

# Guide to trusts

## For Business Protection policies



This brief guide explains some of the main features and benefits of our trusts, and gives you some information to help you decide whether you want to put your Business Protection policy into one of our trusts. You'll find out what a trust is, how it works, and some of the advantages and disadvantages of putting your policy into trust. We also explain how you can put your policy into one trust using our online trust tool.

**It's important to be aware that this is only a guide and doesn't give you advice. It's up to you to decide if putting your Business protection policy into one of our trusts is right for you. Placing a Business Protection policy in the wrong trust can have major consequences. If you have any concerns or doubts about whether to put your policy in trust or the trust you plan on using, please speak with your financial adviser or contact us.**

### Business Protection trusts – the basics

#### What is a trust?

Put simply, it's a legal arrangement that lets the owner of something 'gift' it to someone else. This could be shares, your home, cash, or a Business Protection policy. The rest of this guide assumes that you are 'gifting' a Business Protection policy. This is usually done by creating a trust deed. The deed sets out the terms and conditions that the trust can operate under – these are known as the 'trust provisions'. Once the trust has started it can only be operated in line with the 'trust provisions'.

Normally placing a policy in trust is an 'irrevocable' act. This means once you've put your policy in trust you can't normally change your mind later on. This is different to say making a will, where you can change the terms throughout your life as your circumstances change. So it's really important that you think carefully about whether putting a policy in trust is right for you.

#### Who is needed to set up a trust?

There are three groups of people needed to set up a trust. These are the settlor, the trustees, and the beneficiaries. These are commonly used terms referred to in our trust deeds, and throughout this guide.

**The settlor** – this is the person or people who set up the trust, and put their Business Protection policy into it. So the person or people who set up the trust will be the current owners of the Business Protection policy. The settlor chooses the trustees, and decides who they would like the beneficiaries to be.

**The trustees** – these are the people responsible for looking after the Business Protection policy put into trust, for the person or people who will get the money when the Business Protection policy pays out – the beneficiaries.

**The beneficiaries** – these are the people who will get the money from the trust. So the trust holds the Business Protection policy, and the trustees look after it, until it is due to be paid to the beneficiaries.

#### Draft trust deed for shareholder or partnership protection

This is suitable for limited companies, partnerships and LLPs

#### What is a draft trust for shareholder or partnership protection?

A trust deed for shareholder or partnership protection for limited companies, partnerships and LLPs ensures that the proceeds from a participating shareholder or partner's policy are paid to the other participating shareholders or partners. This allows them to use the funds to purchase the deceased's share/s from their estate (normally via a cross option agreement).

In the UK there are three types of business structures where shareholder or partnership protection arrangements may be needed. In order to provide trusts that are suitable to each business, we offer three separate drafts:

- Draft Share Protection Trust for shareholders in a limited company
- Draft Share Protection Trust for partners in a partnership, and
- Draft Share Protection Trust for members of a LLP.

Although each of the drafts is designed to deal with different types of business and business owner, the main provisions of each trust and their respective tax implications are the same.

#### How does a draft shareholder or partnership protection trust work?

All of the draft shareholder and partnership protection trusts are designed for use in conjunction with business insurance arrangements between the business owners where funds are required to enable co-owners to buy a deceased, critically or terminally ill business owner's share in the business or in the company.

The main purpose of the trust is to make sure that the proceeds of the policy paid on the death, critical or terminal illness of an owner are available quickly and tax-efficiently to the co-owners. This will enable them to buy the deceased, critically or terminally ill owner's business interest via the terms of the associated cross option agreement.

### When should I use an LV= draft shareholder or partnership protection trust?

You should only use our draft shareholder and partnership protection trusts as part of a shareholder or partnership protection arrangement. It can only be used in conjunction with an appropriate LV= policy. It is essential that the trust is affected no later than the associated policy's start date to avoid any unnecessary tax implications.

### When shouldn't I use an LV= draft shareholder or partnership protection trust?

You shouldn't use our shareholder and partnership protection trusts for any other purpose than as part of a shareholder or partnership protection arrangement. They should not be used with any life insurance or investment product.

### Draft trust deed for key person protection for partnerships

#### What is a draft trust deed for key person protection for partnerships?

A draft trust deed for key person protection for partnerships is designed for use with our life insurance or combined life and critical illness for key person arrangements in conventional partnerships. A trust is not normally required for:

- key person arrangements for limited companies
- LLPs
- Scottish Partnerships
- PLCs
- other business types where the body corporate has a separate legal identity

#### How does a draft trust deed for key person protection for partnerships work?

A draft trust deed for key person protection for partnerships is designed for use in conjunction with business insurance arrangements that protect the contribution of a key person within a partnership. The funds from the life insurance policy are used to replace the profit that the insured key person would have generated or clear any debts the partnership may have.

The partners of the partnership will normally be nominated as trustees and they will hold the policy and its proceeds as a partnership asset. This means that it is beneficially owned by the partners/trustees for the time being. This is necessary as a partnership in England is not a legal person which means that a partnership cannot effect or hold a life insurance policy in its own name. The policy proceeds can then be used for the required purpose.

#### When should I use an LV= draft trust deed for key person protection for partnerships trust?

You can only use our draft partnership key person trust in conjunction with an appropriate LV= policy and not for any other purpose. It is essential that the trust is affected no later than the associated policy's start date.

It should only be used for one of our new single life protection policies on the life of a partner or an employee of a partnership affected by one or two partners. It cannot be used with an existing policy.

### When shouldn't I use an LV= draft trust deed for key person protection for partnerships trust?

You shouldn't use our partnership key person trust for any other purpose than as part of a key person protection arrangement for partnerships. It should not be used with any life insurance or investment product.

**It's really important that you think carefully about the advantages and disadvantages of putting your policy in trust. If you have any doubts at all, you should seek advice from a financial adviser or a solicitor.**

## Online trusts for Business Protection

Our online trust tool has been designed to make it quick and easy to put your policy into trust. We can't give you financial advice about whether a trust is the right option for you and your circumstances, but we have made it as easy as possible.

Please note that our online trusts tool is only designed to be used with our protection policies. If you have one of our older penny policies, an RNFPN policy, or an Investment Bond, Flexible Guarantee Bond or with Profits Bond with us then the tool won't be suitable.

### How does it work?

1

Answer the simple questions and once complete, it will take you to the most appropriate trust form we offer based on the answers you have given. Bear in mind the tool does not give you advice, and this is not a recommendation that the trust will always be suitable for your circumstances. If you are unsure if the trust selected is right for you, you should seek specialist legal advice.

2

If you are happy to continue, complete the names and email addresses of all settlors, trustees (if applicable) and their witnesses. Please ensure any spelling is correct as this will appear on your final trust document.

3

Complete the remaining parts of the form online.

4

You will be prompted to sign the form. This can be done either using a touch screen or a mouse.

5

Once the first person has signed, the form will be automatically sent to the next person to complete their details and sign online.

6

Once everyone has signed you will be notified via email that the signing process is complete and the form will be automatically returned to LV=.

### What happens once it's been returned to LV=?

Once we have received the completed form we will check it for you and if we notice anything is incorrect or missing, we'll contact you and tell you what needs to be changed. If necessary we'll send the deed back to you for you to correct.

Once the form is correct, we'll then update your policy to show that it's in trust. We'll then send confirmation along with an original copy of the form via post so that you can keep it safe with your policy documents.

### What type of trusts can the online tool create?

The tool can create the following trusts for business protection:

- Relevant Life Cover Trust Deed
- Draft Partnership Key Person Trust Deed
- Draft Share Protection Trust Deed (Partnership, LTD Company, & LLP)

### Is the online tool right for me?

Our trusts are basic and it's up to you to decide if the trust selected is right for you. As we are unable to give advice, our service shouldn't be used for complex financial arrangements. If you have any doubts at all you should seek your own specialist legal advice.

### Do I need a witness when signing the trust forms?

Not all signatures on our trust deeds will require a witness, however some signatures will. It is clear on the trust deed where a signature requires a witness. Where a witness is required, the witness must be physically present in the same place as you at the time you sign and they will also need to sign and add his/her full name and address.

### Anything else I should consider?

- **Policies assigned to a bank or another lender as security for a loan or mortgage** - If you've taken out your policy to provide cover for your mortgage then you can't put it in trust.
- **Policies already in trust** - If you've already put your policy in trust you won't be able to do it again.

### What happens to the information I give you?

The information you provide in the online trust tool will only be used to create your trust deed, and won't be used for marketing purposes. Once the trust deed has been created for you, the information you've entered will be deleted from our records and systems. We'll only record the information on our systems once you've sent the signed deed back to us. So it's important for you to tell anyone whose details you've entered and named in the trust deed that this will be happening.

Find out how we use your personal information, and what rights you have by visiting [LV.com/dataprotectionlife](https://www.lv.com/dataprotectionlife). This includes who we are, how long we hold your information, what we do with it and who we share it with. Please ensure that you advise anyone else whose personal details you enter into our online trust tool, or include in one of our trust deeds (for example your trustees, beneficiaries and witnesses) where they can find this information. Please let us know if you'd like us to send you a copy, or if you have any questions.

### If it doesn't show on your online tool, does that mean my policy can't be placed in trust?

If the policy you have isn't listed here, please speak to your financial adviser. Just because your policy isn't listed doesn't necessarily mean that it can't be put into trust. It's just that our online trust tool has been designed to only be used with certain types of policy, so if you have another type of policy you should speak to a financial adviser or a solicitor to get advice on the most appropriate trust to use.

## Frequently asked questions

Here are some frequently asked questions about trusts, and our range of trusts that we haven't already covered above.

**It's important to be aware that this information shouldn't be considered as advice. Choosing to put a policy in trust is an important decision that has serious implications, so you should think very carefully before doing it. If you're unsure about anything to do with putting your policy in trust you should speak to a financial adviser or a solicitor who specialises in this area.**

### Who can be a trustee?

You can choose anyone to be a trustee as long as they are at least 18 years old (16 if the trust is established under Scottish Law), and are of sound mind (in other words mentally capable of looking after someone else's money).

Our trust deeds automatically include the settlor as a trustee. This allows the settlor to retain control over the policy. When a business is a settlor, the business becomes a trustee automatically too.

Our Relevant Life trust gives an option to remove the settlor (the business) as a trustee. This option would normally be used where the business has only one signatory. However this option is not available using our online trust tool. If you'd like this option, please contact us for a paper trust form.

### Do trustees have to live in the UK?

It's normally a good idea for all trustees to live in the UK but it's not essential as long as at least one trustee lives in the UK. This is because once the policy is put in trust, if any action needs to be taken, it will need to be agreed by all of the trustees. If a trustee isn't living in the UK this will delay any action needed as all trustees will need to correspond with each other before any action is taken. Also there may be tax issues if one of the trustees doesn't live in the UK. So if you're thinking of choosing a trustee who doesn't live in the UK you should seek advice from a financial adviser or a solicitor who specialises in this area.

### How many trustees are needed?

It's normal for the settlor to appoint at least one other trustee, so that if they die, the contents of the trust can continue to be looked after by the remaining trustee. This is really important for life insurance policies because if the settlor were the only trustee and died, this would cause

delays before a claim could be paid on the policy. So you would lose the chance of speedy payment which is one of the key advantages of placing a policy in trust.

### **Can I change the trustees at a later date?**

Yes. For example if one of the trustees no longer wants to be a trustee, they can retire as long as there is at least one other person still able to continue as a trustee. All the other trustees will normally need to agree to this.

If you want to change one of the trustees, then please contact us. We'll be able to provide you with the relevant forms for you to be able to do this. We'll need to know which trustee is being changed and who, if anyone, is being added as a new trustee. We can then arrange for a form to be sent to you for you to get signed and witnessed. Once you've done this send the form back to us, so that we can update our records.

Alternatively you can contact a solicitor to ask them to draft the appropriate forms for you, although you'll have to pay for this yourself.

Also under our trusts the settlor of the trust (whilst they are still alive) not only has the power to appoint new trustees, but can also remove them and doesn't have to give a reason. If the settlor has died these powers pass to the trustees.

Anyone who feels that a trustee should be removed without their permission should seek legal advice before doing so.

**It's really important you don't make changes to your original trust by simply crossing details through and adding new details as this could invalidate your trust. If you'd like to make a change please contact us or your financial adviser or legal adviser.**

### **If I live in Scotland can I still use your trusts?**

Yes you can. For our Key Person and Share Protection trusts if you live in Scotland and want the trust to be governed by the law of Scotland you must indicate so in the box provided in the Trust deed. Otherwise the law of England will apply. For our relevant life cover trusts Scots law will automatically apply if the Settlor of the trust is resident in Scotland at the time of the signing of the Trust deed.

### **I've put my policy in trust, but I no longer want it in trust, can I remove the trust?**

No, not usually. This is because placing a policy in trust is an 'irrevocable' act. In other words once you've done it, you can't go back on this decision. There may be circumstances when a trust can be removed, but these are quite complex, and if you wish to remove a trust you'll need to take independent legal advice.

### **If I put my policy in trust, do I still own it?**

No – once you put something into trust (such as a life insurance policy) you don't own it any more – the trustees do. However our trust deeds automatically include the settlor as a trustee so you can keep some control over what happens to the contents of the trust. However as a trustee your responsibility is to act in the interest of the beneficiaries.

### **What happens if the trustees need to make a claim on the policy that's in trust?**

The trustees should contact us as soon as possible to let us know that you'll be making a claim. They can contact us in writing, or by phone or fax. For details of how best to contact us, visit our website [www.LV.com](http://www.LV.com).

We'll let the trustees know what documents we'll need from them at the time. However we'll always ask them for the original trust deed, so it's really important that you keep this in a safe place, for example with your policy documents. More details about how to claim and what documents we'll need can be found in the policy conditions for the policy that's in trust.

Once we agree to pay the claim, we'll usually pay the claim to the trustees. It's then their responsibility to make sure that the money is paid to the beneficiaries (or managed on their behalf).

## Definitions

In this section we explain some commonly used terms associated with trusts, and what they mean.

**Trust** - In simple terms it's a legal arrangement that allows the owner of something to 'gift' it to someone else.

**Trust deed** - This is the document which records the policy being put in trust, and the terms and conditions that the trust can operate under.

**Settlor** - This is the person who creates the trust. This is the owner or owners of the policy before it's put into trust.

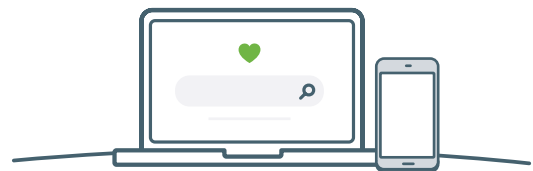
**Trustees** - these are the people responsible for looking after the contents of the trust, and are the owners of the policy once it's put in trust.

**Beneficiaries** - these are the people who will eventually receive the proceeds of the policy put in trust. Inheritance tax - this is tax payable after you've died, if everything you own is worth more than a certain amount.

**Probate (or confirmation in Scotland)** - When a person dies somebody has to deal with their estate (money property and possessions left) by collecting in all the money, paying any debts and distributing what is left to those people entitled to it. Probate is the court's authority, given to a person or persons to administer a deceased person's estate.

**We hope that this guide has given you an understanding of trusts and our online trust tool.**

Please bear in mind that the information in this guide is based on our understanding of current legislation and HM revenue & Customs practice as at April 2019. Legislation can change in the future, and tax treatment depends on your personal circumstances.



You can get this and other documents from us in Braille, large print or on audio by contacting us.

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