Relevant Life Plan technical guide

For adviser use only

Legal & General

About this guide

This guide has been designed for financial advisers to provide further technical information on our Relevant Life Plan and is based on our understanding of current laws and tax rules which can change at any time. The information in this guide is based on the assumption that the Relevant Life Plan will be set up using our standard documents, in the way we suggest. This guide should be used together with the Policy Documents and Policy Summary.

What is a Relevant Life Plan?

A Relevant Life Plan offers a cost-effective way for an employer to arrange Life Cover on the life of an employee, with the benefit payable to the employee's family or financial dependants. This should be tax efficient for employers and employees, as long as it meets certain legislative requirements.

Our Relevant Life Plan assumes that the policy will be set up in a Discretionary Trust (Legal & General's Relevant Life Plan Trust) at the start, with the employee's family or dependants as beneficiaries. If the intention is to set things up in a different way, the guidance given here may not accurately reflect the legal and tax position and the client should seek their own advice as to how their agreements and Trust Deeds are drawn up.

Our Relevant Life Plan is designed to pay a lump sum to the employee's family if the employee dies when employed, while the plan is in place. It will also pay out if the employee is diagnosed with a terminal illness, with life expectancy of less than 12 months, that meets our definition. Premiums are paid, and the policy is owned, by the employer. It also offers continuation options if the employee leaves or changes employment.

Legal & General's Relevant Life Plan should not be used for Business Protection purposes (for example Key Person Protection and Shareholder Protection).

How should the Relevant Life Plan be set up?

The Relevant Life Plan should be set up so that:

- It's a single life policy
- The employee is the person covered
- The employer pays the policy premiums, during employment
- The policy is written in trust from outset, using our Relevant Life Plan Discretionary Trust – this means that it will benefit the person covered and their family and financial dependants
- The plan ends by the time the employee is 75.

Who can be covered by a Relevant Life Plan?

The person covered must be a UK resident, employee of a UK-resident business (England, Wales, Scotland and Northern Ireland only).

- A UK-resident employee will usually include company directors (on PAYE) and salaried partners. Members of a Limited Liability Partnership (LLP) and sole traders (as owners of their own business) are not eligible to be covered under a Relevant Life Plan.
- A UK-resident business can be a Limited company, a Limited Liability Partnership (LLP), a traditional English partnership, a charity or even a sole trader.

In most cases it will be clear whether a person is employed or self-employed from the way that they are taxed each year on their earnings, however, occasionally it may not be as clear, and specialist advice may be required. Information on HMRC's view on this area can be found at: **hmrc.gov.uk/employment-status/index.htm**

Who is most likely to benefit from a Relevant Life Plan?

A Relevant Life Plan should be most beneficial in the following circumstances:

- **Where an employer does not have a sufficient number of employees** to be able to offer a group scheme, or is unwilling to do so, but wants to offer life cover to a small number of employees or perhaps only one individual.
- **Where an employer wants to provide cover which is not in line with their group policy**, for example, where the cover level exceeds that offered in the group scheme, or where the employee wants to top-up the group cover level.
- **Where an employee has a significant pension fund** already and is likely to exceed their Pension Lifetime Allowance, potentially incurring higher tax charges (Lifetime Allowance charge) on their pension fund, if they were to die before retirement.

  The Lifetime Allowance is the maximum amount that an individual can have in their pension, which benefits from tax relief; the Lifetime Allowance is currently £1,073,100 (2021/2022). If you build up pension savings worth more than the Lifetime Allowance, you'll pay a Lifetime Allowance charge on the excess. It applies to the total of all the pensions an individual has, including the value of pensions promised through any defined benefit schemes they belong to, but excluding their State Pension.
  The way the Lifetime Allowance charge applies depends on whether the individual receives the money from their pension as a lump sum or as part of regular retirement income.

  A Relevant Life Plan would not incur a Lifetime Allowance charge, because under the current tax rules its premiums and benefits do not count towards the annual or lifetime pension allowance. Life cover from a group scheme usually forms part of the total pensions allowance and therefore could see a sizeable amount of the allowance being used up with life cover benefits.

What is the maximum amount of cover available?

The maximum amount of cover available will usually depend on the employee's age and level of remuneration. It may also depend on any other life cover that is in place for the employee. Remuneration includes salary, bonuses, benefits in kind and regular dividends from shares in the employer's company or a company within the employer's group of companies.

The multiples of remuneration are as follows:

AGE	LIMITS
18–29 years	up to 25 x remuneration
30–39 years	up to 25 x remuneration
40–49 years	up to 25 x remuneration
50–59 years	up to 20 x remuneration
60–73 years	up to 15 x remuneration

- The employer may take out multiple Relevant Life Plans for an employee as long as they don't go over the maximum amount of cover available
- If the employee already has family protection (including group schemes), this will be taken into account to determine their maximum amount of cover
- We will ask for evidence of earnings for any amount of cover requested over £3,500,000
- The Relevant Life Plan is financially underwritten at outset, not at claim. In the event of a valid claim, Legal & General will pay the full amount of cover payable under the policy
- In terms of maximum amount of cover, the employer should also be comfortable that the level of premium being paid is a reasonable employee benefit in the circumstances, as otherwise the plan may not be as tax efficient as it could be.

Tax

What are the likely tax benefits?

A Relevant Life Plan can help both employers and employees to reduce their tax liability:

- The premiums are not usually treated as employee income or classed as a P11D benefit in kind. This means that:
  - The employee won't pay Income Tax on the premiums
  - Both the employer and the employee will avoid paying National Insurance Contributions on the premiums.
- As long as the premiums are being paid 'wholly and exclusively for the purposes of the business', they should be allowable expenses for the employer
- A Relevant Life Plan should not incur a Pensions Lifetime Allowance charge, because under the current tax rules its premiums and benefits do not count towards the annual or lifetime pension allowances
- Any payout that we make from the Life Cover or Terminal Illness Cover should be free from UK Income Tax, National Insurance and Capital Gains Tax
- Benefits paid through the Relevant Life Plan Trust should not form part of the estate for the employee for Inheritance Tax. However, there are some occasions where there is potential for an Inheritance Tax charge to arise: within the trust. Please see the **Can Inheritance Tax arise on the trust?** section for further information.

Do the 'Anderson principles' apply to a Relevant Life Plan?

No. The 'Anderson principles' apply primarily to Key Person Protection, where the company benefits from the life cover policy. Legal & General's Relevant Life Plan is not to be used as a Key Person or Share protection policies. In order for the payment of a premium to be considered as allowable as a deductible business expense the 'wholly and exclusively' principles usually apply.

Legal & General offer a template letter (available on the literature library) for employers (or their accountants) to gain a view of the tax position of premiums with their local inspector of taxes.

Trusts

What is a Relevant Life Plan Discretionary Trust?

Our Relevant Life Plan Trust is a Discretionary Trust – a legal arrangement which allows the Relevant Life Plan to be given to a trusted group of people (trustees), to look after until, after a successful claim, they pass on the policy proceeds to the individual(s) that the employee cares about (beneficiaries). The trustees are the legal owners of the policy and they have some discretion about which of the beneficiaries to pass on the policy proceeds to, how much each will get, and when. A nomination form can help the trustees when making these decisions. Once the policy is placed in trust, it is known as the trust fund. This guide assumes that a Relevant Life Plan is the only property in the trust fund.

Why should a Relevant Life Plan be written in a Discretionary Trust?

Legislation requires that the benefits of a Relevant Life Plan must be paid to an individual or a charity and allows this to be paid via a trust. Using a Discretionary Trust has lots of practical and financial benefits. For example:

- **Inheritance Tax** – It should help to ensure that any money paid out from the Relevant Life Plan would not be part of the estate of the person covered, helping to minimise Inheritance Tax.
- **Quicker payout** – It should help to ensure that the money paid out from the Relevant Life Plan can be paid to the right people quickly, without the need for lengthy legal processes, such as needing to attain Grant of Probate. This process takes time and if they die without having made a will, the process will take longer. Since the trustees are the legal owners of the policy, we can make payment to them directly following a successful claim.
- **Control of funds** – A trust can control when the money from the Relevant Life Plan will be paid out. This can ensure that any children receive some financial support from the money, but do not have full access to it.
- **Flexibility of beneficiaries** – Using a trust allows some flexibility on who will benefit from the policy.

What are the key Trust documents?

There are two key documents:

- **The Relevant Life Plan Trust Deed (W13547) or the online Relevant Life Plan Trust** – This is the legal document that creates the trust. The Trust Deed must be signed by the settlor and the trustees, but the online Trust does not. It names the parties involved, says what roles they have, and gives details of the Relevant Life Plan which is being put into trust. The provisions in the Trust are the basis of the trust arrangement. The trustees must act according to the Trust, and cannot do things that the Trust doesn't allow.
- **The Relevant Life Plan Nomination Form (W13548)** – As the trustee will have lots of decisions to make, the employee should fill in a Nomination Form, which says who they would like to benefit from the Relevant Life Plan. The Nomination Form will be kept by the trustees. Unlike the Trust Deed, or the online Trust, the trustees do not have to follow the Nomination Form, however, trustees usually find it to be a helpful guide on how best to distribute the trust fund to the beneficiaries. The employee can change or update the Nomination Form at any time.

Who's involved in a Discretionary Trust?

There are three important roles:

- **The beneficiaries** – The people who can receive payment from the trust fund are called the beneficiaries. This is usually the family of the employee. This means that it would be the beneficiaries who benefit from any payout from the Relevant Life Plan. The people who may be a beneficiary are listed in the Trust Deed or the online Trust, (though this list can be amended later), but no discretionary beneficiary is guaranteed to receive any of the trust fund.
- **The settlor** – This is the person who contributes to the trust fund by placing a policy in trust or by paying the premiums. Once the trust is established, the settlor is not the legal owner of the policy, and has no right to any of the benefits of the policy.
- **The trustees** – The trustees are the legal owners of the trust fund. They look after the trust fund, and, following a claim on the Relevant Life Plan will make arrangements for payments to the beneficiaries. The trustees have discretion about which beneficiaries named in the trust will receive the trust fund and when. However, they must act in the best interests of the beneficiaries at all times and can only do what is allowed in the Trust Deed or the online Trust.

Who can be a trustee?

The employer is automatically appointed as a trustee but the employee is not. The employer can opt out of being a trustee by completing the relevant section of the Trust Deed (this option is not available on the online Trust). Up to four further trustees can be appointed, one of which can be the employee. It is generally possible for anyone who is over 18 and of sound mind to be a trustee. When thinking about who to choose as a trustee, people usually choose from their closest friends and family. These are often the people that they trust most and whose judgement they can rely on. As an alternative, they might choose a professional trustee, such as a solicitor.

What are the trustees' main duties?

Many of the duties as a trustee arise from trust law. These are 'fiduciary' duties which means that when the trustee carries them out they must always act in the best interests of the beneficiaries. A trustee is in a position of responsibility, and it is important that they understand the following key responsibilities:

- The trustees must make themselves familiar with the powers and duties they have under the trust, and the rights of the beneficiaries. The trustees must make sure that they understand the terms of the trust, and that they don't do anything which isn't allowed by the trust or by the law
- The trustees must take legal ownership of the trust fund. At the start of the trust, the Trust Deed, or online Trust, transfers legal ownership of the life policy from the settlor to the trustees
- The trustees must look after the trust property for the benefit of the beneficiaries in line with the terms of the Trust Deed, or online Trust, and trust law. Trustees are responsible for ensuring that trust property is passed to beneficiaries at the appropriate time, and they must treat all beneficiaries fairly. If the trust fund isn't going to be distributed immediately after claim, the trustees must ensure that it is invested, seeking legal and financial advice from a qualified professional where required
- The trustees must also keep clear and accurate records and accounts of trust property and ensure that all tax which the trust is liable for is paid. This can become a significant consideration, if money will remain in trust after a claim is paid, and the trustees may wish to seek professional advice at that time
- The trustees are not allowed to profit personally from their role as a trustee, and, unless they are a professional trustee, can't be paid for their time. However, they may be able to claim back expenses in certain circumstances
- The trustees must agree with all of the other trustees when making trust decisions
- Once the trustees have signed the Trust Deed or been named on the online Trust, and the trust has been created, they will usually not have much to do until the time comes to make a claim. This is because the Relevant Life Plan will be the only thing in the trust, and it usually won't have any value for tax purposes until a claim is due. Therefore it's unlikely there will be trust taxation to consider, and little else to manage, as the trustees are not responsible for paying the policy premiums; however, they will be involved in policy changes.

Who can be a beneficiary under the Trust?

The people who may benefit under the trust include:

- The employee (so that they can benefit in the event of a terminal illness claim).
- Any spouse, registered civil partner, widow or widower, or surviving registered civil partner of the employee.
- Any child or grandchild of the employee whenever born (including stepchildren).

Can Inheritance Tax arise on the Trust?

Benefits paid through the Relevant Life Plan Trust should not form part of the estate of the employee for Inheritance Tax purposes. However, as the policy is held in a discretionary trust, then the usual trust taxation considerations for a Relevant Property trust apply. This means that there are some occasions when an Inheritance Tax charge might arise within the trust itself, in particular, Periodic and Exit Charges.

Periodic Charge

The Periodic Charge may arise on each 10 year anniversary of the creation of the trust. The maximum rate of tax that can be charged is currently 6% of the assets over the available nil rate band. The Periodic Charge is based on the value of the property in the trust, which is referred to as 'relevant property'. The value of the relevant property is the 'open market value' of the policy. The open market value of a life cover plan for Inheritance Tax purposes is usually negligible if the life insured is in good health, so a Periodic Charge is usually not payable. A Periodic Charge may become payable if money is held in the trust after a successful claim, but in most cases, the policy proceeds should leave the trust before a Periodic Charge becomes payable.

Exit Charge

An Inheritance Tax liability may arise where capital leaves the trust. For example, a charge may arise where the trustees pay the policy proceeds to a beneficiary following a claim. Different calculations are done depending on whether the distribution of capital occurs before or after the first 10 year anniversary of the trust. Where an exit occurs during the first 10 years the calculation is based on the values at the creation of the trust. Where the exit occurs between 10 year anniversaries the calculation is based on the amount paid at the last Periodic Charge. In either case, if the life insured was in good health at that time there would usually not have been a charge, so an Exit Charge should not be payable.

Continuation Cover

What happens if the employee leaves their employer?

If the employee leaves the employer, the cover will continue and there will be no need for further medical evidence or underwriting so long as the premiums continue to be paid.

If the employee leaves the employer, then we may ask for any information we reasonably require to enable us to administer the policy and meet our legal and regulatory obligations.

The trust will continue; however, the trustees may need to be changed depending on the circumstances.

The Legislation

What are the legislative requirements to qualify as a Relevant Life Plan?

A 'relevant life policy' is defined in subsection 393B(4) of the Income Tax (Earnings and Pensions) Act 2003 ('ITEPA') as:

(a) An excepted group life policy as defined in section 480 of the Income Tax (Trading and Other Income) Act 2005, or

(b) A policy of life insurance, the terms of which provide for the payment of benefits on the death of a single individual, and with respect to which:

i) Condition A in section 481 of that Act would be met if paragraph (a) in that condition referred to the death, in any circumstances or except in specified circumstances, of that individual (rather than the death in any circumstances of each of the individuals insured under the policy) and if the condition did not include paragraph (b), and

ii) Conditions C and D in that section and conditions A and C in section 482 of that Act are met, or

(c) A policy of life insurance that would be within paragraph (a) or (b) but for the fact that it provides for a benefit which is an excluded benefit under or by virtue of paragraph (a), (b) or (d) of subsection (3) of ITEPA s.393B.

Therefore the conditions that need to be met if a policy is to be a relevant life policy within the 'single life' category set out in (b) above are:

- **Condition A** in section 481 of the Income Tax (Trading and Other Income) Act 2005 ('ITTOIA') – that "under the terms of the policy a sum or other benefit of a capital nature is payable or arises on the death in any circumstances of [the individual] insured under the policy who dies under an age specified in the policy that does not exceed 75."
- **Condition C** in section 481 – that "the policy does not have, and is not capable of having, on any day:
  (a) a surrender value that exceeds the proportion of the amount of premiums paid which, on a time apportionment, is referable to the unexpired paid-up period beginning with the day, or
  (b) if there is no such period, any surrender value."
- **Condition D** in section 481 – that "no sums or other benefits may be paid or conferred under the policy, except as mentioned in condition A or C."
- **Condition A** in section 482 of ITTOIA – that "any sums payable or other benefits arising under the policy must (whether directly or indirectly) be paid to or for, or conferred on, or applied at the direction of:
  (a) an individual or charity beneficially entitled to them, or
  (b) a trustee or other person acting in a fiduciary capacity who will secure that the sums or other benefits are paid to or for or conferred on, or applied in favour of, an individual or charity beneficially."
- **Condition C** in section 482 – that "a tax avoidance purpose is not the main purpose, or one of the main purposes, for which a person is at any time:
  (a) the holder, or one of the holders, of the policy, or
  (b) the person, or one of the persons, beneficially entitled under the policy."

Alternative formats

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