

FLEXIBLE TRUST

THIS IS A SPLIT TRUST WHERE, AT CLAIM, ANY
CRITICAL ILLNESS OR TERMINAL ILLNESS BENEFITS WILL
BE PAID TO THE TRUSTEES FOR THE BENEFIT OF THE SETTLOR.

Policy Number:

Life Assured's Name:

Life Assured's Date of Birth:

This form may be suitable for:

- new and existing “own life” assurance policies, with or without critical illness
- single life or joint life policies, including investment bonds
- sole traders

This form is not suitable for:

- pension policies
- business protection, where the intention is for use by owners of a business as part of a reciprocal commercial arrangement for the sale on the death or serious illness of one of the owners of the business (see separate Your Business Trust form (41437))

It will usually not be suitable for “life of another” policies.

Notes on completing this form

- If you are unmarried but in a relationship and take out a policy, consider including your partner as a Possible Beneficiary to make him/her eligible to be chosen later to receive any benefit.
- If you took out your Policy jointly with someone else, neither of you can be a Beneficiary other than in respect of any critical illness or terminal illness benefits.
- All existing Trustees must be named on this Deed and all parties named in this Deed must sign it. Their signatures must be witnessed by an independent witness. The parties to the Deed, or any of their relatives, should not be a witness. Also, a Beneficiary should not be a witness. However, the same independent person may witness all signatures.

GUIDANCE NOTES

Please read carefully – you are responsible for making sure that this form is completed correctly.

A GIFT

By using this form you are giving all the benefits of your policy away. However, you keep some control over them as a Trustee. Where two of you own or are applying for the policy, both of you must create the Trust together. If your policy includes critical illness or terminal illness benefits, however, any proceeds payable under these headings will be paid to the Trustees for your benefit.

FLEXIBILITY

The Trust is designed to allow for changes in your family circumstances. When you complete the form, you name the people you want to benefit from the policy, in section E. They are called ‘Default Beneficiaries’. However, you and your additional Trustees can later change who you would like to benefit. We can send you a deed for this. The new person(s) can benefit instead of or as well as those already named. You also have some flexibility to change Trustees and can remove any Trustee(s) as long as two other Trustees remain.

PAYMENT TO BENEFICIARIES

The Trustees can pay the benefits to any of the Default or Possible beneficiaries, as they think appropriate. A wide range of Possible Beneficiaries is already listed in the Definitions section and includes your spouse (unless the Trust is declared jointly with your spouse) and various family members. The Trustees have up to 125 years from the date you sign this form to decide who to pay the benefits to (including themselves if they are possible Beneficiaries). If by the end of that time they haven’t paid out the benefits or appointed them to anyone, they must pay them to the Default Beneficiaries. (This is why they are called ‘Default Beneficiaries’ – in default of the trustees appointing the benefits earlier.)

ADDITIONAL TRUSTEES

It is important you appoint at least one additional Trustee to act with you as soon as possible, so the Trust will be effective if you choose Scots law and, in any event, so the proceeds of the policy can be paid quickly on your death. Having an additional Trustee is also important so that any critical or terminal illness benefits can be applied on your behalf in the event that you no longer have the physical or mental capacity to act as trustee yourself. If you are the only trustee that would complicate the process and cause delay in being able to access the policy proceeds. Ideally, you should appoint two additional Trustees who are likely to survive you, to ensure that the policy proceeds can be paid without Probate or Confirmation in the event of your death. Also, two Trustees are normally needed for appointing benefits to Possible Beneficiaries.

CHOOSING ADDITIONAL TRUSTEES

Any individual you can trust, usually a close friend or relative, can be a Trustee. A bank or solicitor can also be a Trustee, but they may make a charge for this service.

Ideally, you should choose two additional Trustees who are likely to survive you. This will ensure that a claim on the Policy can be dealt with quickly and efficiently. For similar reasons all trustees should be UK resident. To be a Trustee, you have to be aged 18 or over.

A Beneficiary may also be a Trustee, but must be careful to act fairly to all other Beneficiaries.

POINTS TO REMEMBER:

- Please be careful in your choice, as the Trustees have the power to share out the Trust benefits, including to entirely benefit themselves if they are included as Possible Beneficiaries, and they can do this after your death. It may be safer to include an independent trustee.

TRUSTEES' DUTIES AND RESPONSIBILITIES

The Trustees must consider the interests of all Beneficiaries and are accountable to them, so it's very important for the Trustees to keep accurate and up-to-date records. They must look after the Trust property (initially the Policy) and then regularly review, and take advice on the investments under Trust.

The Trustees are the legal policy owners and will deal with Scottish Widows in future. For example, if it's necessary to amend the Policy, all the Trustees will need to sign an authority for any change to the Policy.

In the event of a claim, the Trustees must deal with Scottish Widows and pay out the benefits to the Beneficiaries or reinvest the proceeds on their behalf.

It's important that all Trustees must be in agreement (or the majority of them if Scots law has been chosen for the Trust).

CHANGING TRUSTEES

It is possible to change the Trustees in future, for example if one of them dies or moves abroad. Please contact us for a copy of the appropriate form.

INHERITANCE TAX

Putting a regular premium policy in trust means that the proceeds of the Policy are likely to be free from Inheritance Tax on your estate. However, if your policy includes critical illness or terminal illness benefits there are Inheritance Tax consequences of not claiming entitlement to critical illness or terminal illness benefits and you should seek appropriate specialist advice.

Putting a single premium bond (or a regular premium policy) in trust may be treated as a chargeable lifetime transfer by the HMRC. This means that if the value of the investment (plus any other chargeable gifts made in the seven years prior to setting up this Trust) is greater than the current IHT nil rate band, an immediate tax charge will be payable. This tax charge is primarily payable by the Trustees. If the value of the non-exempt cumulative total is less than the nil rate band, there will not be an immediate tax charge. However, if this value is greater than the nil rate band, the charge is 20% of the value that exceeds the nil rate band.

Some tax may also be payable by your Trustees at ten yearly intervals, known as the "periodic charges". A periodic charge is payable at those anniversaries of setting up the Trust, only if the value of the Trust Fund comes to more than the Trust's nil rate band. In some cases the Trust may not have a full, or indeed any, nil rate band available, in which case the maximum charge at these anniversaries (under current legislation) will be 6% of the Trust Fund. In most cases the effective charge will be less than 6%. The Trustees can pay this tax from the Trust Fund.

Tax may also be payable when assets are distributed out of your Trust to Beneficiaries. The rate of tax will be largely dependent on the rate payable at the previous ten year anniversary. This tax will be payable by the Beneficiaries.

In order to avoid potential tax problems, no-one who is a Default or Possible Beneficiary should pay any premiums under the policy, neither should the premiums be paid from a bank account held jointly with your spouse, unless the Trust is declared jointly with your spouse.

It should be noted that if two people, A and B, each create a Flexible Trust and if A is a Possible Beneficiary of B's Trust and vice versa, these may be regarded as creating gifts with reservation and so be ineffective for Inheritance Tax planning.

INCOME TAX

There may be a potential income tax liability on any gains made under certain types of policy which have an investment element. You should seek advice in these circumstances.

Please note that tax rules can change. The above guidance is based on our understanding of the relevant legislation at the date of going to print.

If you are in any doubt

- as to whether the Trust is suitable for your requirements, please consult an independent legal adviser, or
- about the possible tax liability, please contact your professional tax adviser.

We are only supplying standard trust documents and we cannot provide advice on their suitability or the consequences of using them in any individual circumstance.

Please return this form, fully completed, signed by everyone named in this deed and witnessed, to:

Scottish Widows Limited, 15 Dalkeith Road, Edinburgh EH16 5BU.

Please enter the date the last person signs the execution clause at the end of this Deed.

BOX A – DECLARATION OF TRUST

This declaration of trust (the “Trust”) made on (DD MM YYYY)

BOX B – SETTLOR

First Settlor

Full name(s)

Address

Postcode

Date of birth (DD MM YYYY)

Second Settlor (if any)

Full name(s)

Address

Postcode

Date of birth (DD MM YYYY)

Please enter either the application date or the policy number as appropriate. The policy type is the name of your policy e.g. Level Term Assurance.

BOX C – POLICY DETAILS

(1) Where the policy is not yet in force

The Settlor has asked Scottish Widows Limited to issue the Policy (as defined below) to the Settlor as Trustee (as defined under Section B ‘2. Definitions’), along with any additional Trustee(s) named in Section A hereof, of the Policy to hold it irrevocably in trust as follows:

The “Policy” means EITHER

(2) Where the Policy is not yet in force

The policy to be effected under the Settlor’s application dated:

Application date (DD MM YYYY)	Application number	Name of First Life Assured	First Life Assured Date of birth (DD MM YYYY)	Policy type

or

(3) Where the policy is in force

The Settlor, as the legal and beneficial owner of the Policy (as defined below) issued by Scottish Widows Limited, hereby declares that from the date of this declaration the Settlor holds the Policy as Trustee (as defined in Section B ‘2. Definitions’) irrevocably in trust as follows:

Policy number	Policy type

BOX D – ADDITIONAL TRUSTEES

Please give the full names(s) and address(es) of the additional Trustee(s) you now wish to add.

The Settlor appoints as additional Trustee(s):

First additional Trustee

Full name(s)

Address

Postcode

Date of birth (DD MM YYYY)

Nationality

(list all if more than one held) (e.g. British, French, Irish)

Town/city of birth

Country of birth

Country of residence

(if different or not UK)

Country of any residential addresses

Which countries are you tax resident in?

(If you are a US Citizen or resident in the US for tax purposes by any other means, then the US must also be included as one of your countries of tax residency.)

Please provide your TIN:

Second additional Trustee

Full name(s)

Address

Postcode

Date of birth (DD MM YYYY)

Nationality

(list all if more than one held) (e.g. British, French, Irish)

Town/city of birth

Country of birth

Country of residence

(if different or not UK)

Country of any residential addresses

Which countries are you tax resident in?

(If you are a US Citizen or resident in the US for tax purposes by any other means, then the US must also be included as one of your countries of tax residency.)

Please provide your TIN:

By TIN, we mean your Taxpayer Identification Number or similar tax payer reference you hold for countries you are tax resident in.

By TIN, we mean your Taxpayer Identification Number or similar tax payer reference you hold for countries you are tax resident in.

BOX D – ADDITIONAL TRUSTEES (CONTINUED)

The Settlor appoints as additional Trustee(s):

Third additional Trustee

Full name(s)

Address

Postcode

Date of birth (DD MM YYYY)

Nationality

(list all if more than one held) (e.g. British, French, Irish)

Town/city of birth

Country of birth

Country of residence

(if different or not UK)

Country of any residential addresses

Which countries are you tax resident in?

(If you are a US Citizen or resident in the US for tax purposes by any other means, then the US must also be included as one of your countries of tax residency.)

Please provide your TIN:

Fourth additional Trustee

Full name(s)

Address

Postcode

Date of birth (DD MM YYYY)

Nationality

(list all if more than one held) (e.g. British, French, Irish)

Town/city of birth

Country of birth

Country of residence

(if different or not UK)

Country of any residential addresses

Which countries are you tax resident in?

(If you are a US Citizen or resident in the US for tax purposes by any other means, then the US must also be included as one of your countries of tax residency.)

Please provide your TIN:

Trustee(s) to act jointly with the Settlor as Trustees of this Trust.

By TIN, we mean your Taxpayer Identification Number or similar tax payer reference you hold for countries you are tax resident in.

By TIN, we mean your Taxpayer Identification Number or similar tax payer reference you hold for countries you are tax resident in.

BOX E – DEFAULT BENEFICIARIES

You **must** name at least one Beneficiary here. You must not name yourself/ yourselves.

First Beneficiary

Full name(s)

Address

Postcode

Date of birth (DD MM YYYY)

Second Beneficiary

Full name(s)

Address

Postcode

Date of birth (DD MM YYYY)

Third Beneficiary

Full name(s)

Address

Postcode

Date of birth (DD MM YYYY)

Fourth Beneficiary

Full name(s)

Address

Postcode

Date of birth (DD MM YYYY)

BOX E – DEFAULT BENEFICIARIES (CONTINUED)

IMPORTANT

The parties to the Deed must not witness each other's signatures. It is necessary to obtain an independent witness, who may witness all the signatures

Please ensure the shares add up to 100%.

These are the people the Trustees can choose to benefit. The exclusion of "the Settlor's estate and the Settlor's legal personal representatives" does not mean that people included in these categories cannot benefit in their personal capacities.

(a) includes your children.

In (f), you can name anyone not included by (a)-(e) except yourself/ yourselves.

	Share %
First Beneficiary	
Second Beneficiary	
Third Beneficiary	
Fourth Beneficiary	
	Total 100%

If the stated shares do not add up to 100%, they shall be taken as being scaled up or down in the same proportions so that they do.

The "Possible Beneficiaries" means the following, but always excluding the Settlor, the Settlor's estate and the Settlor's legal personal representatives:

- (a) Any issue of the parents of the Settlor and any spouse, former spouse or widow(er) of such a person;
- (b) The Settlor's spouse, former spouse or widow(er);
- (c) The Default Beneficiary(ies);
- (d) Anyone whom the Settlor nominates in writing to the Trustees;
- (e) Anyone who may benefit from the estate of the Settlor or the estate of a Default Beneficiary; and
- (f) "Issue" includes any illegitimate, step, adopted or legitimated issue.

BOX F – LAW APPLICABLE

The Trust is governed by the law of England and Wales unless the Settlor (both of them if there are 2) initials the box in which case the law of Scotland will apply.

The proper law of this Trust shall be that of England and Wales and all rights under this Trust and its construction and effect shall be subject to the jurisdiction of and construed according to the laws of England and Wales unless the box incorporated in this section is initialled by the Settlor (and both of them, if more than one) in which case the proper law of this Trust shall be the law of Scotland and it will be construed accordingly.

Initials of 1st Settlor where Scots law is to apply

Initials of 2nd Settlor (if any) where Scots law is to apply

BOX G – SIGNATURES

This and the preceding pages are signed as a deed and delivered by:

First Settlor name

First Settlor signature

in the presence of:

Witness name

Witness signature

Witness address

Postcode

Second Settlor name

Second Settlor signature

in the presence of:

Witness name

Witness signature

Witness address

Postcode

First additional
Trustee name

First additional
Trustee signature

in the presence of:

Witness name

Witness signature

Witness address

Postcode

BOX G – SIGNATURES (CONTINUED)

Second additional
Trustee name

Second additional
Trustee signature

in the presence of:
Witness name

Witness signature

Witness address

Postcode

Third additional
Trustee name

Third additional
Trustee signature

in the presence of:
Witness name

Witness signature

Witness address

Postcode

Fourth additional
Trustee name

Fourth additional
Trustee signature

in the presence of:
Witness name

Witness signature

Witness address

Postcode

NOW THIS DEED WITNESSES as follows:

DEFINITIONS

- 1 In this Trust:
- 1.1 the following expressions have the following meanings and, unless the context does not permit, words importing the singular shall include the plural and vice versa and a gender shall include all genders (including the neuter):
 - 1.2 “**Retained Benefits**” means any sum which becomes payable under the Policy as a result of a critical illness, a critical condition, a specified disability, a serious illness or a terminal illness (all as defined in the policy) or under any Children’s Benefit provisions of the Policy
 - 1.3 the “**Trust Fund**” means the Policy, together with any assets added by way of further settlement, capital accretion, accumulation of income, or otherwise, and all assets from time to time representing the same; references to the Trust Fund shall include references to any part of it
 - 1.4 the “**Trust Period**” means the period of 125 years from the date of this Trust which period (where the proper law of this Trust is the law of England and Wales) shall be the perpetuity period
 - 1.5 “**Trustees**” means the trustee or trustees for the time being of this Trust and “**Trustee**” means any one of them
 - 1.6 “**Beneficiary**” means anyone who is a Default Beneficiary or a Possible Beneficiary
 - 1.7 “**Spouse**” includes any person who is registered as a civil partner (as defined by the Civil Partnership Act 2004) of the Settlor
 - 1.8 “**Widow(er)**” includes any person who survives the Settlor and was registered as a civil partner (as defined in the Civil Partnership Act 2004) of the Settlor immediately before the Settlor’s death.

MAIN TRUST PROVISIONS

- 2.1 Subject to the proviso at the end of this clause 1 the Trustees shall hold the Trust Fund and the income of it upon trust for the benefit of the Beneficiaries. During the Trust Period, the Trustees (being at least two in number or a company) may in their absolute discretion from time to time by deed revocable during the Trust Period or irrevocable appoint that the Trust Fund and the income of it shall be held for such one or more of the Possible Beneficiaries for such interests, subject to such trusts, powers and provisions being exercisable by the Trustees or other persons and in such shares as the Trustees think fit (but no such appointment shall affect the entitlement of any Beneficiary to any sum paid or asset transferred previously to him by the Trustees). Subject to and in default of any such appointment the Trustees shall hold the Trust Fund and the income of it for the Default Beneficiaries absolutely in the shares specified below or, if none, in equal shares PROVIDED ALWAYS that if any Retained Benefits become payable under the policy then the Trustees shall hold such Retained Benefits and the income arising for the Settlor absolutely and, if more than one, in equal shares.
- 2.2 The “**Default Beneficiary(ies)**” means, subject to clause 3(1), any person named or described in the Default Beneficiaries table above in Part E.

The Trustees (2 are usually needed) have up to 125 years from the start of the Trust to appoint benefits to any Possible Beneficiary. Otherwise, the benefits go to the Default Beneficiaries.

However, if any critical illness benefit, terminal illness benefit or Children’s Benefit is paid, this will be paid to the Trustees for your benefit

CHANGING TRUSTEES OR DEFAULT BENEFICIARIES

- 3 During his life the Settlor may from time to time by deed:
- 3.1.1 appoint new or additional Trustees,
 - 3.1.2 remove any Trustee, provided that the Trustees remaining after the removal are or include either a company or two persons, at least one of whom is not the Settlor or the spouse for the time being of the Settlor,
 - 3.1.3 remove or add any person excluding himself as a Default Beneficiary provided that there shall at all times be at least one Default Beneficiary remaining; and
 - 3.1.4 alter the shares of the Default Beneficiaries specified in clause 2. Provided that, if there is more than one Settlor, they must exercise these powers jointly and the survivor of them shall continue to have the power if one or more dies.
 - 3.2 If, in the reasonable opinion of the other Trustees, any Trustee is unfit to act or incapable of acting as a Trustee, the other Trustees shall (acting unanimously) have power to remove that Trustee as a trustee on giving written notice to that Trustee to that effect.
 - 3.3 After the death of the Settlor (or the surviving Settlor if more than one), the Trustees shall have the power to appoint by deed new or additional Trustees.
 - 3.4 Any Trustee may retire at any time by deed notified to the other Trustees and provided that no retirement of any Trustee shall take effect unless and until the continuing Trustees are or include at least two persons at least one of whom is not the Settlor or the spouse for the time being of the Settlor.

After the death of the Settlor, the Trustees have the power to appoint new Trustees.

The settlor can change Default Beneficiaries.

The Settlor can be removed as a trustee if he loses capacity to act – this enables the other trustees to continue managing the Trust and pay out any critical or terminal illness benefit.

Trustees can retire from their Trust duties.

TRUSTEES' POWERS, DUTIES AND LIABILITIES

The Trustees have wide powers of investment and sufficient powers to manage and deal with the Trust property.

Important

All existing Trustees must be named on this Deed, and all parties named in this Deed must sign it. Their signatures must be witnessed by an independent witness. The parties to the deed, or any of their relatives, should not be a witness. Also, a Beneficiary should not be a witness. However, the same independent person may witness all signatures.

The Trustees are responsible for putting a suitable loan agreement in place, if they use the power in 4.2 and 4.5.

Professional trustees can charge for any work carried out for the Trust.

- 4 In addition to and without prejudice to all statutory powers, the Trustees shall have the following powers and duties which shall be exercisable from time to time
- 4.1 The Trustees shall have all the powers of an absolute beneficial owner in dealing with the Trust Fund, including the power to surrender, convert, sell or otherwise deal with any policy subject to this Trust in any manner which they in their absolute discretion think fit and including the power to delegate the investment of the Trust Fund on a wholly discretionary management or any other basis. The Trustees may reinvest the Trust Fund in any income bearing or non-income bearing investments, or property, including life assurance policies, which they in their absolute discretion think fit. The Trustees may decide not to diversify the Trust Fund
- 4.2 The Trustees have the power to borrow on such terms as they think fit, and to use the Trust Fund as security for such borrowing
- 4.3 The Trustees shall have the power to pay or apply the Trust Fund (save for any Retained Benefits) to or for the benefit of any one or more of the Beneficiaries. The Trustees shall also have the power to pay or apply any Retained Benefits to or for the benefit of the Settlor including, for the avoidance of doubt and without limitation, by making payments to third parties for the procurement of goods, assets or services which are to be provided for the benefit of the Settlor or paying Retained Benefits to a person or persons with authority to act on behalf of the Settlor pursuant to an enduring or lasting power of attorney
- 4.4 The Trustees may appropriate any part of the Trust Fund and use it in or towards satisfaction of the interest of any of the Beneficiaries without the need for any consent
- 4.5 The Trustees may lend with or without security to any Beneficiary the Trust Fund upon such conditions as to interest (if any) and repayment and generally upon such terms as the Trustees in their absolute discretion think fit, provided that any such loan must be repayable before the end of the Trust Period
- 4.6 The Trustees shall be under no obligation to maintain any life assurance policy which is subject to this Trust or to reinstate it if it becomes void. The Settlor shall have no right to reclaim from the Trustees any premiums paid or payable in respect of such a policy
- 4.7 The Trustees may pay or transfer any asset comprised in or any income of the Trust Fund to the parent or guardian of any Beneficiary who is under 18 years old and is beneficially entitled to such asset or income, and the receipt of such parent or guardian shall be a full discharge to the Trustees
- 4.8 Any Trustee (other than the Settlor or Settlor's spouse) being a solicitor or other person engaged in any profession or business, shall be entitled to be paid professional fees for business transacted, time spent, and acts done by them or any employee or partner, including acts which a Trustee could have done personally, as may be agreed with the other Trustees before such work is carried out, without prejudicing his right to resign as if he were a gratuitous trustee
- 4.9 Any company authorised to conduct trust business may be appointed as a Trustee of the Trust Fund, and on appointment shall have the rights to remuneration and charges as may be agreed in writing prior to or upon appointment.
- 4.10 A Trustee shall not be liable for any loss to the Trust Fund unless that loss is caused by his own fraud or wilful neglect or default; or additionally in the case of a Trustee who is remunerated for his services as such, by his own negligence. Any liability of a Trustee shall be restricted to liability arising from his own actions or omissions only
- 4.11 The exercise of any of the dispositive or administrative powers of the Trustees shall not be limited solely by reason that such exercise will or may benefit a Trustee personally
- 4.12 Any legal rule requiring apportionments to be made for the purposes of the Trust is excluded and shall not apply.