Life cover trust - guidance notes

The Exeter Life Cover Trust is provided for use with our life cover policies.

It is for use with single life policies only.

The Policyholder can retain the benefit of any terminal illness benefits if wished.

Guidance notes

Please read carefully – you are responsible for making sure that the application is completed correctly.

A gift

By making this application you are giving all the benefits of your policy away in the event of your death. However, you keep some control over them as a Trustee. Terminal illness benefits will only be paid to the Trustees if you tick the box to say that you want this to happen

Flexibility

The Trust is designed to allow for changes in your family circumstances. When you complete the application, you name the people you want to benefit from the policy. They are called 'Default Beneficiaries'. However, you and your additional Trustees can later change who you would like to benefit. The new person(s) can benefit instead of or as well as those already named. You also have some flexibility to change Trustees and can remove any Trustee(s) as long as two other Trustees remain.

Payment to beneficiaries

The Trustees can pay the benefits to any of the Default or Potential Beneficiaries, as they think appropriate. A wide range of Potential Beneficiaries is already listed in the Definitions section and includes your spouse and various family members. The Trustees have up to 125 years from the date you sign the Trust deed to decide who to pay the benefits to (including themselves if they are Potential Beneficiaries). If by the end of that time they haven't paid out the benefits or appointed them to anyone, they must pay them to the Default Beneficiaries. (This is why they are called 'Default Beneficiaries' – in default of the Trustees appointing the benefits earlier.)

Additional trustees

It is important you appoint at least one additional Trustee to act with you as soon as possible, so the proceeds of the policy can be paid quickly on your death. Ideally, you should appoint two additional Trustees who are likely to survive you, to ensure that the policy proceeds can be paid without Probate in the event of your death. Also, two Trustees are normally needed for appointing benefits to Potential Beneficiaries.

Choosing additional trustees

Any individual you can trust, usually a close friend or relative, can be a Trustee. A bank or solicitor can also be a Trustee, but they may make a charge for this service.

Ideally, you should choose two additional Trustees who are likely to survive you. This will ensure that a claim on the policy can be dealt with quickly and efficiently. For similar reasons all Trustees should be UK resident. To be a Trustee, you have to be aged 18 or over.

A Beneficiary may also be a Trustee, but must be careful to act fairly to all other Beneficiaries.

You, as Settlor, may not be a Beneficiary.

Trustees' duties and responsibilities

The Trustees must consider the interests of all Beneficiaries and are accountable to them, so it's very important for the Trustees to keep accurate and up-to-date records. They must look after the Trust property (initially the policy) and then regularly review, and take advice on the investments under Trust.

The Trustees are the legal policy owners and will deal with The Exeter in future. For example, if it's necessary to amend the policy, all the Trustees will need to sign an authority for any change to the policy.

In the event of a claim, the Trustees must deal with The Exeter and pay out the benefits to the Beneficiaries or reinvest the proceeds on their behalf.

It's important that all Trustees must be in agreement.

Changing trustees

It is possible to change the Trustees in future, for example if one of them dies or moves abroad.

Please contact us to request a form if you would like to change trustees.

Tax summary

Any references to the tax treatment for the Life Cover Trust are based on The Exeter's understanding of the legislation and HM Revenue and Customs (HMRC) practice at the time of publication. Both of these are likely to change in the future, and a liability to tax may arise under an existing arrangement.

Every care has been taken as to accuracy but neither The Exeter or its representatives can accept responsibility for loss, however caused, suffered by any person who has acted or refrained from acting as a result of material published.

Inheritance tax

Putting a regular premium policy in Trust means that the proceeds of the policy are likely to be free from Inheritance Tax on your estate. However, as your policy includes terminal illness benefits there are Inheritance Tax consequences of not claiming entitlement to terminal illness benefits and you should seek appropriate specialist advice.

Putting a policy in trust may be treated as a chargeable lifetime transfer by HMRC. This means that if the value of the premium (plus any other chargeable gifts made in the seven years prior to setting up this Trust) is greater than the current IHT nil rate band, an immediate tax charge may be payable. This tax charge is primarily payable by the Trustees. If the value of the non-exempt cumulative total is less than the nil rate band, there will not be an immediate tax charge. Or if certain other reliefs are available. However, if this value is greater than the nil rate band and no relief is available, the charge is 20% of the value that exceeds the nil rate band.

Some tax may also be payable by your Trustees at ten yearly intervals, known as the "periodic charges". A periodic charge is payable at those anniversaries of setting up the Trust, only if the value of the Trust Fund comes to more than the Trust's nil rate band. In some cases the Trust may not have a full, or indeed any, nil rate band available, in which case the maximum charge at these anniversaries (under current legislation) will be 6% of the Trust Fund. In most cases the effective charge will be less than 6%. The Trustees can pay this tax from the Trust Fund.

Tax may also be payable when assets are distributed out of your Trust to Beneficiaries. The rate of tax will be largely dependent on the rate payable at the previous ten year anniversary. This tax will be payable by the Beneficiaries.

In order to avoid potential tax problems, no-one who is a Default or Potential Beneficiary should pay any premiums under the policy, neither should the premiums be paid from a bank account held jointly with your spouse.

Please note that tax rules can change. The above guidance is based on our understanding of the relevant legislation at the date of going to print.

If you are in any doubt:

- **as to whether the Trust is suitable for your requirements, please consult an independent legal adviser, or**
- **about the possible tax liability, please contact your professional tax adviser.**

We are only supplying standard Trust documents and we cannot provide advice on their suitability or the consequences of using them in any individual circumstance.

Contact us

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