



Relevant life – should the company be a corporate trustee?

We give the option, when setting up the trust, for the company not to be a corporate trustee. Read on to find out some of the issues that could come up if the company is a corporate trustee and how our trust can help.

Trusts establish legal rights and entitlements and might have material financial and tax implications for the settlor, trustees and beneficiaries. Aegon UK isn't authorised to provide legal advice, so you should take your own legal advice before setting up a trust, to make sure that it meets your clients' requirements. Our trusts have been drafted for use by UK domiciled individuals.

100% shareholder and sole director dies

- No-one left to act on behalf of the company in its role as a trustee – for example, in giving instructions to the life company and making sure the correct people receive payout from the trust.
- A new director has to be appointed before the trustees can make a claim and any payout from the trust is made.
- Results in a delay to the payout – removing one of the key arguments for putting a policy under trust.

Small companies set up with two or three shareholders

- Similar issues to those above – if shareholder directors have died or sold out to the remaining shareholder director over the years, making them the sole outright owner and sole director.

Insured person (employee)

- Appointment of personal trustees may be preferred.
- Personal trustees are more likely to know the family circumstances – so could be in a better position to decide who should ultimately benefit.

Employer

- Employers might not want to take on the responsibility of being a trustee.
- Do the 'Articles of Association' need reviewing and amending to accommodate the fact that the company is to act as a corporate trustee under the 'Declaration of trust for a Relevant Life policy'?
- Administrative hassle of removing and replacing the corporate trustee once the trust is in place and in the event that the employee changes employer.

The solution?

Our **Declaration of trust for a Relevant Life policy** gives the **option**, when setting up the trust, for the company **not** to be a corporate trustee.

Now for the technical bit...

A PLC must have two directors and a company secretary. A private company doesn't need to have a company secretary but must have, as a minimum, one natural person (ie not a corporate body) appointed as a director.

What happens when a director dies?

If there are surviving shareholders they may hold a shareholders' meeting to appoint a new director. But, if the deceased sole director was also the only shareholder then there are two outcomes:

1. Generally, for companies incorporated before 1 October 2009 and that adopted Table A model articles of association, the personal representatives of the deceased shareholder must get a court order for the appointment of a new director. This can be time-consuming and costly.

2. For companies incorporated on or after 1 October 2009 that have adopted the Companies Act 2006 model articles of association, or companies incorporated before that date that have changed their articles of association by passing a special resolution to adopt the Companies Act 2006 model articles of association, article 17(2) of the model articles of association allow the personal representatives of the deceased shareholder to appoint a new director of the limited company.

In either situation, there could be a delay in appointing a new director so it may be preferable for the company not to be a corporate trustee.

For more information about our Relevant Life policy, contact your usual Aegon sales representative.

