

A guide to trusts and being a trustee

The benefits and uses of a trust



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Important:

The information in this guide is based on our understanding of the law as it applies in the United Kingdom and HM Revenue & Customs practice, which is subject to change. We can't accept responsibility for any liability that may arise as a result of any action taken or not taken as a result of this information. This guide doesn't constitute legal or tax advice. In addition, tax benefits depend on individual circumstances.

You should note that trusts create binding legal commitments which in most cases result in a permanent change in ownership of your plan. To be fully aware of the implications of a trust, please seek advice from a qualified financial adviser.

We strongly recommend you get independent advice before you take any action.

Fast facts about trusts

Putting your plan in trust doesn't need to cost you anything, can avoid a delay in benefits being paid out and may help with inheritance tax planning. Or to put it another way, a trust makes sure the right money goes to the right hands at the right time.

Throughout this guide you'll learn more about trusts as well as the important role of being a trustee. But to start, here are some quick facts about trusts.



Trusts can:

- Allow your family to benefit from your protection plan.
- Allow you to choose who you want to benefit.
- Allow you to change who should benefit.
- Give your family access to benefits without delay.



But they don't:

- Mean you give up control of your assets.
- Have to cost you anything, or be difficult to set up – you can get help from your adviser.

Could you use a trust?

A trust is a way of choosing who will receive the benefit of an asset (like your protection plan with us), without giving them full and immediate control over it.

A trust is usually created by a document – the trust form – which names the people involved and sets out the terms of the trust.

Who is involved in setting up a trust?

You, as the person creating the trust, are known as the donor. If you take out a jointly owned plan, then both of you will be donors. The people who manage the trust are known as the trustees. Under the trusts we offer, you as the donors are automatically trustees.

You should name at least one other trustee, preferably two, to help you administer the trust. This makes sure that when you die there are people to deal with the trust.

The beneficiaries are the people who you want to benefit from the trust. The beneficiaries are identified in the trust form but we won't deal directly with them. This is why you should appoint at least one other trustee. If you don't appoint another trustee we won't be able to pay out any death benefit from your protection plan quickly.

How to place your plan in trust

You can place your plan under trust either as part of the online application process carried out by your adviser or by using one of our paper trusts.

Under the online process, you confirm to your adviser that you want to create a trust. The adviser will then submit your trust request detailing the trustees and beneficiaries you wish to nominate. Once the application has been submitted the trust will be in place and Royal London will send copies of the trust request to you, as the donor of the trust, your adviser, and each trustee you have appointed.

Within the paper trust, just like the online trust request, you will appoint trustees and indicate who you wish to benefit. But unlike the online process you, as the donor, must send your nominated trustees a copy of the paper trust so that they are aware of their appointment.

Before appointing trustees, under either option, you should speak to them to make sure that they are happy to take on the role.

What are the benefits?

One of the most common reasons for taking out a protection plan is to provide for your family after you die. By writing the plan in trust, you can make sure that the proceeds of the plan are paid to them without delay.

Getting the money when it's needed most

If your protection plan isn't under trust, your personal representatives (the people you have asked to deal with your estate after you die) will need to get the appropriate 'grant of representation' before they can claim the benefits under the plan. This process is known as 'probate' in England, Wales and Northern Ireland or 'confirmation' in Scotland. Probate is the legal process of confirming who can deal with the estate of a person who has died before the assets of the estate can be distributed according to the terms of their will. If someone dies without leaving a will, they're said to have died 'intestate'. Their estate will be divided according to rules known as the 'laws of intestacy'. This can be a long process and can take several months. In the meantime, your family could be dealing with financial difficulties following your death.

By placing your plan under trust, the need for probate will be avoided as long as there's at least one surviving trustee when you die. This is because the trustees are the legal owners of the plan, and can deal with the trust property immediately, making sure your chosen beneficiaries don't suffer financially after you die.

Tax planning

By placing your protection plan into trust you can manage your Inheritance Tax (IHT). Currently, IHT is payable at a rate of 40% on estates valued over £325,000, although gifts to your spouse or civil partner aren't included. This means estates, when they have the value of any life assurance plan added, that takes them over the £325,000 threshold may have to pay IHT.

A married couple or civil partners can combine their IHT thresholds when the second person dies if the first person to die didn't take full advantage of their own threshold. For example, if the estate was left to their surviving spouse. Any unused allowance can be transferred to a surviving spouse.

As well as managing IHT, you can use a trust and protection plan to make sure your family has funds available to pay any liability that can't be avoided. This will stop them having to take an expensive loan or even sell the family home to pay any owed tax after you die. Your adviser can tell you more about the types of trust available and the tax effects each of them will have.

Frequently asked questions

Can I benefit from the trust?

Some trusts do allow you to benefit but others won't, your adviser will be able to help. Under some of our trusts you are allowed to keep some covers for yourself for example critical illness and gift other covers such as death benefit or terminal illness.

Can I change my beneficiaries?

Under our discretionary trust there is a pre-printed class of discretionary beneficiaries that includes spouse, partner, children, grandchildren and so on.

You, as the donor can add to this class when setting up the trust, or at a later date if you prefer, by nominating additional discretionary beneficiaries to the trustees in writing.

You can also prepare a letter of wishes to guide the trustees as to which discretionary beneficiaries you'd like to receive the benefits. Just remember that the letter of wishes isn't binding on the trustees. Ultimately, it's the trustees who will choose who receives the benefits, so it's important that trustees are chosen carefully.

Under a bare trust the beneficiaries are fixed and cannot be changed in the future. If you think that you may need to change the beneficiary in the future then you shouldn't use a bare trust.

Your adviser will be able to help you decide which trust is most suited to your needs and can tell you about any possible tax implications.

Who do I appoint as additional trustee(s)?

As the word suggests, a trustee should be someone you trust. For example, your partner, spouse, civil partner, another family member, a close friend, or your family solicitor. Trustees must be over 18, mentally able to understand their actions and mustn't be bankrupt.

If required by the trust document, trustees should sign the trust form to acknowledge their appointment. In accepting their appointment, trustees must carry out certain obligations and duties.

What are the duties of trustees?

Typically, trustees' main duties start if and when the plan inside the trust pays out. Under a discretionary trust the trustees will then need to decide who is to receive the proceeds or whether to keep funds inside the trust for the moment. Having this ability could help where a beneficiary is going through a divorce or bankruptcy. The trustees can delay payment until after the divorce has been finalised or the beneficiary has been discharged from bankruptcy.

With a bare trust if the beneficiary is over 18 the trustees' sole duty is to pay the benefits to the named beneficiary. However, if the named beneficiary is under 18 then the funds are kept within the trust, until the beneficiary is 18.

If proceeds are kept inside the trust, then our trust forms provide the trustees with wide powers of investment.

Trustees may delegate powers of investment and management to someone else. This means they can ask someone else to act on their behalf to invest the trust property. However, they can't allow anyone else to make decisions or distribute income or capital to beneficiaries.

Trustees should obtain and consider proper advice before exercising powers of investment. This requirement doesn't apply if it's deemed unnecessary or inappropriate to do so. For example, if the trust fund was small and the cost of advice outweighed the benefits, or if the trustee was already suitably qualified.

Can a trustee also be a beneficiary of the same trust?

A trustee can also be a beneficiary but it is important to remember that a trustee cannot pay themselves without at least one other trustee, who isn't receiving any benefits, to authorise the payment.

However, under our discretionary trust where there is only one trustee and that trustee is your spouse or partner the trust allows them to pay the benefit to themselves without the need to have another trustee.

Trustees' responsibilities

The trustees may need to register the trust with HMRC's Trust Registration Service. With protection plans the trust only needs to be registered following a claim. Following your death if the trustees have not distributed the benefits within 2 years, the trust must be registered. For all other claims such as on diagnosis of a critical illness the trust must be registered within 90 days of the claim being paid.

For more information on when and how to register a trust go to gov.uk/guidance/register-a-trust-as-a-trustee or speak to your financial adviser.

Can I change my trustees?

Yes, during your lifetime you have the power to appoint and remove trustees. To remove a trustee who is unwilling to sign you can send a notice of removal in writing to them at their last known or usual address.

Where you wish to appoint new trustees or a trustee wants to retire and is willing to sign we can provide standard paperwork.

Remember that if a trustee retires or is replaced, a new trustee may need to be appointed as after a change in trustees there must be at least two individual trustees remaining.

What sort of protection plans can be put under trust?

Generally, all our plans can be put in trust although it may not always be appropriate to do so. For example, a plan written purely to repay a mortgage wouldn't be written in trust if it was to be assigned to the lender.

The right trust to use will depend on the type of plan, why you are taking it out and who you want to benefit from it. Your adviser can explain what trust to use in different circumstances.

Do I have to take out a new plan to put it under trust or can I use an existing one?

You can put both new and existing personal protection plans under trust. Business protection and relevant life plans can only be written in trust from the start.

How do I put a plan under trust?

Once you and your adviser have decided the most suitable plan for you, you then need to discuss if a trust is the right solution for you, and if so, which one. If you're writing your policy in trust from the outset, then your adviser can complete this for you as part of your online application. All you need to do is give them the names and addresses of the people you wish to be trustees. For personal protection policies that have already started, your adviser can help you complete a paper or PDF trust form. Whilst our draft trusts are provided free of charge and are designed specifically for use with our plans you need to make sure that your chosen trust is suitable for your needs.

Alternatively, you can arrange for your own trust to be drafted to meet your own specific needs. For this you'll need to contact a solicitor who'll charge for this service. In any case, if you're not sure whether the trust is suitable to your particular circumstances, we strongly recommend you get professional legal advice.

What trusts do we offer?

1 THE DISCRETIONARY TRUST

With a discretionary trust there is a list of beneficiaries which includes spouse, partner, children and so on, who could benefit. During your lifetime you, as the donor, can give guidance to the trustees on who you would like to receive the benefits. However, it's the trustees who will decide who will benefit, by how much and when.

This trust can be completed online by your adviser as part of your application with no need for signatures. Alternatively it can be completed as a paper form.

2 THE BARE TRUST

As the name implies the bare trust (sometimes known as a fixed or absolute trust) allows you to name one or more beneficiaries. Once you have decided on your beneficiaries you can't change your mind. So, you need to be happy that if your circumstances change you won't be able to change the beneficiary. If you think that you may want flexibility a discretionary trust may be more suitable.

3 OUR TRUSTS

Both the discretionary and bare trusts allow you to keep some benefits for yourself. These may be referred to as "split trusts". The death benefit and terminal illness benefit will be held for the beneficiaries (gifted fund). Whilst critical illness and total permanent disability will be held for your benefit (retained fund). When setting up the trust, you will be able to choose whether to gift these retained benefits.

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**TRUSTS FOR
JOINT LIFE
PLANS**

Both our discretionary and bare trusts can be used with joint life first death plans. By default, the surviving owner will benefit if they are still alive 30 days after the first death. However, if both of you die at the same time or within 30 days of each other, the proceeds will pass to the beneficiaries of the trust and will not be part of either of your estates for IHT purposes.

There will be situations where the survivor doesn't want to benefit, for example joint life second death plans. As such both trusts do have the flexibility to opt out of the survivorship clause. If the survivorship clause is not the right option for you both of you can choose to have the benefits paid directly to the trustees.

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**THE BUSINESS
TRUST**

The business trust is specifically designed for business protection plans (partner, member and shareholder protection). The partner's, member's or shareholder's plan can be written under trust, with the beneficiaries being the other partners, members or shareholders in the business. This makes sure surviving co-owners have the funds to buy a deceased or ill person's share in the business and don't end up with an unsuitable partner, member or shareholder. This could be the surviving spouse, children, or unwelcome third party. In other cases, they may reintroduce the funds back into the business. This trust can be completed online by your adviser as part of your application with no need for signatures. Alternatively it can be completed as a paper form. In either case it must be completed before your plan starts. This trust cannot be used with existing business menu plans.

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**THE RELEVANT
LIFE PLAN
(RLP) TRUST**

The RLP trust can only be used with a relevant life plan. This is a plan set up to provide a death in service benefit for employees. The plan is applied for by the business and must be written under trust from the start, with the beneficiaries being the employee covered and their family. Speak to your financial adviser for more information.





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