Chesnara Life

Chesnara Life (UK) Ltd
Using Trusts with Life Policies

A customer guide to our Flexible Trust and
Deed of Appointment/Retirement of a Trustee

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Legal Disclaimer

The contents of this Guide are based on our understanding of Law and Inland Revenue practice as at May 2023. As both are subject to change, the accuracy of the guide cannot be guaranteed, particularly over the longer term.

We cannot provide you with advice or be held responsible for the actions of yourself and your trustees based on the contents of this guide. Establishing a trust creates legal rights and obligations and might have material financial and tax implications for the settlor and the beneficiaries, which will depend in part on your circumstances. You should seek your own professional advice before proceeding if you are in any doubt.

Chesnara Life Customer Guide: Flexible Trust for Life Policies

What is a trust?

A trust allows the owner of a life policy (the settlor) to specify who can benefit from the policy proceeds after they die (the beneficiaries). The terms of the trust are set out in a trust declaration. In essence, the settlor plus one or more other individuals (the trustees) hold the life policy and are bound to act in accordance with the terms of the trust declaration.

The legal effect of the trust is that you have given away the death benefits under the life policy. You cannot change your mind as it is not yours any longer. However, you will still receive any critical illness benefits and, in some cases, any terminal illness benefit.

You, however, remain responsible for paying the premiums.

Why use a trust?

Quicker payment out to your family and other beneficiaries following your death

- When someone dies there is a legal process of probate where all the assets are gathered in and then paid out to beneficiaries. This can take several months and sometimes even cash in a bank account cannot be paid out until the probate process is completed.
- The trust is completely separate from your assets, it is not included in your Will and does not need probate. This means the cash from the life policy can be paid to your beneficiaries much more quickly.

Gives you control and flexibility over who benefits

- You can include anyone in the list of beneficiaries (except anyone who jointly owns the policy with you, and is therefore also a settlor).
- If circumstances change you can easily add (or remove) beneficiaries. Also, on your death the trustees have flexibility in how they benefit, for example, children or grandchildren. This can be particularly helpful in the case of people under 18 or vulnerable adults.

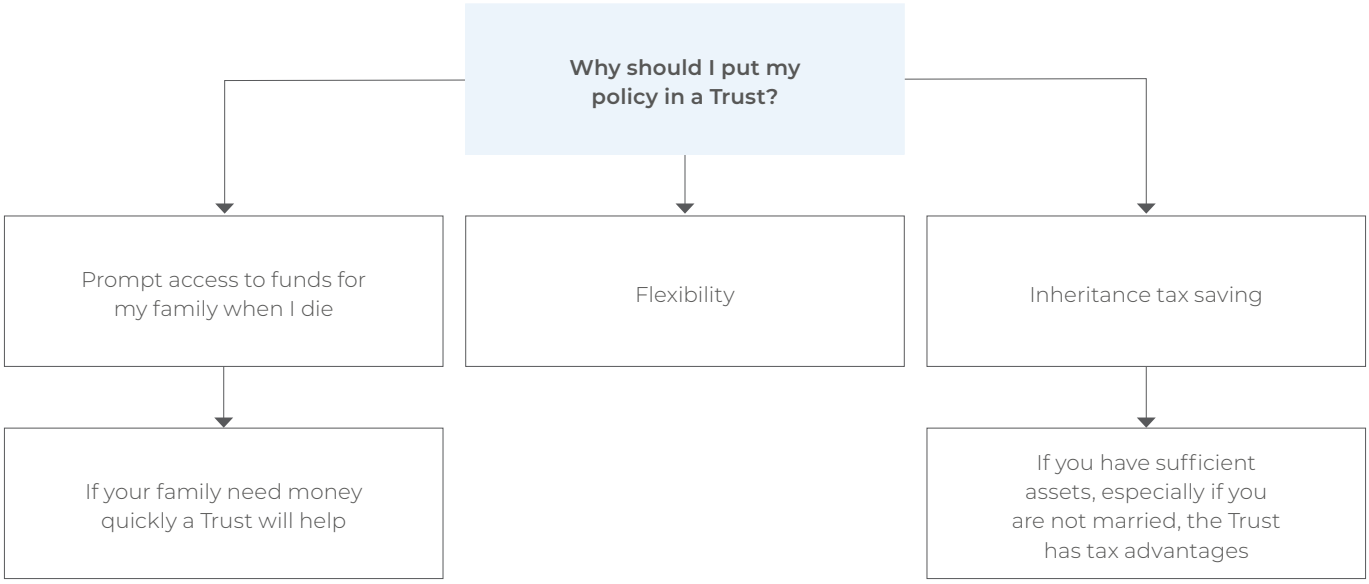
Named Beneficiaries

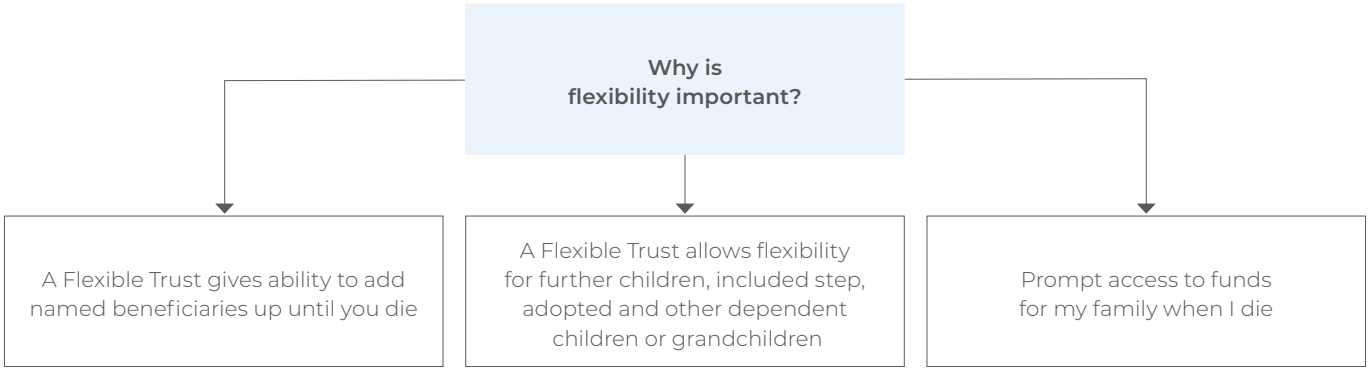
- Here you specify exactly who you would like to benefit from the proceeds after your death, and in what proportions.
- If there are no changes in your circumstances before you die, it is likely that the trustees will follow this, so it is important that you do complete this section. However, they are not bound to do so, and they have discretion to distribute the benefits differently, for example to people who are Potential Beneficiaries.

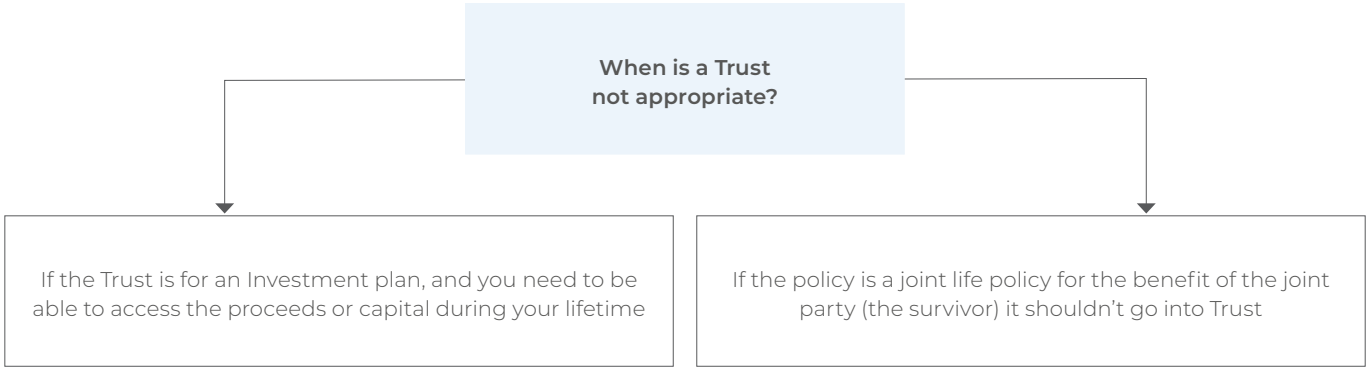
Potential Beneficiaries

- This is a wider group which the trustees may use their discretion to choose from, if they wish, depending on the circumstances at the time.
- For example, your grandchildren or children, including stepchildren, adopted children and other dependent children (even if not yet born).
- You can also add people to this list by name. For example, a close friend, neighbour or charity. If you have a partner but you are not married or in a civil partnership, and have not been living together for at least 6 months, you should consider whether you wish to add them here (unless you have already included them as a Named Beneficiary or they are also a settlor), because they are not automatically included.

With the exception of any Retained Benefits, the benefits under the policy will not form part of your estate for inheritance tax purposes when you die. Therefore, if you would otherwise have to pay IHT, holding the policy in trust is likely to be tax-efficient.


Why should I put my policy in a Trust?
Prompt access to funds for my family when I die
Flexibility
Inheritance tax saving
If your family need money quickly a Trust will help
If you have sufficient assets, especially if you are not married, the Trust has tax advantages


Why is flexibility important?
A Flexible Trust gives ability to add named beneficiaries up until you die
A Flexible Trust allows flexibility for further children, included step, adopted and other dependent children or grandchildren
Prompt access to funds for my family when I die


When is a Trust not appropriate?
If the Trust is for an Investment plan, and you need to be able to access the proceeds or capital during your lifetime
If the policy is a joint life policy for the benefit of the joint party (the survivor) it shouldn't go into Trust

Choosing your trustees

What are trustees?

You need to appoint trustees to act alongside you, and to take over if you die. You should do this in the Flexible Trust form on application, and you can make changes using the Deed of Appointment and/or Retirement of Trustees, during the life of the trust. These are shown over the next few pages.

As the name suggests, your trustees should be people you trust to do what you believe is right. The Flexible Trust sets out your wishes, but also gives them power to use their judgement if circumstances change.

For example: imagine you have put money into a trust to benefit your two children in equal shares.

Years later, one of your children wins the lottery. Would you still want them to benefit in equal shares?

Your trustees may have to make this choice for you after your death.

You can remove a trustee and appoint trustees, with their consent, while you are alive.

After you die, the surviving trustees can appoint any new trustees needed.

- Anyone over 18 years old can be a trustee
- You don't need a professional (for example, a solicitor or an accountant) unless you want one: they can charge to be a trustee while all other trustees are not entitled to charge
- For tax reasons, it is generally preferable that all trustees are resident in the United Kingdom
- The trust is drafted to last for 125 years – this being the maximum period allowed by law. However, a trust can be ended much earlier when all the money is paid out to the beneficiaries.

Trustee Duties

- Trustees must act in the best interests of the beneficiaries, and act fairly when deciding how to exercise their discretion. They should take into account all the relevant considerations and balance the interests of the beneficiaries
- They must follow the terms of the trust declaration
- They must look after the trust money and keep accurate records
- Trustees are responsible for filing any tax returns required (this obligation will arise once the policy has paid out cash) and paying any tax due
- If in doubt they should take professional advice
- Trustees all need to act and take decisions together

Trustee Powers

Trustees have lots of powers both as set out in the trust declaration and given by law. The powers give them flexible ways to benefit the beneficiaries and allow them to look after and invest the trust money, so they will mainly only be relevant once the life policy has paid out.

These powers include:

- power to choose from the Potential Beneficiaries who should benefit and when (depending on the circumstances)
- power to make payments out to the beneficiaries including to guardians of children
- power to make loans, including interest free, to the beneficiaries
- investment powers

Setting up a trust

How to complete the forms

A trust is usually set up by a written statement of what you are doing. This written statement creating the trust, together with the general principles of trust law, governs who will look after the trust assets (e.g., the policy), how they will do it, and for whose benefit they will hold them.

The trust form should be completed in capitals to ensure clarity.

In this next section we show you how to complete the trust documents.

The Flexible Trust (Declaration)

This is to show you how to fill the forms in, please do not fill in this guide.

This Declaration of Trust is made by the person[s] named below ("the Settlor(s)").

This section shows where settlor one's details should be added to the form.

Settlor one	☐ Mr ☐ Mrs ☐ Miss
Other (please specify)	
Surname	BARTON
All Forenames	DAVID JOHN
Date of Birth	DD/MM/YYYY
House name and/or number	1
Street or road name	ANOTHER STREET
District (if any)	
Village, town or city	ANYTOWN
County	ANYSHIRE
Postcode	AC1 2CD

The settlor is the person applying for the policy. Their details need to be input in this section.

Please insert full name(s) and addresses of the Settlor(s).
DO NOT USE INITIALS.

Settlor one	☐ Mr ☐ Mrs ☐ Miss
Other (please specify)	
Surname	BARTON
All Forenames	DAVID JOHN
Date of Birth	DD/MM/YYYY
House name and/or number	1
Street or road name	ANOTHER STREET
District (if any)	
Village, town or city	ANYTOWN
County	ANYSHIRE
Postcode	AC1 2CD

The settlor is the person applying for the policy. Their details need to be input in this section.

Please insert full name(s) and addresses of the Settlor(s).
DO NOT USE INITIALS.

This section shows where settlor two' details should be added if the trust is for a joint policy.

Settlor two	☐ Mr ☐ Mrs ☐ Miss
Other (please specify)	
Surname	
All Forenames	
Date of Birth	

If this Trust is for a sole policy, please place a diagonal line through this box, as exampled.

This section need to be completed, if the policy is joint.

Explanatory Notes: The settlor is automatically a trustee. The settlor's details do not need to be repeated.

This section shows where the additional trustees details should be added to the form.

Additional Trustee one	☐ Mr ☐ Mrs ☐ Miss
Other (please specify)	
Surname	BARTON
All Forenames	DAVID JOHN
Date of Birth	DD/MM/YYYY
House name and/or number	1
Street or road name	ANOTHER STREET
District (if any)	
Village, town or city	ANYTOWN
County	ANYSHIRE
Postcode	AC1 2CD

The settlor is automatically a trustee. The settlor's details do not need to be repeated.

The trustees are the person(s) who will manage the policy. Their details need to be input in this section.

This section needs to be completed with the details of ALL trustees. If you would like more than 2 additional Trustee's please use the Deed of Appointment and/or Retirement of Trustee(s) – by Settlor form, for Trustees 3 onwards and send both forms together.

Schedule A – Named Beneficiaries

Explanatory Notes: This Schedule MUST be completed.

This section shows where the details for the named beneficiaries should be added to the form.

First Name, and any middle names	Surname	Date of Birth (dd/mm/yyyy)	%
DAVID JOHN	BARTON	DD/MM/YYYY	

This section contains the names of the people that you, as settlor, wish to benefit. It is important to state their FULL names to avoid any doubt or confusion.

If you want all beneficiaries to receive an equal share, there is no need to add in percentages.

If you are including percentages they MUST add up to 100%.

The percentages allocated MUST total 100%.

Schedule B – Potential Beneficiaries

Explanatory Notes: This section contains those people who the trustees can choose to benefit.

This section shows where the details for any other additional potential beneficiaries should be added to the form.

1. The Spouse/Civil Partner, Widow/Widower or surviving Civil Partner of the Settlor but excluding any Settlor
2. Any person who is living together with the Settlor (or either of them) as if they were married or civil partners at the time of that Settlor's death and who has done so for a period of at least 6 months
3. The Children (including stepchildren, adopted children and other dependent children) and remoter issue of the Settlor (or either of them, if there are two Settlors).
4. The siblings of the Settlor (or either of them)
5. Any person other than the Settlor nominated by the Settlor (or the survivor of them) in writing to the Trustees.
6. Any person named in Schedule A.
7. Any person entitled under the Will or Intestacy of the Settlor.
8.

This section contains those people who the trustees can choose to benefit.

First Name, and any middle names	Surname	Date of Birth (dd/mm/yyyy)
DAVID JOHN	BARTON	DD/MM/YYYY

This section is to be able to add any other additional potential beneficiaries such as godchildren, close friends, a partner who you don't live with etc.

The trustees can choose to pay to any of these people in addition to the Named Beneficiaries.

Schedule C – Identification of the Original Policy

Explanatory Notes: These details must be completed for each of the policies that are to be transferred into the trust.

This section shows where the details of the first policy being put into trust should be added.

Policy one	
Start date/application date [delete as appropriate]	
Policy Number (if existing policy)	
Type of Policy	
Life/Lives Insured	
Insurer	Chesnara Life (UK) Ltd

These details must be completed for each of the policies that are to be transferred into the trust.

This section shows where any second policy to be put into trust should be added.

Policy two	
Start date/application date [delete as appropriate]	
Policy Number (if existing policy)	
Type of Policy	
Life/Lives Insured	
Insurer	Chesnara Life (UK) Ltd

Signatures

I/we have read the Trust Terms and confirm that I/we intend to create a trust on the terms set out in these Trust Terms. I am/we are aware that the trust will be created with immediate effect and cannot be cancelled.

This section shows where settlor one should sign the form.

Signed	
Settlor 1. full name	
Settlor 1. signature	
Date	DD/MM/YYYY

These boxes must be signed by each settlor.

This section shows where settlor two should sign the form.

Signed	
Settlor 2. full name	
Settlor 2. signature	
Date	DD/MM/YYYY

Please place a diagonal line through this box if there is only one Settlor.

We hereby agree to act as Trustees of the Trust on the terms set out in these Trust Terms.

Signed	
Additional Trustee name	
Additional Trustee signature	
Date	DD/MM/YYYY

Any additional Trustees appointed within the form should also sign.

This section shows where trustee one should sign the form.

Signed	
Additional Trustee name	
Additional Trustee signature	
Date	DD/MM/YYYY

If Scots law is to apply.

This section shows where the settlors should sign if Scots Law is going to apply to the trust.

Signed	
Settlor one signature	
Date	DD/MM/YYYY
Settlor two signature	
Date	DD/MM/YYYY

Please sign if you wish Scots Law to apply.

Deed of Appointment and/or Retirement of Trustee(s)

This section shows where the deed should be dated.

This Deed is made on the

You must date this deed using the date that the last person signs.

This must be dated (and should not pre-date the trust itself).

This section shows where the details from the trust should be added to the form including the original trust date, insurance company, type of policy and policy number.

Original Trust date	DD/MM/YYYY
Insurance Company	Chesnara Life (UK) Ltd
Type of Policy	
Policy Number	

Insurance Company	Chesnara Life (UK) Ltd
Type of Policy	
Policy Number	

Insurance Company	Chesnara Life (UK) Ltd
Type of Policy	
Policy Number	

These boxes must be completed with details from the Flexible Trust.

Part 2 – The Settlors

This section shows where the details of the settlor should be added to the deed.

Settlor one	☐ Mr ☐ Mrs ☐ Miss
Other (please specify)	
Surname	BARTON
All Forenames	DAVID JOHN
Date of Birth	DD/MM/YYYY
House name and/or number	1
Street or road name	ANOTHER STREET
District (if any)	
Village, town or city	ANYTOWN
County	ANYSHIRE
Postcode	AC1 2CD

This is the name of the existing settlor(s).

Part 3 – The Continuing Trustee(s)

This section shows where the details of the continuing trustees should be added to the deed.

Continuing Trustee one	☐ Mr ☐ Mrs ☐ Miss
Other (please specify)	
Surname	BARTON
All Forenames	DAVID JOHN
Date of Birth	DD/MM/YYYY
Postcode	AC1 2CD

This section is for the trustees who are remaining on the Trust.

Part 4 – The Retiring Trustee(s)

This section shows where the details of the continuing trustees should be added to the deed.

Retiring Trustee one	☐ Mr ☐ Mrs ☐ Miss
Other (please specify)	
Surname	BARTON
All Forenames	DAVID JOHN
Date of Birth	DD/MM/YYYY
Postcode	AC1 2CD

This section is for the details of the trustee who is leaving (if any).

Part 5 – The New Trustees

This section shows where the details of any new trustees should be added to the deed.

New Trustee one	☐ Mr ☐ Mrs ☐ Miss
Other (please specify)	
Surname	BARTON
All Forenames	DAVID JOHN
Date of Birth	DD/MM/YYYY
House name and/or number	1
Street or road name	ANOTHER STREET
District (if any)	
Village, town or city	ANYTOWN
County	ANYSHIRE
Postcode	AC1 2CD

This is the details of all/any new trustees.

Part 6 – Signatures

In witness the parties have executed this deed on the day and year stated above.

Signed and delivered as a deed by the Settlor.

This section shows where the settlor should sign the deed.

Signed	
Settlor 1. full name	
Settlor 1. signature	
Date	DD/MM/YYYY
Witnessed by	
Witness full name	
Witness signature	
Date	DD/MM/YYYY

Part 6 records all the signatures of the parties involved who are named in the previous section.

Each signature should be witnessed by an independent person not associated with the trust.

Signed and delivered as a deed by the Retiring Trustee(s)

This section shows where any retiring trustees should sign the deed.

Signed	
New Trustee 1, full name	
New Trustee 1, signature	
Date	DD/MM/YYYY
Witnessed by	
Witness full name	
Witness signature	
Date	DD/MM/YYYY

Please place a diagonal line through any box which is not applicable, as exampled.

Signed	
Retiring Trustee 1. full name	
Retiring Trustee 1. signature	
Date	DD/MM/YYYY
Witnessed by	
Witness full name	
Witness signature	
Date	DD/MM/YYYY

Please place a diagonal line through any box which is not applicable, as exampled.

Some typical questions

Policy

Q: Can I unravel the trust and get access to the policy?

A: No. Once you have set up the trust, the policy no longer belongs to you and you cannot have access to the policy benefits, other than (i) the critical illness benefits payable as described above and (ii) any terminal illness benefit (if there is also critical illness benefit).

Q: Is a trust suitable if my policy provides critical illness cover?

A: Yes. The Flexible Trust separates out the death benefits to be held in the trust for the beneficiaries, whilst the Critical Illness Benefits (including any Children's Critical Illness Benefit) are held for you.

Q: Can I put existing policies into trust?

A: You can use the Flexible Trust to put existing Chesnara life, or life and critical illness policies, in trust, but not policies issued by another life company.

This trust will separate life and critical illness benefits as explained above (so you still receive the critical illness benefits).

Settlor

Q: Do I need to refer to the trust or the policy in my Will?

A: No. It is completely separate. A policy held subject to trust is no longer yours to dispose of on your death.

Q: Can I continue to benefit under the trust?

A: No. However, if your policy has both Life and Critical Illness cover, then in the event of a payout for a critical illness, that can be paid to you while any remaining life cover will be held for the Beneficiaries. Children's Critical Illness Benefit will also be paid to you.)

Q: What if I get divorced or dissolve a civil partnership?

A: A life policy held in trust is owned by the trustees and does not belong to you legally.

It will not usually be taken into account in any settlement. However, if you and your spouse/civil partner owned the policy jointly or you both pay premiums under the policy, it is important that you make arrangements in any divorce or other settlement to ensure that no future disputes will arise.

Q: What if I were to be declared bankrupt?

A: Generally speaking, any assets held in trust (under which you cannot benefit) are safe from creditors. The exception is where the assets were transferred when you were already insolvent or made with the specific intent to defraud creditors. In such circumstances the court may set aside the trust and pay the asset over to the trustee in bankruptcy for the benefit of creditors.

Trustees

Q: Should I appoint my solicitor or other professional adviser as a trustee?

A: It is up to you who you appoint as a trustee.

There is usually no need to appoint professional trustees such as solicitors or accountants, as running the trust in most family circumstances is not complicated. They may lack the personal knowledge of family circumstances. You should also remember that if you appoint a professional trustee they will charge fees for dealing with the trust.

Q: Can I remove trustees?

A: Yes, you have this power under the trust terms. However, there must be at least one non-settlor trustee remaining, so you may need to appoint a new trustee to replace them.

Q: Can a trustee resign?

A: Yes, although you should ensure that they are replaced if there would not be at least one non-settlor trustee remaining.

Q: How many trustees should there be?

A: It is strongly advisable to have at least two trustees (at least one of whom is not a settlor). Between two and four trustees is usually best, although there is no maximum.

Q: Can a beneficiary also be a trustee?

A: Yes, however a trustee cannot appoint benefits to themselves without there being at least one other trustee acting who will not benefit.

Q: Can I appoint further trustees later?

A: Yes, under the terms of the trust you can appoint further trustees later.

Q: Will I be a trustee?

A: Yes, under our Flexible Trust you are automatically a trustee. The trustees have to act unanimously so you, and all the other trustees that you appoint, have to agree on what to do. There is another advantage too. With you as trustee, we will continue to write to you on the progress of your policy. We will expect you to share this information with your fellow trustees.

Q: Should there be other trustees as well as me?

A: Yes, although this is not legally essential, it is strongly recommended. The trust is basically dormant until you die. If you die as the sole trustee, there is no-one able to immediately act as trustee. Instead your executors or administrators will need to act as trustees which will involve a delay until probate is granted.

Beneficiaries

Q: Can I add other beneficiaries?

A: Yes, there is also a provision that allows you to add new names to the list of Potential Beneficiaries later. You would simply need to write to your trustees to let them know. It is a good idea to also provide the trustees with a letter of wishes if your intentions have changed since you originally completed the trust declaration (i.e. if the %s listed for each of the Named Beneficiaries no longer represents your wishes). You can do this using our Letter of Wishes form.

If you wish to add to or change the details of the Named Beneficiaries in Schedule A of the trust (i.e. the people who are the 'default' beneficiaries and will receive the benefits unless the trustees decide differently), then you need to use the Deed of Appointment of Benefit.

General Administration

Q: Do I need to review my trust arrangements?

A: Yes, you should regularly review your trust arrangements. In particular the beneficiaries and trustees, since these may need to change where your family circumstances have changed (for instance a new child, separation etc.).

Q: How much will it cost to set up the trust?

A: We make no charge for providing the Flexible Trust.

If you decide to consult a solicitor or other professional adviser before completing the trust form, they may charge you a fee. They should be able to tell you what this is in advance. Similarly, if you appoint a professional trustee or trust company as trustee they may charge for their services.

Q: Which trust forms do I need?

A: You will need to complete the Flexible Trust.

In addition, you will need to use the Deed of Appointment and/or Retirement of Trustees if you wish to change the trustees.

Q: Is running a trust difficult?

A: No. Until you die the Flexible Trust is basically dormant (unless there is critical illness or terminal illness cover). It is then straightforward for the trustees to distribute the proceeds to your chosen beneficiaries, although as mentioned above they may need to consider whether in light of the circumstances they should exercise their discretion in a different way.

Q: Can I change trust terms?

A: Yes, but it is rarely needed and we would recommend legal advice is taken. Your trust already gives the opportunity to choose between potential beneficiaries and whether to pay income or capital sums, or to make administrative changes.

Q: Do I need to see a solicitor or other professional adviser?

A: Whilst we have taken great care in preparing the Flexible Trust, we cannot provide you with advice. If you are unsure if this trust is right for you, or if you have individual circumstances or concerns on which you require advice you should consult your own advisers.

Chesnara Life (UK) Ltd is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Our Financial Services Register number is 133435 and our registered office is at: 2nd floor, 33-34 Winckley Square, Preston, Lancashire, PR1 3JJ, United Kingdom. Registered in England number 88695.

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