

Discretionary Trust



IMPORTANT NOTES

1. Before setting up the Trust, make sure that you understand the terms of the trust and how it works. Take a look at our Discretionary Trust Guide for further details. If you're in any doubt, you should seek legal or tax advice as needed.
2. We recommend that the Settlor speaks to their appointed trustees when completing this declaration.
3. The Settlor is the person who is creating the trust. Once they put their life policy into a Trust, they no longer personally own it as it belongs to the trustees. However, they automatically become one of the trustees. This means that they keep control over the policy and continue to make the payments for it. When the Settlor dies, the trustees will make any claims on the policy.
4. It's generally a good idea to have at least two Trustees at any time. If you're the sole Trustee, it's likely to cause delays with payments made on your death. Care should be taken when choosing Trustees. The people appointed must be 18 or over and of sound mind. The Trustees should be people who the Settlor believes will act in the best interests of the Beneficiaries.
5. Once you've set up the Trust, you may wish to include a letter of wishes. This will give guidance to the Trustees on how to distribute the policy proceeds. A draft is available from legalandgeneral.com
6. This is a split Trust. That means that any benefits for critical or terminal illness claims will be paid to you (known as 'retained benefits'). While any claims for death benefits will go to the trustees (known as 'gifted benefits'). We'll only pay out on the policy once.
7. There can be inheritance tax charges to be aware of during the life of the Trust. We recommend you read our Discretionary Trust Guide for more information.
8. The legal and tax implications of the Trust will depend on your personal circumstances. Legal & General aren't responsible for making sure that the Trust meets your specific needs. This document should be reviewed by you and your legal advisers.
9. If the Trust, Trustees or Settlor are resident for tax purposes anywhere other than the UK, you must also complete the Trust/Entity Self-Certification Declaration Form and send this to us.
10. Legal and General has drafted this Trust to reflect the law as at the date of publication. Legal and General and its advisers cannot accept any responsibility for loss, damage or other claim that may arise from setting up a Trust. We recommend that you speak to your own legal or tax adviser before proceeding.

Discretionary Trust

The Settlor and Trustees should read the Important Notes.

A

Date of Trust

THIS DECLARATION OF TRUST is made on the _____ day of _____ 20____ BY the Settlor.

B

Definitions

The settlor is the person who is creating the Trust.

Please insert the name and address of the settlor.

Name

Address

Postcode

Date of birth
(DD/MM/YYYY)

Email

The settlor will automatically be a trustee. It's important that at least one additional trustee is named.

Name

Address

Postcode

Date of birth
(DD/MM/YYYY)

Email

1. The 'Settlor'

2. The 'Additional Trustees'

Additional Trustee 1

Additional Trustee 2

Additional Trustee 3

Additional Trustee 4

Please add the details of any individual(s) to be added as a beneficiary that aren't already included in the list above.

Don't add an excluded person.

If you wish to include more than two individuals or add a class of persons (such as children), use a continuation sheet. A draft is available from Legal & General.

'Gifted benefits' are the death benefits that go to the beneficiaries.

'Retained benefits' are the critical illness or terminal illness benefits that go to the Settlor.

Name
Address
Postcode

3. The 'Trustees'

The 'Trustees' shall mean the Settlor and the Additional Trustees and any other Trustees for the time being of this Trust.

4. The 'Beneficiaries'

- 4.1 Any spouse widow or widower of the Settlor provided that person is not a Settlor.
- 4.2 Any child or grandchild of the Settlor whenever born (including stepchildren and their issue).
- 4.3 Anyone descended from the father or mother of the Settlor.
- 4.4 Any surviving spouse (whether or not remarried) of anyone described in sub-clauses 4.2 and 4.3.
- 4.5 After the death of the Settlor anyone who may benefit from his or her residuary estate.
- 4.6 Any person class of person or any charity named in a deed of addition made by the Settlor during his lifetime.
- 4.7 Any additional Beneficiary.

'Additional Beneficiaries'

Additional Beneficiary 1	Additional Beneficiary 2

5. The Gifted Benefits and the Retained Benefits

- 5.1 The Settlor gives the Policy to the Trustees to hold on trust subject to the powers and provisions of the Trust as set out in this settlement.
- 5.2 The Settlor irrevocably disclaims any lien or charge over the Policy for the repayment of any premium.

6. Excluded Persons

- 6.1 The Trustees may at any time or times during the Trust Period, declare by deed or deeds that the objects or persons or classes of objects or persons named or specified (whether or not ascertained) in such deed who are, would or might, but for this clause, be or become Beneficiaries or otherwise able to benefit, as the case may be, shall, in relation to the whole or any part of the Trust Fund, be excluded from benefit (both direct and indirect) and shall be known as 'Excluded Persons'.
- 6.2 The power conferred by sub-clause 6.1 shall not be capable of being exercised so as to take away any interest to which any of the Beneficiaries has previously become indefeasibly entitled.
- 6.3 Any declaration made pursuant to sub-clause 6.1 may be revocable, during the Trust Period, or irrevocable to take effect before the end of the Trust Period and shall have effect from the date (not being a date earlier than the date of such instrument) specified in the instrument.
- 6.4 The Settlor shall be an Excluded Person and this exclusion shall not be revocable.

7. The 'Trust Fund'

The Trust Fund means the Policy set out in the Schedule to this settlement together with any and all other property at any time added to this Trust by way of further gift, capital accretion, accumulation of income or otherwise and all assets from time to time representing the same.

8. The 'Trust Period'

The Trust Period means the period of 125 years beginning with the date of this Trust.

9. Construction

- 9.1 In this settlement words importing the singular shall include the plural and vice versa. Words importing a gender include every gender.
- 9.2 The notes in the margin are for the purposes of information only and shall not be used in the construction of the Trust or any part of it.
- 9.3 'Charity' means a trust or corporation, association, society or other institution established only for charitable purposes in accordance with the governing law of the Trust.
- 9.4 'Gifted Benefits' means all of the benefits under the Policy other than the Retained Benefits and include any Accidental Death Benefit cover [that Legal & General may give under any Policy].
- 9.5 Legal & General shall mean Legal & General Assurance Society Limited.
- 9.6 'Policy' shall mean the existing policy as set out in the Schedule, and shall include any variation or amendment to the same.
- 9.7 'Retained Benefits' means any Medical Payment or Service and any benefit payable on a claim arising from the contraction or diagnosis of a critical or terminal illness as defined in the Policy.
- 9.8 'Spouse' shall include a civil partner registered under the Civil Partnership Act 2004 and 'husband', 'wife', 'widow' and 'widower' shall be construed accordingly.

1. Appointing the Trustees

The Settlor appoints the Additional Trustee to act together with the Settlor as Trustees in accordance with the trust's powers and provisions set out below.

2. Declaration of trust over an Existing Policy

The Settlor as the legal and beneficial owner of the Policy declares that the Policy and all the benefits payable under it shall be held by the Trustees under an irrevocable trust subject to the powers and provisions set out in this settlement.

3. Trust Provisions

- 3.1 The Trustees shall hold the Gifted Benefits and the income thereof for the benefit of any one or more of the Beneficiaries upon such trusts (including Discretionary and Protective Trusts) in such shares and with and subject to such trusts powers and provisions (exercisable by any person) as the Trustees shall at any time or times appoint by deed or deeds executed during the Trust Period which may be revocable during the Trust Period or irrevocable.
- 3.2 The Trustees shall have power during the Trust Period to pay, transfer or apply the whole or any part or parts of the capital of the Gifted Benefits as they in their absolute discretion think fit to or for the benefit of any Beneficiary.
- 3.3 Subject thereto:
 - (i) The Trustees may accumulate the whole or part of the income of the Gifted Benefits during the Trust Period.
 - (ii) Subject thereto the Trustees shall pay or apply the income to or for the benefit of such of the Beneficiaries as the Trustees think fit.
- 3.4 Subject to all the trust's powers and provisions of this Trust and if and so far as (for any reason) not wholly disposed of by it the Gifted Benefits shall be held in trust for the children of the Settlor alive at the date of this settlement and if more than one in equal shares failing which for such charity or charities as shall be determined by the Trustees.
- 3.5 The power of appointment in sub-clause 3.1 and the power to apply capital in sub-clause 3.2 shall only be exercisable when there are at least two Trustees or a trust corporation.

4. Bare Trust for Settlor of Retained Benefits

- 4.1 The Trustees hold the Retained Benefits [and any other benefit payable during the lifetime of the Settlor] on trust for the Settlor absolutely.
- 4.2 The Settlor hereby directs the Trustees to consent to and to authorise Legal & General (so far as such consent or authorisation may be sought) to pay or provide any [Medical Payment or Service] to the recipient specified in the Policy [including where relevant the provision of such Payment or Service direct to the Life Assured (as defined in the Policy)].

5. Trustees' Powers

In addition to the powers given to them by law, the Trustees shall have the following powers. The exercise of these powers is subject to the Retained Benefits.

- 5.1 The Trustees may invest any money requiring to be invested (subject to obtaining advice, if required by law) in such manner as if they were absolutely beneficially entitled to the investments.
- 5.2 The Trustees are under no obligation to diversify the Trust Fund.
- 5.3 The Trustees shall have power to effect any life insurance policy on the life of any person or persons, accept assignments of a policy to the Trust and exercise any option under any policy held by the Trustees and to sell, charge, assign or surrender the whole or any part of such policy. For the avoidance of doubt any new policy or increase or decrease of benefits secured by any policy or by any new policy which is effected under any options which are contained in any policy shall be subject to the same Trust as set out in this settlement.
- 5.4 The Trustees shall have power to borrow money on such terms and security as they think fit.
- 5.5 The Trustees shall have power to lend money to any of the Beneficiaries on such terms and security as they think fit.
- 5.6 The Trustees shall have power revocably or irrevocably to delegate any power or powers in making, managing, realising or otherwise dealing with any property comprised in the Trust Fund to any person or persons upon such terms as to remuneration or otherwise as the Trustees may think fit and no Trustee shall be responsible for the default of any such agent if the Trustee in question employed or incurred expense in employing him in good faith.
- 5.7 The Trustees shall have power to instruct any investment or other professional adviser or advisers on such terms as to fees or other remuneration and generally as the Trustees may think fit, and the Trustees may either pay such fees or other remuneration out of the Trust Fund or reimburse themselves out of the Trust Fund if they have paid such fees or other remuneration themselves.
- 5.8 The Trustees may at their discretion and subject to the trusts aforesaid either retain the Policy or deal with the Policy in any manner that they may in their absolute discretion think fit including power (where the Policy so permits but without prejudice to the generality of the foregoing) to surrender the Policy or to convert the Policy in accordance with the options available under the Policy PROVIDED ALWAYS that where the Policy includes the right (a) to increase or decrease the benefit and the premium in accordance with an Index defined in the Policy and/or (b) the right to effect a Policy pursuant to any of the options contained in or available under the Policy then such rights shall be vested in the Settlor. The right to cancel the policy shall also be vested in the Settlor.

6. Administrative Provisions

6.1 Receipt as a full discharge

The Trustees shall have power to pay or transfer any capital or income to be paid, transferred to, or applied for the maintenance, education or benefit of a Beneficiary who is under the age of legal capacity or otherwise under a legal disability to any parent or guardian of that Beneficiary or to such other person on behalf of such Beneficiary as the Trustees shall think fit and the receipt of such person shall be a complete discharge to the Trustees who shall be under no obligation to see to the proper application thereof.

6.2 Payments to Trustees

Any Trustee for the time being (other than the Settlor) shall:

- (i) be entitled to recover all reasonable expenses; and
- (ii) being a solicitor or other person or corporate body engaged in any profession or business be entitled to be paid all usual professional or other charges for business done in relation to the Trust.

6.3 Appointment and Removal of Trustees

There shall be vested in the Settlor the power of removal of any Trustee and a power of appointment of a new Trustee and/or additional Trustee(s). Subject thereto the power to appoint new or additional Trustees shall be vested in the Trustees.

6.4 Missing Trustees

As long as there are at least two other Trustees, if a Trustee cannot be found, after reasonable efforts have been made to find him, the remaining Trustees can discharge the missing Trustee. It is up to the remaining Trustees to decide whether reasonable efforts have been made to find the missing Trustee and no other person shall be under any duty to ensure that it was proper for the Trustees to have exercised their power to discharge the missing Trustee.

6.5 Power to vary administrative provisions

When in the management or administration of the Trust Fund any transaction is, in the opinion of the Trustees, expedient but cannot be effected by reason of the absence of any power for that purpose, the Trustees may by deed confer on themselves either generally or, in the particular instance, the necessary power for the purpose and on the execution of such a deed the Trustees will have such power as if it had been expressly conferred on them by this settlement.

7. Exercise of Powers

7.1

Where two persons are the settlors any powers vested in the Settlor must be exercised jointly during their joint lives and thereafter by the survivor of them.

7.2

None of the Trust powers or provisions shall operate or be exercised so as to allow any part of the Gifted Benefits or the income arising from it to be paid, transferred, or applied directly or indirectly to or for the benefit of the Settlor in any circumstances whatsoever.

7.3

The Trustees shall have power by deed or deeds revocable (whether by the person making such deed or some other person) during the Trust Period or irrevocable wholly or partially to release or restrict the future exercise of any power hereby conferred on them (including this power) whether or not of a fiduciary nature and so as to bind their successors.

8. Protection of the Trustees

No Trustee (other than a professional Trustee) will be liable for any loss to the Trust Fund or part of the Trust Fund at any time unless that loss resulted from personal dishonesty or knowing breach of trust.

9. Governing Law

English law governs the validity of this settlement, and its construction, effects, and administration.

Schedule

This document is designed for use with existing policies only.

Please insert the policy number and the full name of the life insured.

Name of company
Description of policy
Policy number
Life insured

The Policy

Legal & General

I confirm that:

The information provided as part of this trust reflects my instructions. I as the Settlor intend to create a trust over the Policy on the terms of this document. I am aware that the trust will be created with immediate effect and cannot be cancelled. I have been provided with all the information needed to make an informed decision on the suitability of the trust I have chosen.

You must tick the box below in order to create the trust and confirm that you are happy with the content of the document. Once this is done you must email the document for noting to trusts@landg.com

You must tick this box to ensure the Policy is noted under Trust.

Alternative formats

If you would like a copy of this in large print, braille, PDF or in an audio format, call us on **0370 010 4080**. We may record and monitor calls. Call charges will vary.