

Guide to trusts

For personal protection policies

This brief guide explains some of the main features and benefits of our personal trusts, and gives you some information to help you decide whether you want to put your Personal 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 trust using our online trust tool.

Important

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 life insurance policy into one of our trusts is right for you. 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.

Personal 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 life insurance policy. The rest of this guide assumes that you are 'gifting' a life insurance 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 life policy into it. So the person or people who set up the trust will be the current owners of the life insurance 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 life policy put into trust, for the person or people who will get the money when the life 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.

So the trust holds the life insurance policy, and the trustees look after it, until it is due to be paid to the beneficiaries.

Why might I want to put my life insurance policy in trust?

There are a number of reasons why you might want to put your life insurance policy in trust. The main reasons are:

To make sure that the policy proceeds get paid to the right person or people - By writing a policy in trust you can indicate who you want the proceeds from your life insurance policy to be paid to. These people or groups of people are named on the trust deed, and are called the beneficiaries. If you don't write your policy in trust the proceeds are usually paid to the policy owner.

To make sure that the policy proceeds get paid out quickly - Putting your policy in trust means that the payment of the policy proceeds can be made quickly to the trustees. All the trustees need to do is send us the original death certificate, and the original trust deed. We won't need to wait for probate to be granted (or confirmation in Scotland), which can be a lengthy and complicated process.

To help avoid inheritance tax - Once you've put your life insurance policy in trust, the proceeds that are paid out won't normally be included in your estate for inheritance tax purposes, and can usually pass tax-free to whoever you choose as beneficiaries.

What are some of the disadvantages of placing my life insurance policy in trust?

You can't change your mind later on – Placing a life insurance policy in trust is an 'irrevocable' act. This means that once you've done it, you can't change your mind later on and take it back out of the trust.

You're giving up control over your policy - When you put your policy in trust you have effectively given it away to the trustees to look after. This means that you no longer own it, or have any control over it. So if you need to make changes to it you can't – only the trustees can do this. Our trust deeds automatically make the settlor a trustee as well, so you can still have an element of control over your policy. But your role as a trustee is different – as a trustee you are looking after the policy for the beneficiaries, and so any actions you take must be in the interests of the beneficiaries. We've produced a separate guide called 'Your guide to being a trustee', which is available on our website. It explains the roles and responsibilities of a trustee.



You can't benefit from your policy any more - As a settlor you cannot normally benefit from the trust under our trust deeds. This isn't usually a problem if you're the only settlor – your life insurance policy will pay out when you die. But it can be a problem if you've taken out joint life first death life insurance. In most circumstances, if you've got joint life first death life insurance, you want the survivor of you to receive the money. This would happen automatically under a joint life first death policy, and you don't need to put the policy into trust. But what if you die together? Usually in this scenario, you want to make sure the money goes to your family without any inheritance tax liability. You can achieve this by placing the life insurance policy into trust. But if one of you survives then they won't be able to access the money in the trust. To help address this issue, we've added a survivorship clause to our trust deeds.

Our trust deed might not be suitable for you - We have produced three types of trust deed, a fixed trust, a flexible trust and a split trust. We explain how each of these work later on. It's really important that you read the deed carefully before you sign it, to make sure that it's going to be suitable for you.

When can I put my policy in trust?

You can put it in trust as soon as your policy has started, or you may decide to do this at a later date. However it's important to understand that you can only put your policy in trust if you are the policy owner at the time. For example if you took your policy out and then charged or assigned it to your bank or building society for security against a loan, you no longer own the policy, which means you can't put it in trust. Also it's important to make sure that you haven't got any legal charges over your policy.

Trusts – the types of trust we offer

We offer three types of trust deed, a fixed trust, a flexible trust and a split trust. These are different types of trust and work in different ways.

What types of life policy can I put into your trusts?

As long as you are the policy owner, any of the following policies can be put into trust:

- LV= 50 Plus plan*
- LV= Life Insurance
- Life Protection (available as part of our Flexible Protection Plan)
- Life and Critical Illness
- Life and Enhanced Critical Illness
- LifeTime+
- Family Income Assurance
- Family Income Benefit

*With our 50 Plus plan there is an option called the Funeral Benefit option. If you've chosen this option you can't also put your policy in trust. If you think this applies to you, please contact us, and we'll be able to tell you if you've taken out this option.

Our spilt trust is only designed to be used with a Combined Life and Critical Illness policy, where you wish to retain the payment made under the policy in the event of being diagnosed with a critical illness, but would want the payment made in the event of a death claim to be payable to the beneficiaries of the trust. It can however also be used with a life insurance policy that also has terminal illness cover, where you would want to retain the terminal illness payment. However we'd recommend you seek financial advice if you are considering this. We explain how this type of trust works in more detail later on in this guide.

If you have a different type of policy speak to a financial adviser or a solicitor who will be able to help you further.

Please note our 50 Plus plan and LifeTime+ products are now closed to new business and our Family Income Assurance product has been replaced by Family Income Benefit.

What types of life policy shouldn't I put into your trusts?

You shouldn't usually put any policy in trust that you want to use for yourself in the future. For example if you have a joint life first death life insurance policy where you are both the policy owners, once you've put it into trust you can't benefit from it any more. So if one of you dies the other one of you can't receive the pay-out (unless you add a survivorship clause to your trust - we explain this in more detail in the FAQs later on). Also if you've already charged or assigned your policy to someone else (for example a mortgage lender or a funeral services provider) then you can't also put it in trust. If you're unsure if this applies to you, then speak to a financial adviser or a solicitor.

Fixed trust deed

What is a fixed trust?

A fixed trust is a very simple type of trust. It's sometimes called a bare trust or an absolute trust. All the proceeds of the life insurance policy that has been put into trust are given to the beneficiaries. When you set up the trust, you must name the beneficiaries of the trust (these are the people you want to benefit from your life insurance policy when you die). You also need to decide how the proceeds of your life insurance policy that you're putting in trust will be split between the beneficiaries.

For example you might decide to choose two beneficiaries and split it equally between them both – 50% each. Once a beneficiary reaches the age of legal capacity (which is 18 in England and Wales and 16 in Scotland)*, they are legally entitled to own the contents of the trust. This means they can force the trustees to transfer the ownership of the trust contents (for example the ownership of a life policy) to them, if they want to.

*The trust will be subject to Scottish Law if the settlor (or both settlors if there are two of them) live in Scotland at the time the trust is set up

Important

as its names suggests – with this type of trust once you've chosen the beneficiaries, and how much each will receive from the proceeds of your life insurance policy you can't change them later on. In other words the decisions you make when you set up the trust are 'fixed'.

When can I use a fixed trust?

As its name suggests – with this type of trust once you've chosen the beneficiaries, and how much each will receive from the proceeds of your life insurance policy you can't change them later on. In other words the decisions you make when you set up the trust are 'fixed'.

You should only consider using a fixed trust if you:

- know who you want to receive the proceeds of the trust, and
- you won't want or need to change your mind about this in the future

A fixed trust doesn't offer you any flexibility. You can't change the person or people that you want to benefit from the life policy that you put into trust at a later date. For this reason a fixed trust isn't right for everyone.

It's really important you think carefully about this, and if you're unsure you should seek advice from a solicitor or a financial adviser.

What can I place into a fixed trust?

Our fixed trust should only be used with a life only policy. As long as you're the plan owner, you can place a new life policy into trust when it starts. Or you can put an existing one into trust. This trust is suitable for both single life and joint Flexible Protection Plans.

What shouldn't be put into a fixed trust?

You shouldn't usually put life cover with critical illness cover policies into the fixed trust.

Flexible trust deed

What is a flexible trust?

A flexible trust is also sometimes called a 'power of appointment trust'. The trustees have the power to choose who will benefit from the proceeds of the life insurance policy that you put into trust. This is different from a fixed trust where all the proceeds are paid to the beneficiaries, who once chosen can't be changed. When you set up the trust, you name all of the people that you might want to benefit from the policy you put into trust. This can be groups of people, for example children or grandchildren, or you can name individuals. This wide group of people is called the 'potential beneficiaries'.

From these 'potential beneficiaries', you name the person or people that you would want to benefit from the proceeds of your policy if you were to die now. This person or people are called the 'default beneficiaries'. You must also decide how you want the proceeds of your life policy to be split between the default beneficiaries. For example the beneficiaries may be two children and you want them to have equal shares.

The trustees then have the power to change the default beneficiaries (the 'power of appointment') to any of the people listed as potential beneficiaries. The trustees (whilst the settlor is still alive) can also add to the potential beneficiaries any other persons or classes of persons. However this must be done by completing a deed, and this requires the written agreement of the settlor (or settlors if there are two of them). The trustees may not add the settlor, the settlor's wife/husband or the settlor's civil partner. The trustees also have the power to change how the proceeds are split between the beneficiaries.

The advantage of giving the trustees these powers is that if circumstances change, the trust can be changed to make sure it's still effective.

Example

Ian and Jayne live together and have a son, Simon, who is eight years old. Ian takes out a life policy to help protect his family financially if he dies. He wants to leave the money to Jayne. But if she dies before he does, he'd like it to be kept for Simon until he's old enough to receive it. Ian uses a flexible trust, and names both Jayne and Simon as potential beneficiaries. He names Jayne as the default beneficiary. But if Jayne dies before Ian, the trustees can change the default beneficiary to Simon. The money will then be held in trust until the trustees pay it out to him.

When can I use a flexible trust?

You could consider using a flexible trust if you:

- know all the people you want to receive the proceeds from your life policy when you set the trust up (for example your widow or widower, children, grandchildren, mother, father, brothers or sisters), and
- know who you want to receive the proceeds unless circumstances change, and
- want the option to change who will actually receive the proceeds if things do change in the future

What can I place into a flexible trust?

Our flexible trust should only normally be used with a life only policy. As long as you're the plan owner, you can place a new life policy into trust when it starts or you can put an existing one into trust. This trust is suitable for both single life and joint flexible protection plans.

What shouldn't be put into a flexible trust?

You shouldn't put life cover with critical illness cover into a flexible trust, unless you are happy that in the event of a critical illness claim the proceeds would be paid to the beneficiaries of the trust and not yourself as the settlor. We offer a special type of trust called a split trust for this purpose, and we explain how this works later on in this guide. Of course, if you are happy that you want both the death claim payment and critical illness payment to be made to the beneficiaries of the trust then you could still use a flexible trust.

Split trust

What is a split trust?

A split trust does exactly what it says – it splits different types of cover within a single policy. Any payments from the policy which are due while you're alive will still be paid to you. But any payments that are due when you die will be held in trust.

Our split trust is designed for use with a combined life and critical illness policy within the LV= flexible protection plan*.

The trust allows:

- payments made if you're diagnosed with a critical illness covered by the policy, or you become permanently and totally disabled to be paid directly to you (the settlor), and
- payments made if you die to be paid to the trust.

This trust should only be used if the amount of life cover included in the policy is less than or the same as the amount of critical illness cover. If the amount of life cover is higher than the critical illness cover then the trust won't be effective for inheritance tax purposes.

* Our split trust can also be used with a life insurance policy that also has terminal illness cover, where you would want to retain the terminal illness payment. However we'd recommend you seek financial advice if you are considering this.

Is the split trust flexible?

Our split trust gives the trustees some flexibility to choose who will benefit from the trust assets, and how much they'll get. When you set up the trust, you name all of the people that you may wish to benefit from it in the future. This can be groups of people such as children or grandchildren or you can name specific individuals. This wide group of beneficiaries are called the 'potential beneficiaries'.

From these potential beneficiaries, you name the person or people that you would want to benefit from the trust assets if they were to be paid out straight away. This person or people are called the 'default beneficiaries'. You must also decide how you want the trust assets to be split between the default beneficiaries. For example, the default beneficiaries could be three children in equal shares.

The trustees then have the power to change the default beneficiaries (the 'power of appointment') to any of the people listed as potential beneficiaries. The trustees (whilst the settlor is still alive) can also add to the potential beneficiaries any other persons or classes of persons. However this must be done by completing a deed, and this requires the written agreement of the settlor (or settlors if there are two of them). The trustees may not add the settlor, the settlor's wife/husband or the settlor's civil partner. The trustees also have the power to change how the proceeds are split between the beneficiaries. The advantage of giving the trustees these powers is that if circumstances change, the trust can be changed to make sure it's still effective.

Also it's important to choose people to act as trustees that you can trust to make fair and reasonable decisions about who should benefit from the trust. For these reasons our split trust isn't right for everyone. So it's really important you think carefully about this, and if you're unsure you should seek advice from a solicitor or a financial adviser.

When can I use a split trust?

You could use a split trust if you:

- want to make sure that any payments made from your combined life and critical illness policy while you're alive go straight to you, and any payments made from it when you die go into trust
- know all the people that you might want to receive the contents of the trust when you set it up (for example, your widow or widower, children, grandchildren, mother, father, brothers or sisters)
- know who you want to benefit from the trust unless circumstances change, and
- want the option to change who will actually benefit from the trust if things do change in the future.

What can I place into a split trust?

Our split trust should only normally be used with a combined life and critical illness policy within the LV= Flexible Protection Plan*. The amount of life cover included must be the same as or less than the amount of critical illness cover. As long as you're the plan owner, you can place a new combined life and critical illness policy into trust when it starts. Or you can put an existing one into trust. This trust is suitable for both single life and joint flexible protection plans.

* Our split trust can also be used with a life insurance policy that also has terminal illness cover, where you would want to retain the terminal illness payment. However we'd recommend you seek financial advice if you are considering this.

What shouldn't be put into a split trust?

You shouldn't usually put separate life cover and critical illness cover or any other type of life protection or investment policy into a split trust.

Survivorship clause

What is a survivorship clause?

A survivorship clause allows a surviving settlor to benefit from the proceeds of a trust if they survive 30 days from the death of the first settlor to die. If both settlors die within 30 days of each other, then the trust property reverts to the beneficiaries as detailed in the trust.

Example

Harry and Anna are married with two children. They have taken out a joint life first death life insurance policy to give them some financial security, should either of them die. But they're concerned about the potential inheritance tax liability on their joint estate, if they died at the same time (for example, in a car accident).

By including the survivorship clause within the trust, Harry and Anna can ensure that if they both die together, the lump sum paid out will be held in trust for the benefit of their children, and not form part of their estate for inheritance tax planning. But if one of them survives the other by 30 days, they'll receive the money to help support their family.

When can I use the survivorship clause?

The survivorship clause is intended for use only in specific circumstances:

- two plan owners (we call this joint settlors when we're talking about the trust)
- either a joint life first death life insurance policy, or a single life insurance policy (under our Flexible Protection Plan only)

You shouldn't include a survivorship clause for any of the following:

- Single settlor trusts (whether the cover is single life or joint life).
- Savings plans.
- Investment bonds

Please note that you can use our trusts with or without the optional survivorship clause.

How do I add the survivorship clause to my trust?

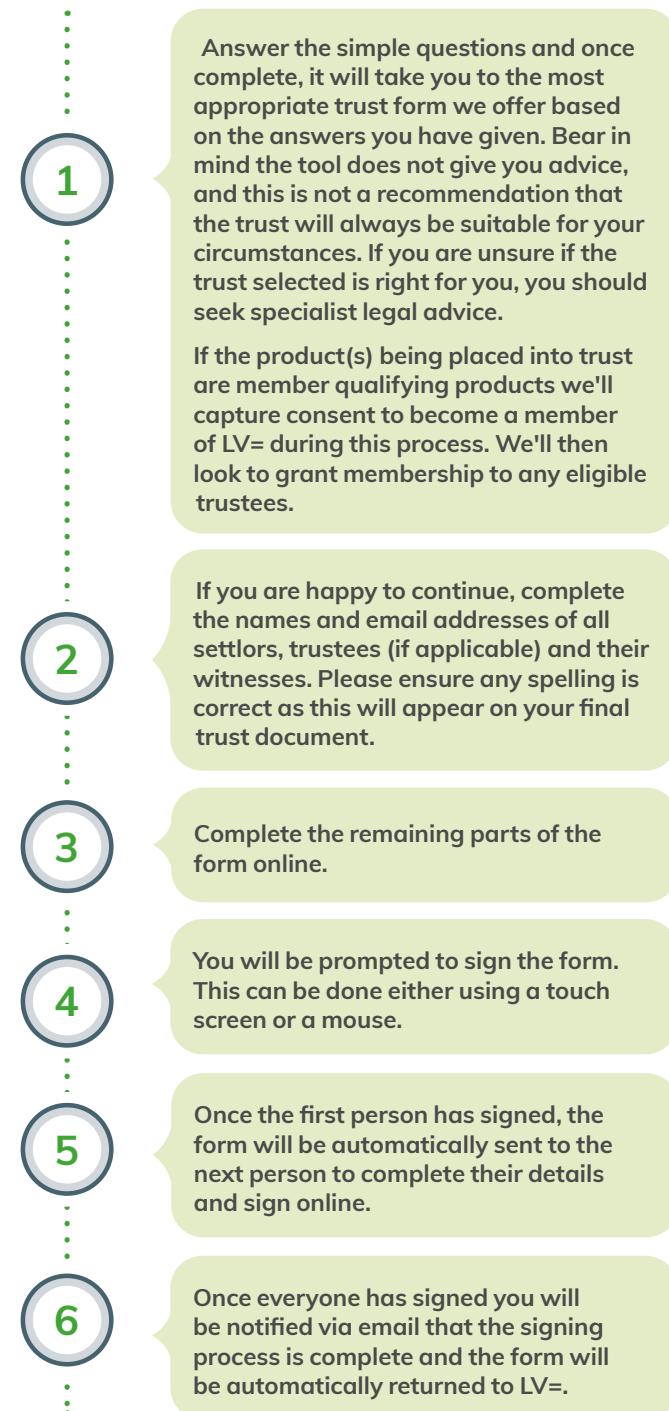
The survivorship clause is an 'opt in' option. This means that you actively need to select this if you want it to apply. We've explained how to do this in the Guidance Notes for each of our deeds. Please note that you can only choose to include the survivorship clause when you set up your trust. You cannot add this at a later date. If you add this in error, you won't be able to change it later on.

Online trusts for Personal 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?



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 our records to show that your policy, or policies are in trust. We'll then send you confirmation along with an original copy of the we'll then update our records to show that your policy, or policies are in trust 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 personal protection:

- Fixed Trust Deed
- Flexible Trust Deed
- Split Trust Deed

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?

Every person will need a witness when signing the online trust form for personal protection policies. 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?

- **Pension Term policies** - These policies were written under special rules, and have certain tax advantages. If your policy is written under these rules it's likely to be called Pension Term Assurance, Pension-Linked life cover, or Life Protection with Tax relief. If you have one of these policies you must not use our online tool, as the trusts provided aren't suitable for this type of policy. Instead please call us on 0800 678 1906 and we can provide a paper version of the appropriate trust deed.
- **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.
- **Standalone critical illness policies** - There is no need to put this policy into trust if you want to receive your critical illness benefit, rather than it being paid to beneficiaries under a trust. If you are the policy owner, it will be automatically paid to you.
- **Funeral benefit option** – With our old 50 Plus plans there is an option called the Funeral Benefit option. If you've taken out this option you can't then put your policy in trust unless you decide to remove it but you will lose any additional benefit that it provides. If you're not sure whether this applies to you, please contact us, and we'll be able to tell you if you've taken out this option.

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](#). 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.

Important

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 as well, so they allow you to retain some control over your policy. This is because once it's put in trust the ownership of your policy passes to the trustees. So if you weren't a trustee as well you wouldn't be able to make any changes to your policy once it's been put in trust.

Although as a settlor you can also be a trustee, you can't also be a beneficiary. But it is possible for any other people you've chosen as trustees to also be beneficiaries if you like.

If you want a trust deed where the settlor is not automatically included as a trustee, please speak to your financial adviser.

Do trustees have to live in the UK?

No, but it can present difficulties if they don't. 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 you were the settlor and only trustee and you 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. Also for some of the trust provisions to be used you will need at least two trustees in place, one of whom is not one of the settlors.

Our trust deeds automatically make the settlor a trustee, and allow for up to four trustees in total (including the settlors). You can have more than four trustees, but our online trust tool only allows for four in total, so if you want more trustees, don't use our online trust tool, and speak to a financial adviser or a solicitor instead. Because any decisions about your policy need to be agreed by all of your trustees it's worth bearing in mind that the more trustees you have the longer it might take to reach an agreement.

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.

Important

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.

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.

What happens if the settlor(s) or one of the trustees lacks mental capacity to exercise their powers under the trust?

Under our trusts the settlor (or the settlors together if there are two of them) has the power to remove trustees and doesn't have to give a reason, provided there are at least two trustees remaining. So in this case the settlor could remove a trustee who lacks mental capacity and is unable to act.

However if the settlor lacks mental capacity, then their powers to add and remove trustees pass to the remaining trustees. In this case the trustees can remove a trustee who lacks mental capacity; so long as after that trustee has been removed there are at least two trustees in place at all times (so this may mean the trustees have to appoint a new trustee to replace the trustee who has been removed).

Under our trusts a person "lacks mental capacity" if they lack capacity (within the meaning of the Mental Capacity Act 2005) to exercise the powers which that person would otherwise be able to exercise under the provisions of this trust. The lack of capacity must have been confirmed to the trustees in writing by a registered medical practitioner who is experienced in mental capacity assessments. It is for the trustees to obtain the evidence of this to support the removal of the trustee, or to take over the settlor's powers.

Please do not send this medical evidence to us.

Instead should a trustee need to be removed without their consent (including removing someone who lacks mental capacity), or to take over the settlor's powers, the trustees will need to seek their own legal advice to arrange for the appropriate documentation to be completed and send to us, to update our records.

Can I change the beneficiaries at a later date?

This depends on the type of trust you have. If you have a fixed trust then you can't change the beneficiaries at a later date.

If you have our split trust or flexible trust then the trustees can change the 'default beneficiary' to any one of the listed 'potential beneficiaries'. If the trustees want to do this, please contact us, and we can provide the relevant forms for you to complete, and send back to us.

The trustees (whilst the settlor is still alive) can also add to the potential beneficiaries any other persons or classes of persons. However this must be done by completing a deed, and this requires the written agreement of the settlor (or settlors if there are two of them). The trustees may not add the settlor, the settlor's wife/husband or the settlor's civil partner.

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.

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

Yes you can. Scottish law will apply to the trust if the address of each of the settlors is in Scotland when the policy is put into trust. If the trust is established under Scots Law, then the age of legal capacity for a beneficiary is 16, and also the minimum age for a trustee is 16.

Will income tax apply to the policy proceeds if they're held in trust?

For life insurance policies that only pay out on death, income tax won't apply.

Will inheritance tax apply?

One of the main benefits of placing a life policy in trust is that it won't normally be included in your estate for inheritance tax purposes. Also for most life insurance policies the premiums that you pay will usually be exempt, because the premiums are usually paid from your normal income. Exempt gifts are not subject to inheritance tax.

If you're concerned about inheritance tax you should speak to a financial adviser or a solicitor before you put your policy in trust.

How does the survivorship clause affect inheritance tax on a life insurance policy?

The survivorship clause is considered in legal terms as a 'reversionary interest'. This means that you retain an interest in the trust property.

If one settlor survives the other by 30 days the amount of cover is paid to the survivor. The amount paid out is not included in the deceased's estate for inheritance tax purposes. However, it will form part of the surviving settlor's estate on their death.

If both settlors die within 30 days of each other the amount of cover is paid to the trustees for the benefit of the beneficiaries. The lump sum paid out isn't included either of the settlor's estates for inheritance tax purposes.

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.

We've got a joint policy and we want to put it in trust. Can we name ourselves as beneficiaries?

No. Our trust deeds exclude any settlor from being named as a beneficiary of the trust. If you put a joint life first death policy into trust, then the survivor of you won't be able to benefit from the trust. But you can set up your trust to include a survivorship clause, which we explained in 'What is a survivorship clause?' earlier in this guide.

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 about membership of LV= if my policy is placed into trust?

By placing a product into trust you give up ownership of it as well as any associated membership rights. Where one or more of the products being placed into trust is provided by Liverpool Victoria Financial Services Limited (LV=) (or previously Liverpool Victoria Friendly Society Limited), LV= will look to grant membership to the eligible trustee(s) in accordance with the membership rules set out in LV='s articles of association.

We have included the required wording to consent to membership within in the draft trust deed, so that you can provide us with the necessary consent wording if you are an eligible trustee(s) and wish to become a member.

Do I need to register my trust with the Trust Registration Service (TRS) if it only contains protection policies (for example a life insurance or critical illness policy)?

Where a trust only holds protection policies they do not need to be registered with the TRS, when the trust is set up. However when a claim is paid the trust may then need to be registered. This depends on the type of claim. If the claim being paid is a death claim, the trustees have 2 years in which to pay the proceeds to the beneficiaries before the trust needs to be registered. Once it needs to be registered you as trustees will have 90 days to do this.

If the claim is a critical illness or terminal illness claim, and the proceeds are paid to you as trustees, you as trustees have to register the trust with the TRS within 90 days of the claim being paid. However if you as trustees direct us to pay the proceeds of a terminal illness or critical illness claim directly to the beneficiaries, then the trust would not need to be registered for that claim. This is because, if benefits are paid direct to a beneficiary at no point has the trust held any asset other than the insurance policy and so it remains exempt from registration.

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.

Potential beneficiaries - under our split trust and flexible trust these are the groups of people who you might want to benefit from the trust in the future. This term only applies to our split trust and flexible trust. It does not apply to our fixed trust.

Default beneficiaries - under our split trust and flexible trust these are the people you choose who you would like to benefit from the trust if you were to die as soon as you've set it up

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 our range of personal 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 2024. 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 or large print by contacting us.

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