



## Who cares about Trusts?

**Every day in the UK, many families may suffer from severe financial hardship when the breadwinner dies prematurely or is diagnosed with a serious illness.**

It is at times of such difficulty that there will be a point of reflection that the 'it won't happen to me/us' syndrome is proven to be incorrect. Had this client written their protection policy into trust the benefit could be paid out almost immediately to the beneficiaries. This article will outline how using trusts can be beneficial in such instances.

### Trust logic

There is sound logic for many forms of life protection products to be written into trust, and Bupa Individual Protection is ready to assist you with trust documents written to meet the requirements of your clients. If you have not discussed trusts with your clients, perhaps this offers a prime opportunity for you to meet with them and set out the benefits of writing their protection plans in trust?

A common misconception held by clients is that having a will, along with some protection cover is all that they will require. Have they stopped to think what can go wrong? Maybe you could raise the following points when discussing trusts with your clients:

- A will does not overcome the need for financial planning
- Are the client's life assurance requirements up to date and taking into account things that change and are all too frequently taken for granted: getting married, getting divorced, additions to the family, moving house, increasing salary?
- Complications such as Inheritance Tax
- The potential for 'influence' to be exerted which may impact the destination of funds, especially as mental capacity deteriorates?

Even assuming that the above matters are not an issue, your clients may not know that, irrespective of financial plans they may have in place, their estate cannot be accessed without formal approval.

In situations where there is a valid will a process known as Grant of Representation (Grant of Probate) will be applicable, where there is no valid will a Grant of Letters of Representation is applicable.

Provision of the Grant of Representation can take many months, and during that time all the funds that the provider is looking to pay cannot be accessed. Further complications arise where there is no valid will and the rules of intestacy apply, but this is a subject in its own right!

## How can these issues be overcome?

Trusts can be used to overcome some of the issues that are frequently overlooked by clients. A trust is a way of pre-determining arrangements for how property, in this example, a life assurance plan, can be held by the trustees for a chosen beneficiary.

We must touch on the whole issue of Inheritance Tax, which has become fairly complicated. In simple terms, if the individual's estate is, or is likely to be, over the Inheritance Tax threshold of £325,000, a tax bill of 40 percent of the amount over the threshold would be likely (which will have to be settled before Grant of Representation would be approved). Note that there are various dispensations and exemptions to overcome Inheritance Tax by using trusts, but again, this is for another day.

Perhaps one of the most helpful aspects of trusts is that they allow immediate access to assets in trust that would otherwise be tied up in the estate and waiting for Grant of Representation. Use of trust means that there is no need to wait for formal approval - policy proceeds can be paid as soon as all claim requirements are met.

## So, why recommend a Trust?

- It is a formal and legally binding arrangement that has legal stature
- Flexibility (depending on choice of trust) is retained to
  - Allocate benefits between a number of people
  - Write the trust for circumstances presently not known
- Convenience
  - If beneficiaries are minors the trustees can act in their best interests whilst they are unable to appreciate or deal with the property themselves
- Ease of administration
  - Policy benefits can be paid out quickly after a valid death claim is made and without Grant of Representation
- Tax Mitigation
  - Used to reduce or minimise tax bill.

## Dispelling misconceptions

A misconception that your clients may have with Trusts is that once they are written, they are set in stone. However, certain terms of the trusts might not be. This may cause concern for some clients who are apprehensive about naming a beneficiary who they feel may betray them and turn out to be the last person they would want to benefit from their death. This is where the option of using a flexible trust should be considered.

## Flexible trust

This is a trust which has a group of potential beneficiaries and gives the trustees the power to choose who out of this group will benefit from any proceeds of the policy. The trust provides that any appointment of a beneficiary must be made within a predetermined period of time (usually 80 years) of the date of the request and the settlor will set out who the beneficiaries should be if the trustees fail to make an

appointment. Once the trust is effective the group of potential beneficiaries can only be extended in accordance with the rules of the trust. The trust will hold all the policy benefits for the beneficiaries of the trust and the settlor will not be able to obtain any benefits or use the policy in any way which does not represent a benefit for the beneficiaries, but the Critical Illness benefit remaining outside the trust for the benefit of the settlor.

In circumstances where the client has a life policy with critical illness and they want to benefit from the critical illness benefit, they can use a split trust to separate the benefits, with the life benefits remaining in trust for the beneficiaries.

### **Fixed trust**

This is another frequently used trust where the beneficiaries are identified in the original trust and their entitlement to a share in the policy is specified by the settlor at the outset. Once the trust is effective the beneficial interests cannot be changed without the agreement of every beneficiary (and all beneficiaries must be over 18). The trustees hold all the policy benefits for the beneficiaries of the trust and the settlor will not be able to obtain any benefits or use the policy in any way which does not represent a benefit for the beneficiaries.

Care is needed if such a trust is used given the inherent inflexibility.

### **Conclusion**

As you can see, there are many arguments for writing a protection policy into trust. Who cares about trusts? We care.