agricultural assets is not straightforward. You put a timetable in place that was not designed for the information that we have to give you. The information that then goes to HMRC will not be complete because they just want to get it in in time to stop the interest clock ticking, and there will be a lot more corrective work.

For both sides, for the APR and BPR and on the pension side, this will cause more work for HMRC, more effort from the personal representatives and more disgruntlement. It goes back to the points of professional indemnity insurers withdrawing from the market because it is not viable for us to do the work. That will, as John said, mean you will have more laypeople putting in applications to HMRC, which will require more resources from HMRC to get it correct.

One thing that came with all these announcements was the fact that about £50 million was put aside for HMRC to digitise IHT. That will be a drop in the ocean compared to how much it will need to do all these proposals. It is not nearly enough, but that is what they have. You have an antiquated team getting used to a new technology, which will not be funded correctly, with a whole load of laypeople coming in and trying to get used to new rules. You will cause yourself a standstill. We are trying to engage to give HMRC some better ideas to make sure that it does not inadvertently fall over when this comes into play.

John McArthur: To go back to the question, it would be relatively easy for someone to work out the additional tax payable on APR and BPR assets if they know the value. The big question is how they pay the tax on it from illiquid assets.

The Chair: Can we deal, Lord Pitkeathley, with question 6 on our list?

John McArthur: Sorry to interrupt, but we came prepared to speak about pensions, and our colleagues behind us are prepared to speak about APR and BPR, and question 6 is very much in the APR/BPR land. We are happy to take a step back if you want.

The Chair: Let us do that.

John Bunker: Just two very quick points are worth mentioning that we have not touched on. First, in terms of realism, the suggestion that pension money could go out to beneficiaries and then be reclaimed is unrealistic and does not represent the real world in terms of people spending money and it still being available. Secondly, one of the things that the professional advisers, professional executors and PRs would need is the confidence that, when they have a certificate of discharge from HMRC, that is the end of their liability. We are asking if it is possible, with any subsequently discovered pensions that are not their responsibility, that the PSAs deal directly with HMRC, and at that stage those pensions should not get a share of the inheritance tax nil-rate band—if they share the nil-rate band, it opens up a whole can of worms of reinvestigating everything with the estate and it makes the whole thing totally unworkable. Getting those things right, getting a discharge right, is a critical element of the whole thing.

The Chair: That is extremely helpful. Thank you very much for coming. We will get the next panel in and go through these questions on agriculture.