

For employers

Declaration of trust for a Relevant Life policy

(you, as Employer have the choice of being a Trustee or not and the Trust could continue if your Employee changes employment)

About this draft trust deed

You should use this trust deed when you, as an employer (whether a sole trader or trading through a partnership, a limited liability partnership ('LLP') or a limited company), want to provide life and terminal illness cover for an employee (not someone who's self-employed) by placing an Aegon Relevant Life policy in trust for the benefit of the employee's family and financial dependants.

You, as Employer, are the Settlor of the Trust and have the choice of being a trustee or not. For example, where the employer is a company with a sole shareholder director, administratively, it may be better if such an employer was not a corporate trustee.

Trust laws are complex

It's essential you seek professional advice. We've supplied this document as a draft only. The parties signing it must satisfy themselves that it's suitable for their use and it has the legal effects they intend. It's important you fully understand the terms of the trust and how it works. You'll find more information in the Key features of the Relevant Life policy. If you use this draft you're deemed to have accepted responsibility for it.

This draft trust deed and the accompanying notes are based on our understanding of the law and HM Revenue & Customs practice as at September 2019. Although we've made every effort to make sure they're accurate, we don't accept any responsibility for:

- a our interpretation of the law, or
- b notifying you of future changes in the law.

Advantages of this trust deed and the Aegon Relevant Life policy

- Policy premiums paid by the Employer are generally tax deductible for the Employer and the premiums aren't taxed on the Employee as benefits in kind. (Following changes to the tax legislation, the premiums may in some circumstances be taxed on the Employee if offered in connection with a flexible benefits or salary sacrifice arrangement).
- The lump sum death benefit will be available to the Beneficiaries without the need to wait for a grant of probate/confirmation to the Employee's estate and won't generally form part of the Employee's estate for inheritance tax purposes.
- The Trustees can pay any terminal illness benefits to the Employee rather than the other Beneficiaries.

- Where the Employee changes employment, the new employer can take over the payment of the premiums and the Policy can remain a Relevant Life policy, with the associated tax benefits.
- The terminal illness or death benefit isn't subject to tax in the event of a claim and the proceeds can usually be paid out tax free to the Beneficiaries, although in a few cases an inheritance tax exit charge may apply.

Additional information

We can also provide you with the following documents:

- **Deed of Assignment** – can be used, for example, if the Employee changes employment and wishes to become the policyholder
- **Deed of appointment of additional trustees**
- **Changing trustees** – incorporates a Deed of Resignation as a Trustee
- **Deed of Appointment of Beneficiaries by Trustees** – can be used by the Trustees to exercise their discretion
- **Deed of removal of beneficiaries by trustees**
- **Nomination form for a Relevant Life trust**

Important notes you should read before completing this draft trust deed

- If you, as the Employer, opt out of being a Trustee we'll not be able to provide you with additional information about the Policy as we can only correspond with the Trustees as the Policy owners.
- The Trust, once created, is irrevocable (with lasting legal and tax consequences) and the Policy and its benefits must be held according to its terms.
- The Trustees will be the legal owners of the Policy and their authority is required for any dealings with the Policy. It's the Trustees who would make a claim for any Policy proceeds and, in that event, set up a trustee bank account.
- It's advisable to have at least two individual trustees or one corporate trustee (with more than one director) at any time. The Trustees should be people who will act in the best interests of the Beneficiaries. They must be over 18 years of age, of sound mind and preferably resident in the United Kingdom.
- We'll only accept instructions from Trustees who have had their identities verified. By signing this trust deed you accept we can verify your identity and, if required by us, the Trustees will take all reasonable steps to get any evidence of identification for any Beneficiary of the Trust for us.

Completion notes

1. Complete all relevant sections of the document in BLOCK CAPITALS and ballpoint pen.
2. If you make a mistake, just draw a line through it. Don't use correction fluid. You and all the Trustees must initial the change.
3. The margin notes throughout the document will help you fill it in.
4. Please make sure you fill in all the relevant boxes. If you leave any of these blank, the Trust could be invalid.

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1. Request to create a trust

The Employer is the Settlor. Write the name of the Employer in the first line and then the address of the business after 'of'.

of

(‘the Settlor’)

hereby requests and directs:

The Relevant Life policy to be issued as a result of the Settlor's application in 3.4 below (**the Policy**) be issued and delivered in such a manner as to constitute the initial trustees (as defined in 3.2 below) as trustees of the Policy.

2. Creation of the trust

The Settlor has determined to provide a death-in-service benefit for the Employee by means of the Policy and wishes to declare trusts on which the Policy is to be held and for that purpose has made the request in 1. above and wishes to appoint the Trustees as the initial Trustees of this Trust Deed.

The Employer undertakes to the Trustees to pay all the premiums that may be due with respect to the Policy whilst the insured person remains an Employee.

3. Definitions and interpretation

A subsequent Employer could pay the premiums provided they employ the insured person on the Policy.

3.1 Employer means the settlor who is creating the trust and is the employer of the Employee and any subsequent employer of the Employee who pays the premiums in respect of the Policy whilst the insured person remains an Employee.

3. Definitions and interpretation – continued

Tick the appropriate box for the type of business of the Employer.

Type of business

- Limited company (Ltd/Plc)
- Partnership
- Limited liability partnership
- Sole trader
- Charity

It's advisable to have at least two individual trustees or one corporate trustee (with more than one director) at any time.

Where the Employer doesn't wish to be a Trustee they should tick the box above their signature in section 10.

If the Employer is to be a Trustee, you don't need to insert their details here.

If the Employer is a Trustee, we will send all communications to them. If the Employer isn't a Trustee, we will send all communications to the first named Trustee on this Trust Deed.

3.2 Trustees means the people named as such here and signing this Trust Deed or such other persons who may be appointed or assumed as trustees from time to time. They will be the legal owners of the Policy and unless indicated above the Employer's signature in section 10, the Employer will also be a Trustee.

Full name (1st Trustee)

Full name (2nd Trustee)

Address

Postcode

Address

Postcode

Full name (3rd Trustee)

Full name (4th Trustee)

Address

Postcode

Address

Postcode

3.3 Employee means the person employed by the Employer at the date of this declaration and the insured person under the Policy.

3. Definitions and interpretation – continued

3.4 **Policy** means the policy described below being a Relevant Life policy as defined in section 393B(4) of the Income Tax (Earnings and Pensions) Act 2003 and any subsequent variation or amendment to that policy, which has been taken out, provided or otherwise funded by the Employer in respect of the Employee.

Name of company

Scottish Equitable Plc

Description of the Policy

Relevant Life policy

Write the date of the application and the full name of the insured person (Employee) as it appears on the application.

Date of application (dd/mm/yyyy)

Insured person (the Employee)

Full name

The date of application is the date you submit your application online or the date you sign the paper application form.

Address

Postcode

If you're applying for more than one policy please contact us.

3.5 **Trust Fund** means the Accidental Death Benefit, the Immediate Cover, the Policy, the capital sums payable or arising under the Policy and all additions and accretions to the Trust Fund by way of further settlement or otherwise and all accumulations of income and the property and money for the time being representing the same and any part or parts thereof.

If the **Employee is a shareholder** of a close company, they may want to seek advice to see if they should be removed as a Beneficiary to prevent the gift with reservation of benefit provisions applying.

3.6 **Trust Period** means the period of 125 years from the date of the Policy application in Clause 3.4 above.

3.7 **Beneficiary(ies)** means the following persons whether now living or born during the Trust Period:

- a any spouse or Civil Partner who is married to, or in a civil partnership with, the Employee immediately before their death;
- b any children of the Employee or any spouse or Civil Partner of the Employee's children;
- c any person who, in the opinion of the Trustees, was a dependant of the Employee immediately before their death;
- d the Employee (if the Employee doesn't wish to be a Beneficiary, please score through and have the deletion initialled by the Employer and the Trustees);

The Employee should be removed as a Beneficiary if they leave the employment of the Employer and want to take over the payment of the premiums keeping the Policy in this trust.

3. Definitions and interpretation – continued

Insert the full name(s) of each individual or charity you're including.

- e any individual (other than the Employee) or charity named in the boxes immediately below

, and

- f any additional individuals (other than the Employee) or charity(ies) nominated in writing to the Trustees by the Employee as a Beneficiary.

- 3.8 **Accidental Death Benefit** means any rights to accidental death benefits described in the application, key features document or any other relevant pre-contractual document.
- 3.9 **Immediate Cover** means any rights to immediate cover described in the application, key features document or any other relevant pre-contractual document.
- 3.10 **Civil Partner** means any person who is alive at the death of the Employee with whom the Employee had before his death entered into a civil partnership under the Civil Partnership Act 2004.
- 3.11 **Company** means Scottish Equitable plc.
- 3.12 Unless the context indicates otherwise, words in the singular will be deemed to include the plural and the masculine to include the feminine and vice versa.
- 3.13 The notes in the margin are for guidance only and don't form any part of this Trust Deed.

4. Purpose of the trust

- 4.1 The Employer declares that the purpose of the trust is to secure that the capital sums payable under the Accidental Death Benefit, the Immediate Cover or the Policy will be paid to, or for, or applied, in favour of any person or persons who are within the class of Beneficiaries (not the Employer). The Trustees agree to hold the Trust Fund, which is irrevocable.
- 4.2 The Trustees will pay or apply the whole or such part or parts of the Trust Fund and the income from it to or for the benefit of all or any one or more of the Beneficiaries who are, for the time being, living and in such shares or proportions, and subject to such terms and conditions and with, and subject to, such provisions for forfeiture in respect of bankruptcy or otherwise and with such discretionary trusts and powers exercisable by such persons, as the Trustees in their absolute discretion think fit.

Subject to the above:

- a During the Trust Period the Trustees may accumulate all or any part of the income as an accretion to the capital instead of paying or applying it as aforesaid and, if at any time there will be no Beneficiaries in existence, the Trustees will accumulate all of the income.
- b The Trustees will at all times exercise their powers to secure that any sums payable must (whether directly or indirectly) be paid to, or for, or conferred on, or applied only in favour of a Beneficiary beneficially and so as to comply with section 482(2) Income Tax (Trading and Other Income) Act 2005.
- 4.3 Subject to all the trusts, powers and provisions of this trust, and if and so far as (for any reason) not wholly disposed of by it, the Trust Fund will be held in trust for the children of the Employee alive at the date of this Trust Deed and, if more than one, in equal shares.

5. Trustees' powers

The Trustees have the following powers, in addition to any powers conferred on them by law:

- 5.1 To invest or apply any money for the time being representing the Trust Fund in the purchase of or at interest upon the security of such stocks, funds, shares, securities or other investments or property of whatsoever nature and wheresoever situate and whether producing income or not, including investment in life assurance policies and the purchase or improvement of real property, and whether involving liability or not or upon such personal credit with or without security as the Trustees may in their absolute discretion think fit to the intent that the Trustees shall have the same full and unrestricted powers of investing and varying investments in all aspects as if they were absolutely and beneficially entitled to the Trust Fund free from any obligation to diversify investments.
- 5.2 To take out or take over policies of assurance on the life of any person with full power to surrender, vary or otherwise deal with any such policies as if they were the absolute owners of these policies.
- 5.3 To borrow money and lend to any of the Beneficiaries on such terms and with or without security as they think fit.
- 5.4 To pay, transfer or apply the whole or any part or parts of the capital of the Trust Fund to or for the advancement or benefit of any one or more (to the exclusion of the others) of the Beneficiaries, in such shares and proportions and in any manner generally, as the Trustees in their absolute discretion think fit.
- 5.5 To revocably or irrevocably 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 will be responsible for the default of any such agent if the Trustee in question employed or incurred expense in employing them in good faith.
- 5.6 To, at any time or times during the Trust Period, declare by deed or deeds that the 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, will, 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'. Provided however that such power will not be capable of being exercised so as to take away any interest to which any of the Beneficiaries has previously become indefeasibly entitled. Any declaration made pursuant to this section 5.6 may be revocable, during the Trust Period, or irrevocable to take effect before the end of the Trust Period and will have effect from the date (not being a date earlier than the date of such deed or deeds) specified in the deed or deeds.
- 5.7 The receipt by the Trustees of any money payable under (or deriving from) any dealing with the Policy shall be a full and sufficient discharge to the Company who shall not be concerned to see to the application of any such money.
- 5.8 The Trustees shall at their discretion have power to pay the parents (or either parent) or any guardian of any minor Beneficiary any sum of income intended to be applied for the maintenance or education or benefit of that minor so that the receipt of such parent or guardian shall be a complete discharge to the Trustees.

Where the Employee is a Beneficiary they should be removed if they leave the employment of their Employer and want to take over the payment of the premiums, keeping the Policy in this trust.

6. Administrative provisions

- 6.1 The statutory power of appointment of trustees shall apply.
- 6.2 In addition, the Employee may remove one or more of the Trustees by sending a Notice of Removal in writing to the Trustee in question at his last known address. The sending of the Notice by recorded delivery post will be deemed due service of it. The removed Trustee will co-operate (without any expense to him) in executing any documents or consents required to terminate effectively his trusteeship and to vest the Trust Fund in the continuing Trustees.
- 6.3 If during the management or administration of the Trust Fund any action 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 the power as if it had been expressly conferred on them by this Trust Deed.

7. Payment to trustees

Any Trustee (other than the Employer) being a solicitor or other person engaged in any profession or business will be entitled to charge and be paid all usual professional or other charges for business done by him or his firm in connection with the Trust Fund whether in the ordinary course of his profession or business or not.

8. Protection of the trustees

A Trustee will not be liable for a loss to the Trust Fund unless that loss was caused by his own actual fraud or negligence.

9. Governing law

This Trust Deed will be irrevocable and governed by and construed in accordance with the law of England and Wales.

10. Attestation

It's your responsibility to make sure that this deed is properly executed.

Tick the box if you **don't** want to be a Trustee.

For example, if the Employer is a company with a sole shareholder director, administratively, it may be better if such an employer wasn't a trustee.

If the Employer is a:

- **company or limited liability partnership** a director or member should sign in the presence of a witness;
- **general partnership** without separate legal personality it must sign in accordance with its constitution, generally one or two individuals – provided they sign together only one witness will be required, or
- **sole trader**, he should sign as authorised signatory in the presence of a witness.

A witness must be someone over 18 and not a party to this trust.

The deed should be executed after the date of the Policy application (date of online application submission or date the paper application is signed) and before the Policy comes into force.

In witness whereof this deed is executed as follows:

10.1 Employer

Signed and delivered as a deed by the Employer as:

- a** Settlor of the Trust **and, unless the box below is ticked**
b as Trustee.

Tick this box if you, the Employer, **don't** want to be a Trustee.

By executing this deed, the Employer confirms that the Policy has not been applied for with the main purpose of avoiding the payment of tax.

Full name of authorised signatory

Full name of authorised signatory

Signature

Signature

In the presence of:

Full name of witness

Full name of witness

Address of witness

Postcode

Address of witness

Postcode

Occupation

Occupation

Date (dd/mm/yyyy)

Date (dd/mm/yyyy)

Signature

Signature

10. Attestation – continued

Signing as Trustee confirms each individual's appointment to the role and that they agree to and acknowledge the terms of this Trust Deed.

10.2 Trustees

Signed and delivered as a deed by the Trustees as follows:

Full name (1st Trustee)

Full name (2nd Trustee)

Signature

Signature

In the presence of:

Full name of witness

Full name of witness

Address of witness

Postcode

Address of witness

Postcode

Occupation

Occupation

Date (dd/mm/yyyy)

Date (dd/mm/yyyy)

Signature of witness

Signature of witness

10. Attestation – continued

Full name (3rd Trustee)

Full name (4th Trustee)

Signature

Signature

In the presence of:

Full name of witness

Full name of witness

Address of witness

Postcode

Address of witness

Postcode

Occupation

Occupation

Date (dd/mm/yyyy)

Date (dd/mm/yyyy)

Signature of witness

Signature of witness



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IP 269545 08/19