



For customers

Your guide to our discretionary trust

Holding your protection policy in trust can usually help your beneficiaries access the claim proceeds quickly when the insured person dies, as we won't need to see a Grant of Probate/Confirmation. There can also be inheritance tax benefits.

You can choose to place your Personal Protection and/or Whole of Life policy into our discretionary trust either at the start when you're applying for your cover, or once your policy is already set up. In this guide, we explain what our discretionary trust is and how to create one.

This information is based on our understanding of current legislation, taxation law and HM Revenue and Customs practice, as at May 2021, which may change. Trusts establish legal rights, obligations and entitlements and might have material financial and tax implications for the settlor, trustees and beneficiaries. We explain who these are on the next page.

Aegon UK isn't authorised to provide legal or tax advice, so you should take your own legal and/or other professional advice before setting up a trust, to make sure that it meets your requirements. Our trusts have been drafted for use by UK-resident and domiciled settlors.

If you'd like a large print, Braille or audio CD version of this document, please contact us on 03456 00 14 02 (call charges will vary) or at aegon.co.uk/onlineform We're always here to help, so if you need some additional support from us please let us know.

About our discretionary trust

What's a trust?

A trust is a legal arrangement where an asset is given to the trustees to look after for the beneficiaries.

With our discretionary trust, the asset will be the Personal Protection and/or Whole of Life policy and any pre-completion benefits such as accidental death benefit, house purchase cover and free cover.

Who's involved with our discretionary trust?



Settlor(s)

The **settlor(s)** creates the trust and provides the assets, such as the Personal Protection and/or Whole of Life policy. In this instance, you're the settlor(s). For tax purposes, the person making the policy payments will also be a settlor.



Trustees

The **trustees** are the legal owners of the trust fund and are responsible for managing it in line with the trust terms and powers. You can find out more about the role of a trustee in our [Trustees's responsibilities factsheet](#), which you can download at aegon.co.uk/support

You're automatically a trustee and you can also choose other people to act as trustees. You may like to consider choosing trustees who are younger than you. Before naming (appointing) your trustees, you should speak to them to make sure they're happy to act. You can find out more in the **Choosing trustees** section of this guide.



Beneficiaries

The beneficiaries are the people who could benefit from the trust fund and include:

- your husband, wife or registered civil partner (but not if they are also a settlor);
- your children, grandchildren or great grandchildren and their husbands, wives or registered civil partners;
- any individuals (except for you, as the settlor(s)), including trustees, who you nominate as a possible beneficiary by notifying the trustees in writing of their name, and
- any individuals (except for you, as the settlor(s)) who are beneficiaries under your Will or under the rules of intestacy where there's no Will.

In summary, you set up the trust and either:

- request that we issue your Personal Protection and/or Whole of Life policy to your trustees, or
- you assign (transfer) your existing policy to your trustees.

You choose trustees, who legally own and control the assets in trust, and the beneficiaries of the trust are the people who could benefit from it.

What is a discretionary trust?

A discretionary trust is flexible, as your trustees decide which of the potential [beneficiaries](#) defined in the trust terms and powers will ultimately benefit from the trust fund, and to what extent.

As settlor(s), you can also provide guidance on who you'd like to benefit (and in what shares/circumstances) by writing to your trustees. While this isn't legally binding, it does help your trustees decide who to distribute the trust fund to. You could use our **Expression of wish form**, which you can download from aegon.co.uk/support

Completing an expression of wish form is different to nominating someone to be included as a potential beneficiary, as described in the **Who's involved with our discretionary trust?** section of this guide. When you nominate someone to be included as a potential beneficiary, that just allows the trustees to consider them as a potential beneficiary when they wouldn't otherwise be on the list. An expression of wish, however, is guidance on who you would actually like to benefit.

The trustees can also remove a beneficiary from the list of potential beneficiaries by deed. They might be able to use our [Deed of removal of beneficiaries by trustees](#), which you can download from aegon.co.uk/support

Our discretionary trust is governed by the laws of England and Wales.

Who is our discretionary trust suitable for?

Our discretionary trust is suitable if you want:

- to avoid delays in accessing the claim proceeds, as we won't need to see a Grant of Probate/Confirmation when the insured person dies;
- flexibility over who will benefit from the trust fund, when, and to what extent;
- potential savings on inheritance tax on the claim proceeds, subject to the individual circumstances of the people involved, or
- to make provision for children.

Retained benefits under a Personal Protection policy

With our discretionary trust, you're only placing benefits that become payable on your death or terminal illness into trust for the beneficiaries.

If your policy includes any of the benefits listed below, and the trustees make a valid claim, we'll pay you (as settlor(s)) the claim proceeds – not your trustees. This is because they're what's known as retained benefits.

- Critical illness protection
- Reducing critical illness protection
- Critical illness family income benefit
- Children's critical illness benefit
- Total permanent disability benefit
- Income protection
- Any additional benefits payable as a result of having one of the above benefits

Placing joint-life first death policies in trust

If you're placing a joint-life first death policy into our discretionary trust, the survivorship clause will apply. This means any claim proceeds payable after one insured person dies will be paid to the trustees for the benefit of the surviving insured person, as long as they survive for 30 days. Only if both insured persons die within 30 days of each other, will the claim proceeds be held in trust for the chosen beneficiaries.

We strongly recommend taking professional advice before placing a joint-life first death policy in trust.

How our discretionary trust works



You choose to place your Personal Protection and/or Whole of Life policy into our discretionary trust either at the start when you're applying for your cover, or once your policy is already set up.



You and your **trustees** complete our [Discretionary trust form](#) and send a copy to us – either electronically or by post. You can find full details of how and where to send this to us, on the form.

Your discretionary trust is a legal document which you should keep in a safe place as we might need to see it if your trustees make a claim, or you might need to provide it for other tax or legal purposes. You should also send us a copy as soon as possible, so that we can update our records to show that your policy is in trust.

As the legal owners of your Personal Protection and/or Whole of Life policy, your **trustees** administer the trust, in line with the trust's terms and powers and trust law.



Your **trustees** decide which of the potential **beneficiaries** ultimately benefit from the trust fund.

It's important you recognise that trusts create legal entitlements and obligations and have material financial and taxation implications. Once established, they can't simply be ignored.

Completing our discretionary trust form

If you're creating a trust at the start when you're applying for cover, you should complete **Part A**.

If you're assigning (transferring) a policy that's already set up into our discretionary trust, you should complete **Part B**.

Parts A or B can be completed in one of three ways:

1. Complete **sections 1 and 2 electronically** by typing the details into the appropriate boxes. You and your trustees can then each sign **section 3 electronically** by typing your full names into the appropriate signature boxes. You'll need to email the form to each of your trustees so they can sign **section 3** electronically. Once you've collected all their signatures, you should send a copy to us using one of the electronic methods shown on the form.
2. Complete **sections 1 and 2 electronically** by typing the details into the appropriate boxes, then print out the form so you and your trustees can each sign **section 3** using a ballpoint pen. You'll need to meet with your trustees to get them to sign **section 3**, or send them it in the post to sign. Once you've collected all their signatures, you should send a copy to us at the address shown on the form.
3. Print the form out and complete all sections using a ballpoint pen. You and your trustees must each sign **section 3**. You'll need to meet with your trustees to get them to sign **section 3**, or send them it in the post to sign. Once you've collected all their signatures, you should send a copy to us at the address shown on the form.

The settlor(s) and all trustees must use the same method for signing **Parts A or B**.



Choosing trustees

Who can be a trustee?

As settlor(s), you're automatically a trustee(s) of the discretionary trust. You can also choose individuals and/or limited companies to act alongside you as trustees.

You can choose an individual to be a trustee, as long as they're aged 18 or over and are of sound mind. You can also choose a limited company or trust company to be a corporate trustee.

A beneficiary can also act as a trustee, however you should consider if this could create a conflict of interest.

All trustees must act in the best interest of all the beneficiaries and should act impartially.

How many trustees should there be?

We suggest having at least two individual trustees, or one corporate trustee (with more than one director) at any time. Having more than one trustee helps to make sure that there will always be a continuing trustee to act, if one or more of the trustees die.

With our discretionary trust, you can choose to appoint up to an additional four trustees to act along with you.

What's the lead trustee?

The lead trustee is the person we'll communicate with about the policy. It's their responsibility to keep all other trustees updated. Although we communicate with the lead trustee, trustees have to make decisions unanimously and all have to act together to instruct us.

As the settlor(s) you will automatically be the lead trustee(s).

If the trustees want to change who the lead trustee is, they should get in touch with us.

Who can add new trustees?

You, as settlor(s), have the power to name (appoint) additional or replacement trustees. If there are two settlors, you must use (exercise) this power jointly - if one of you dies, the survivor will continue to have this power. After all settlors die, your trustees will have the power to appoint new or additional trustees.

You might be able to use our [Deed of appointment of additional trustees](#) for this, which you can download from aegon.co.uk/support

Can a trustee resign?

Yes, as long as there's still at least two individual trustees (one of them not being a settlor) or one corporate trustee acting after their resignation. Otherwise, you'll have to name (appoint) a replacement trustee before the trustee can resign. Resigning trustees can use our **Deed of resignation as a trustee**, part of our [Changing trustees](#) form, for this, which they can download from aegon.co.uk/support

Can a trustee be removed?

Yes, as settlor(s) you have the power to remove a trustee(s), but only if there are still at least two individual trustees (one of them not being a settlor), or a corporate trustee acting after the trustee has been removed. Otherwise, you'll first have to name (appoint) a replacement trustee(s) before you can remove a trustee(s). You can remove a trustee(s) by completing our **Deed of removal of a trustee**, part of our [Changing trustees](#) form, which you can download from aegon.co.uk/support

If there are two settlors, you must use (exercise) this power jointly - if one of you dies, the survivor will continue to have this power.

Tax

This information is based on our understanding of current taxation law and HM Revenue and Customs (HMRC) practice, which may change.

What's the inheritance tax treatment of our discretionary trust?

For the settlor(s)

On the lifetime gifts

The policy payments will be gifts for inheritance tax (IHT) purposes but may be covered by an IHT exemption. The transfer of an existing protection policy into trust will also be a gift for IHT purposes.

On the death of the settlor(s)

The value of your Personal Protection and/or Whole of Life policy won't usually form part of your inheritance tax estate when you die, when held in our discretionary trust.

If you're considering placing a joint-life first death policy in trust, we strongly recommend you take professional advice about the inheritance tax treatment **before** taking any action, as described in the **Placing joint-life first death policies in trust** section of this guide, for the reasons outlined below.

If you're married or in a registered civil partnership

An inheritance tax charge might be payable if both insured people die within 30 days of each other.

If you're not married or not in a registered civil partnership

An inheritance tax charge might be payable if both insured people die within 30 days of each other and/or when the first insured person dies.

For the trustees

IHT charges could arise on each 10th anniversary of the trust (a 10-year charge) and when assets leave the trust (an exit charge). These calculations can be complex and we recommend that the trustees take professional advice about these charges.

Will tax be payable on any claim proceeds?

Your trustees won't normally be liable for any income tax or capital gains tax on the claim proceeds.

To find out more about our discretionary trust, speak to your financial adviser.