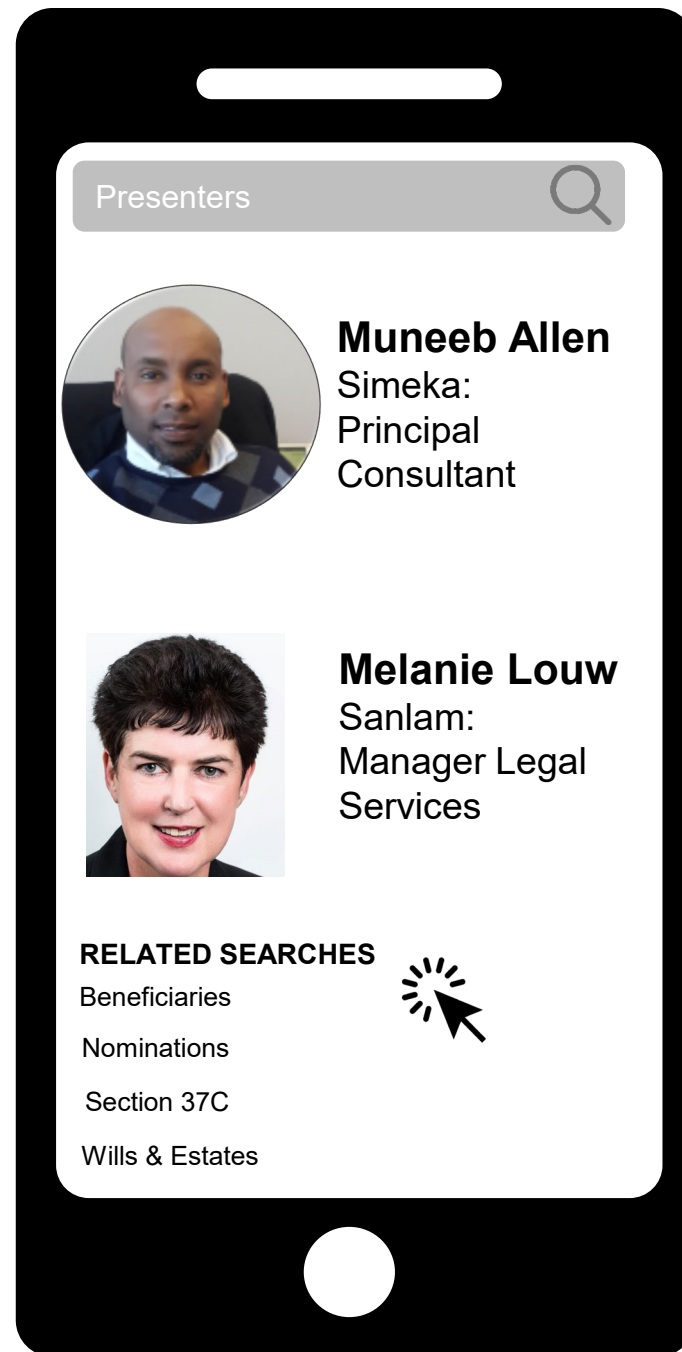
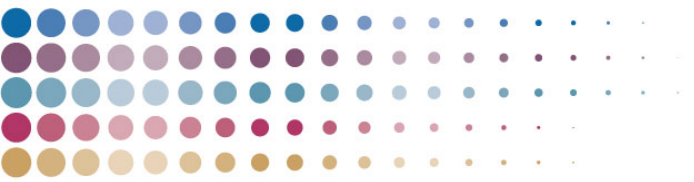




How your Will, Intestate Succession and Nomination of Beneficiary Form intersect

Solutions for
Retirement • Actuarial • Investments • Health • Wealth

SIMEKA
member of  Sanlam group



Presenters



Muneeb Allen

Simeka:
Principal
Consultant



Melanie Louw

Sanlam:
Manager Legal
Services

RELATED SEARCHES

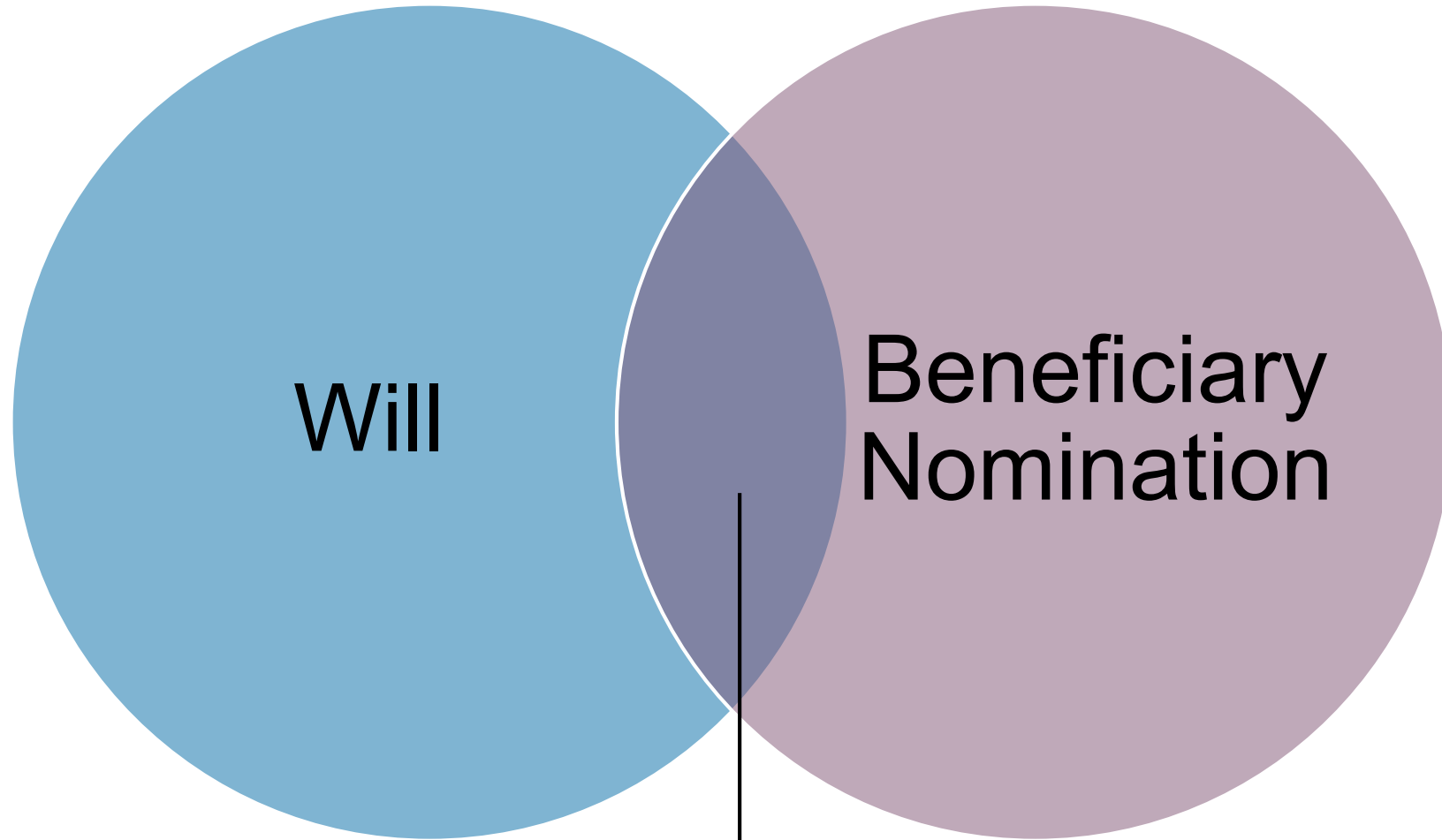
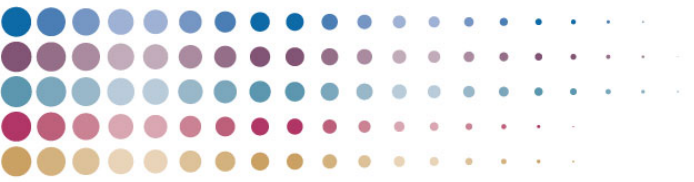
Beneficiaries

Nominations

Section 37C

Wills & Estates

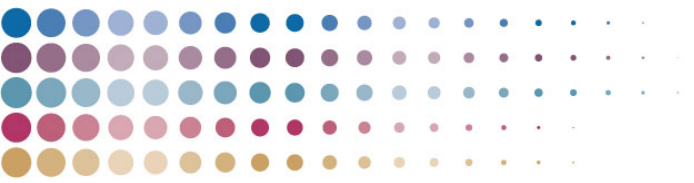




Will

**Beneficiary
Nomination**

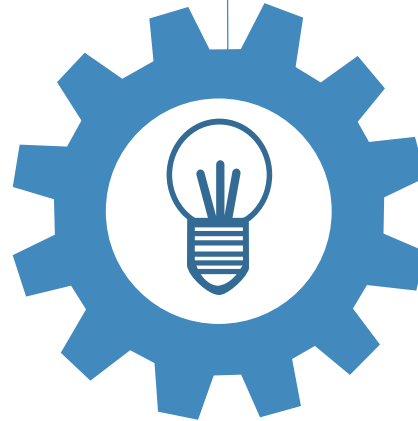
Intestate succession



Why have a will?



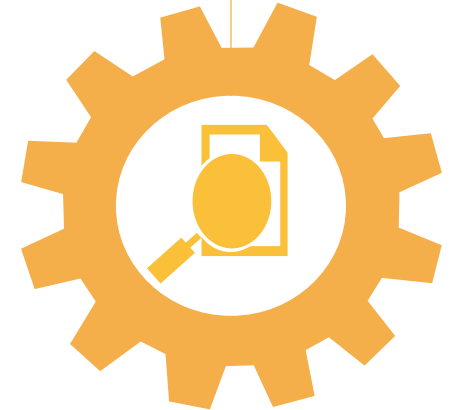
What falls outside of your will



Beneficiary nomination



Intestate Succession





Why have a will?



So that your belongings are distributed according to your wishes



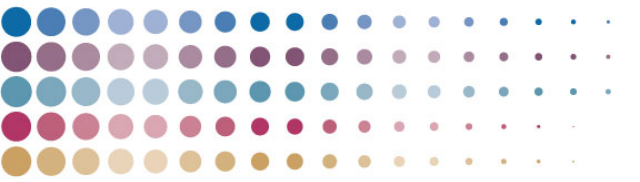
So that your loved ones are provided for after your death



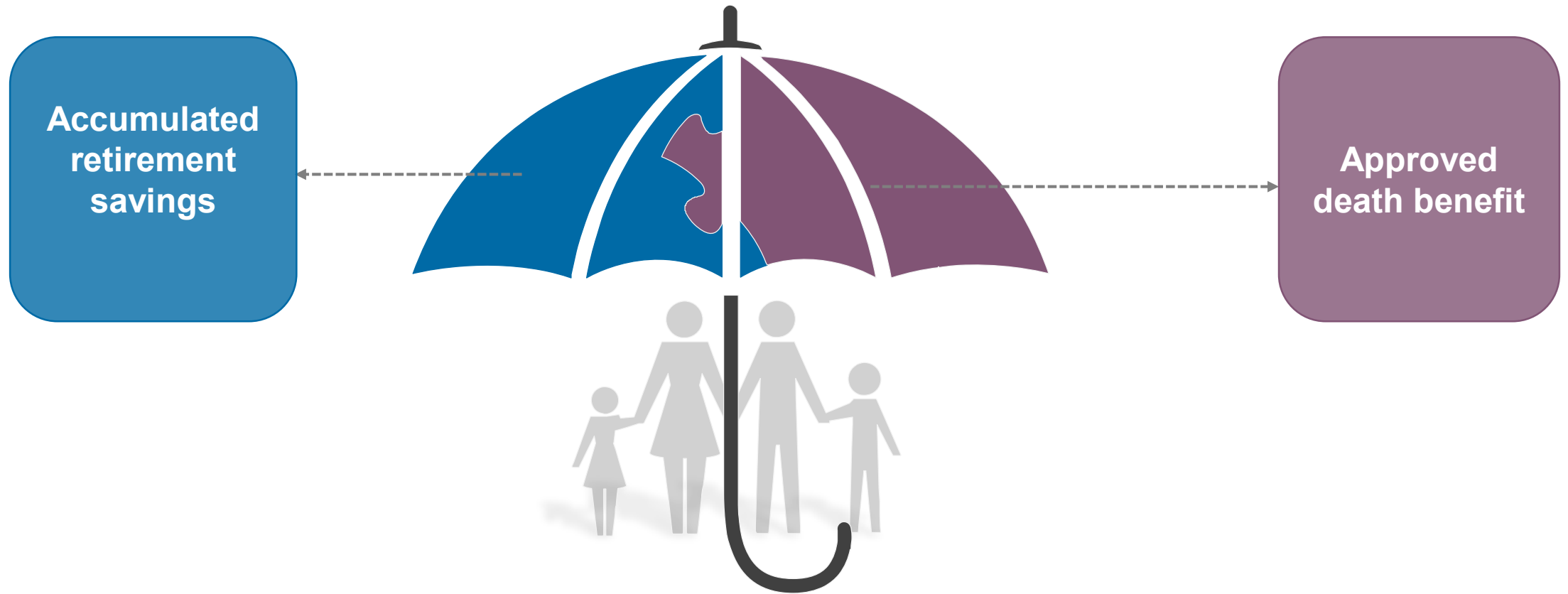
To minimise conflict amongst family members



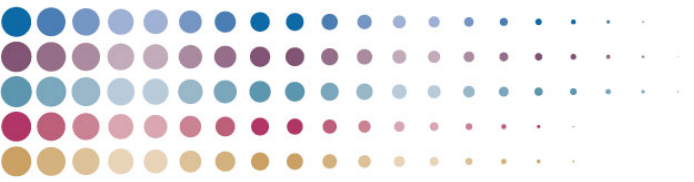
To avoid unnecessary administrative costs



What falls outside of your will

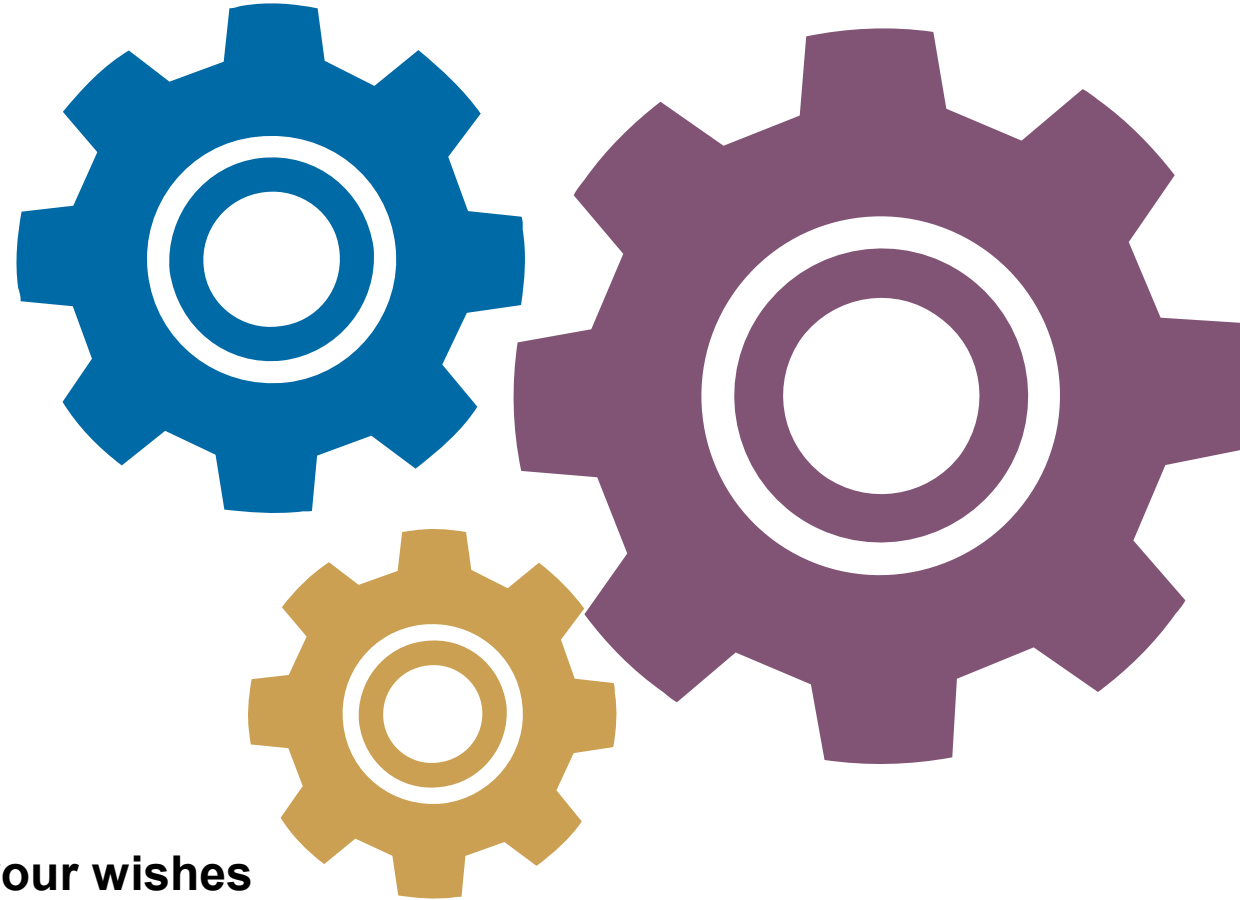


Section 37C of the Pension Funds Act



What is Section 37C?

duty to **identify**
dependants



full discretion
on how to distribute
death benefit

to **consider** your wishes

Section 37C

Myth 1 – Death benefits from Fund payable to estate.

Section 37C – payment of benefit to dependants and/or nominees of deceased member.

Overrides the freedom of testation.

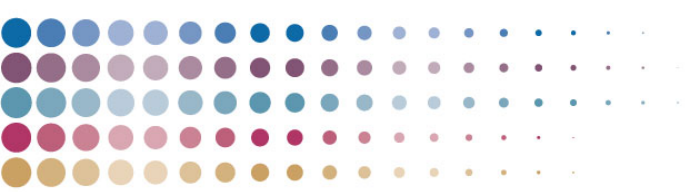
Purpose – to provide for dependants and limit State's liability to support.

Specifically excludes benefit from member's deceased estate.

Trustees' duty to:

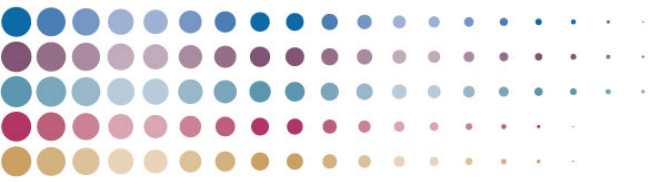
- trace dependants; and
- equitably distribute benefit among dependants and nominees.

NB! S37C sets out the time periods for payment as well as the approach to distribution



Defining a legal dependant

- Legally liable for maintenance
- Factually dependent on you for maintenance
- Spouse
- Children
- Person for whom a member who would have become liable (e.g. Fiance)
- Same sex partners, civil unions
- Permanent life partner



Defining a factual dependant

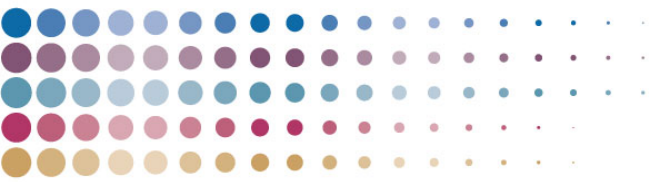
- Factual dependant = actually supported by member regardless of no legal duty to do so.

Examples

- Same sex or common law partner.
- Parent or other family member.
- Depends on circumstances and need not be limited to family members and partners.

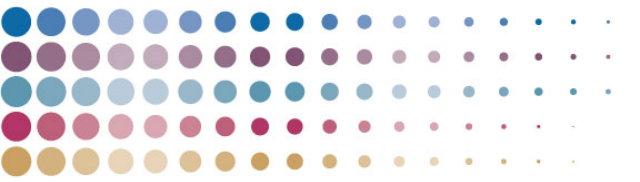
Considerations for factual dependance

- Did the parties co-habit, duration, nature, common household, financial dependency, emotional bond?
- Regular contribution financially to the person's upkeep?



Beneficiary Nomination Form

- **Myth 2 – Beneficiary nomination form constitutes a will of the deceased member.**
- Expression of wish list only.
- Blindly follow = breach of fiduciary duties.
- No dependants, only nominees, then binding.
- In *Martin v Beka*, the Adjudicator held that an estate may not be a nominee unless no dependants. Non juristic persons only by default.
- A nominee need not be a natural person. A nomination nominating a trust or any other organisation may be considered by the trustees.



Beneficiary Nomination Form




All immediate relatives who are dependant or will become dependant



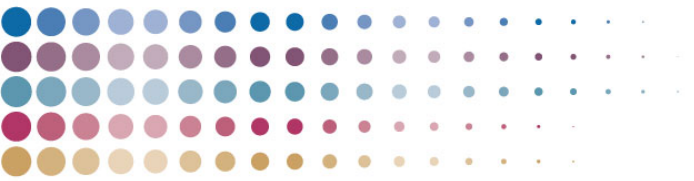
Other people who are financially dependent on you



Nominees

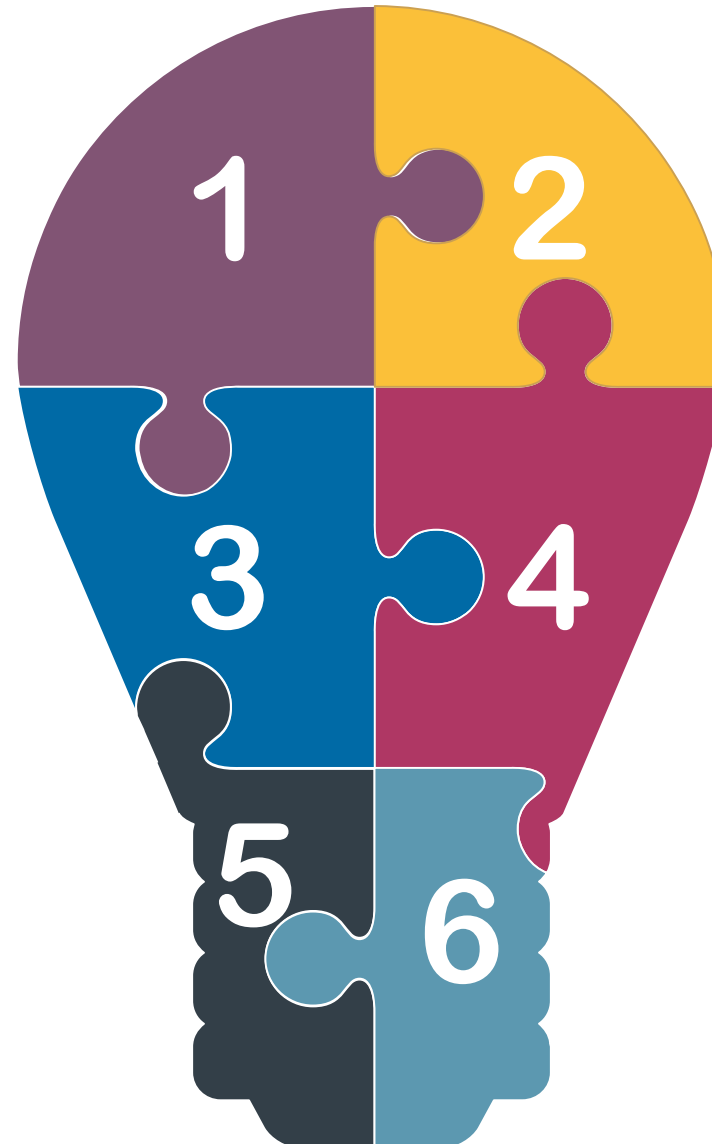


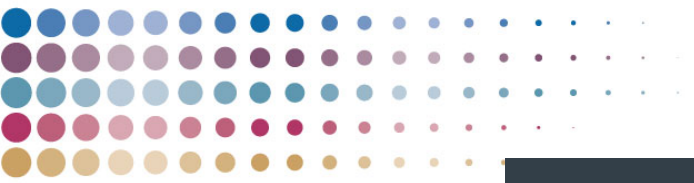
A **beneficiary nomination form** is an expression of your wishes on which you indicate who you wish your retirement fund death benefit must be paid to in the event of your death while still a member of the UCTRF



The points that matter

1. Age of dependants
2. Relationship with you
3. Extent of dependency
4. Size of benefit
5. Future earning capacity
6. Additional information e.g. guardian/beneficiary fund





Scenarios

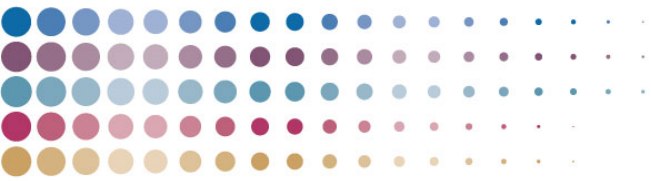
**Dependants
only**

**Dependants
and
Nominees**

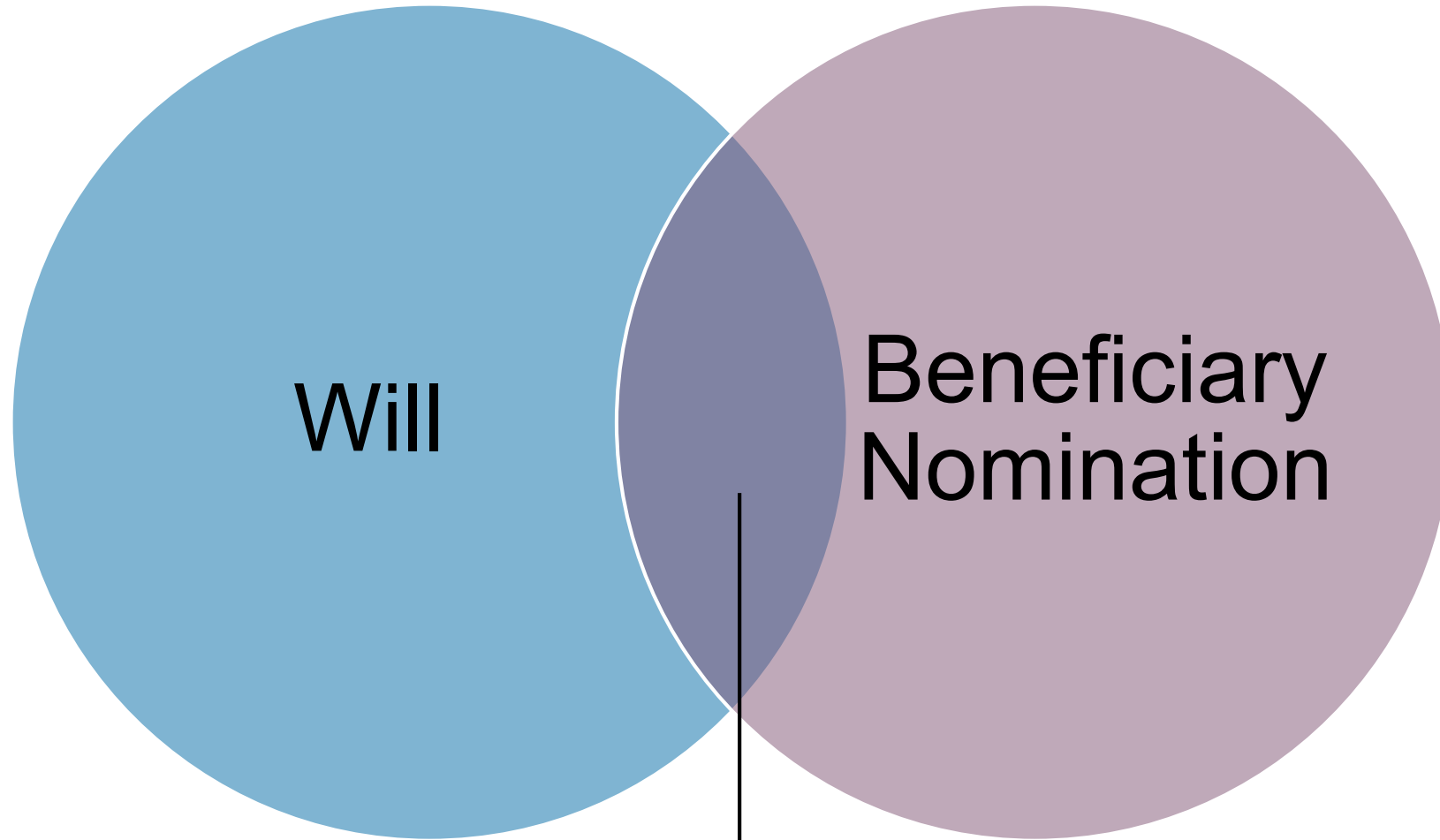
**No
dependants
but nominees**

**No
dependants
or nominees**





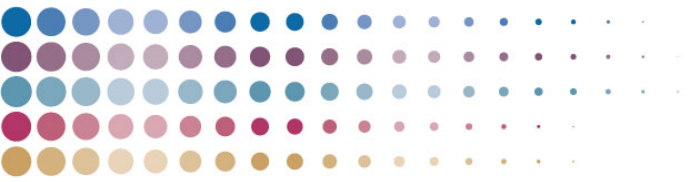
How do these things intersect



Will

Beneficiary
Nomination

Intestate succession



Law of Intestate Succession



Surviving spouse and descendants



Parents



Siblings, and descendants of siblings, where parents are not alive



Other close relatives

Thank You

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Durban
Pretoria
Sandton

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