

Discretionary Trust (Single Life)

WARNING: This is a specimen document. Before you complete it and it is executed, we strongly recommend that you obtain independent legal and tax advice on whether this document is appropriate for your needs and circumstances and on the consequences (including any tax consequences) of signing it. Aviva Life & Pensions UK Limited is not able to advise you in this regard and does not accept any liability for the effect or consequences (including any tax consequences) of using this document.

This document is designed to be used for Aviva Life & Pensions UK Limited (single life) policies only. It is intended for use where a person has taken out a single life Policy and wishes to settle the Policy (or certain benefits payable under the Policy Covers) into trust.

What is the Aviva Life & Pensions UK Limited Discretionary Trust?

Where Aviva Life & Pensions UK Limited Covers are eligible to be written in trust, there is an option to gift certain benefits, such as death benefits, to the Trust to be held for specific individuals or a group of Potential Beneficiaries. If a benefit is gifted into trust, this means that the proceeds that may become payable on the acceptance of a claim will be paid **to the Trust and not to you.**

The Aviva Life & Pensions UK Limited Discretionary Trust is a flexible trust whereby gifted benefits are held by the Trustees for a group of Potential Beneficiaries. Trustees of a Discretionary Trust have a discretion to decide which of the Potential Beneficiaries to benefit under the Trust, how much they receive and when. For further information on this type of trust (as we all as other types of Aviva Life & Pensions UK Limited trusts) please read our 'Guide to Trusts'.

The benefits which can be gifted into trust are listed in the 'Gifted/Retained Benefits' section of this document. If you wish to gift a particular benefit into the Trust, please tick the box for the relevant Cover. If the box for a particular benefit is not completed then this benefit will be retained. Some benefits (e.g. Income Protection) cannot be gifted, so will automatically be retained.

Please note: If you choose to retain a benefit under a Cover rather than gift it into trust then it may form part of your estate for Inheritance Tax purposes (whether or not you choose to claim it).

Once you and the Trustees that you choose have signed this document and the Policy commences:

- All benefits payable under the Cover you have selected to gift into the Trust will be held in trust for the Potential Beneficiaries and all other benefits not being gifted will be retained for you;
- The Trustees can only be changed in accordance with the terms of the Trust;
- Potential Beneficiaries can only be added in accordance with the terms of the Trust; and
- The Trustees will manage and control the benefits that are being held in the Trust.

Trusts and taxation

Normally, life insurance policies that have been put into trust are not included in your estate for Inheritance Tax purposes. However, this is not the case where benefits have been retained (whether or not those benefits have been claimed).

You should take advice on the tax implications of creating this Trust and settling or retaining benefits under it as well as any ongoing compliance requirements for the Trust with HMRC and/or any other authorities.

The laws relating to the taxation of gifts and trusts may change in the future. Aviva Life & Pensions UK Limited shall not be held responsible for any information given in this document or any other Aviva Life & Pensions UK Limited documentation or for any changes in tax provisions or legislation that may affect the policies within the trusts or the tax treatment of either the policies or the provisions of the trust or the rules applying to gifts for Inheritance Tax planning purposes.

Please read: Before you complete this document and it is executed, we would recommend that you read our 'Guide to Trusts' and speak to a legal adviser. They will be able to help you decide whether a trust is right for you and, if so, which type of trust would suit your needs and circumstances best.

The original executed Trust Deed (or a certified copy of the original) should be sent to: Aviva Life & Pensions UK Limited, PO Box 12010, Harlow, CM20 9LG as notice of the assignment of the Policy effected by this Trust.

Checklist

Before returning this document to Aviva Life & Pensions UK Limited please check that you have completed all relevant sections as follows (please tick to confirm):

(✓)

Mandatory	Entered the Policy number and details of the policyholders and Additional Trustee(s)	
Mandatory	Entered details of the Default Beneficiaries	
Optional	Entered details of additional Potential Beneficiaries, and of any Excluded Persons (if any)	
Optional	Ticked the box for any benefits you wish to gift to the Trust under the relevant cover in the Gifted/Retained Benefits section (if applicable)	
Mandatory	Signed this document, with all signatures witnessed by an independent witness (who should be age 18 or over and not related to the Settlor or Trustees)	
Mandatory	Dated this document (only after all sections have been completed and all parties have signed)	

Section A: Definitions

Word	Definition
Additional Trustee	The person(s) listed in Section C and who will act with the Settlor as a Trustee of the Trust.
Cover(s)	The cover(s) under the Policy that may be written in trust.
Default Beneficiary	The person and/or class of persons listed in Section C, to whom the Trust Fund will be paid if the Trustees have not exercised their discretion and distributed the Trust Fund to any of the Potential Beneficiaries within the Trust Period.
Excluded Person	Any person and/or class of persons listed in Section C (and/or a person and/or class of persons nominated in writing to the Trustees and added to the class of Excluded Persons pursuant to Clause 11(b)) to whom the trustees cannot distribute the Trust Fund.
Initial Trustees	The Settlor and any Additional Trustee(s), who will become the new legal owners of the Policy, and be responsible for administering the Trust.
Minor	A person under the age of 18.
Policy	The life insurance policy recorded in Section C.
Potential Beneficiary	The people to whom the Trustees may distribute the Trust Fund: <ol style="list-style-type: none"> 1. Any widow or widower or the Settlor 2. Any surviving civil partner of the Settlor 3. The children and remoter issue of the Settlor 4. The parents, brothers and sisters of the Settlor 5. The children and remoter issue of the parents, brothers and sisters of the Settlor 6. Any person entitled under the Will or intestacy of the Settlor 7. The Default Beneficiaries and their children and remoter issue 8. Any other person named or identified as such in Section C 9. Any person, class of person or charity nominated in writing to the Trustees by the Settlor and added to the class of 1. 10. Potential Beneficiaries pursuant to Clause 11(a)
Retained Benefits	Any benefits listed in Section C (other than those payable on death) which either the Settlor has chosen not to gift to the Trust, or which cannot be gifted and are therefore automatically retained.
Settlor	The person identified as such in Section C as the person establishing this Trust.
Trust	The trust declared by this Deed.
Trustees	The Initial Trustees and/or the trustees for the time being of this Trust (as the case may be).
Trust Fund	The Covers, all title, benefits, rights and interests which may be payable under the Covers, all monies received or may be payable under the Covers and all property and monies added thereto by way of further settlement, accumulation of income or otherwise, but excluding any Retained Benefits and any property from time to time representing the Retained Benefits.
Trust Period	The period ending the last day of the period of 125 years from the date of this Deed.

Unless the context otherwise requires:

- words denoting the singular shall include the plural and vice versa;
- words denoting any gender shall include all other genders.

References to 'child', 'children' or 'issue' of any person shall include his children, and remoter issue, whether legitimate, legitimated, illegitimate or adopted but shall exclude step-children.

Section B: The Trust Provisions

1. Declaration of Trust

The Settlor as the legal and beneficial owner of the Policy hereby declares that he or she holds the Policy and all the benefits payable under it in trust together with the Additional Trustees as Initial Trustees subject to the powers and provisions of the Trust as set out in this Deed.

2. Appointment of Additional Trustees

The Settlor hereby appoints the Additional Trustees to act with the Settlor as Trustees of the Trust in accordance with the terms of this Deed and the Additional Trustees agree to be appointed as signified by them signing this Deed.

3. Retained Benefits

The Trustees shall hold the Retained Benefits and the income from them for the absolute benefit of the Settlor, or if there is more than one Settlor for the benefit of that Settlor in respect of whose illness or care need the relevant benefit is payable.

4. Discretionary power of appointment

- (a) The Trustees shall hold the income and capital of the Trust Fund upon trust for the benefit of such of the Potential Beneficiaries, at such ages or times, in such shares, upon such trusts (which may include discretionary or protective powers or trusts) and in such manner generally as the Trustees shall in their absolute discretion appoint. Any such appointment may include such powers and provisions for the maintenance, education or other benefit of the Potential Beneficiaries or for the accumulation of income and such administrative powers and provisions as the Trustees think fit.
- (b) No exercise of the power conferred by sub-clause 4(a) shall invalidate any prior payment or application of all or any part of the capital or income of the Trust Fund under the trusts of this Deed or made under any other power conferred by this Deed or by law.
- (c) Any trusts and powers created by an appointment under sub-clause 4(a) may be delegated to any extent to any person, whether or not including the Trustees or any of them.
- (d) The exercise of the power of appointment conferred by sub-clause 4(a) shall be:
 - (i) subject to the application, if any, of the rule against perpetuities; and
 - (ii) by deed, revocable during the Trust Period or irrevocable, executed during the Trust Period.

5. Trusts in default of appointment

- (a) Subject to any exercise of the power conferred by clause 4(a), the Trustees shall pay or apply the income of the Trust Fund during the Trust Period to or for the benefit of such one or more of the Potential Beneficiaries and in such shares if more than one and in such manner and upon such terms and conditions (if any) generally as the Trustees shall think fit.
- (b) Despite the provisions of sub-clause 5(a) above the Trustees may during the Trust Period retain and accumulate the whole or any part or parts of the income of the Trust Fund as an accretion to capital and the Trustees may apply the whole or any part of such accumulated income as if it were income arising in the then current year.
- (c) Subject as above, the Trust Fund and its income shall at the end of the Trust Period be held upon Trust for such of the Default Beneficiaries as are living in the proportions specified in Section C of this Trust or, if no such proportions are specified and there is more than one Default Beneficiary, in equal shares absolutely.

6. Power of maintenance

Subject to the terms of any appointment under clause 4, the provisions of section 31 of the Trustee Act 1925 shall apply and sub-section (1)(i) shall be construed as enabling the Trustees to pay income to the person identified therein directly (as well as in the manner identified therein).

7. Settlor and Excluded Person unable to benefit

No power or discretion conferred on the Trustees by this Trust or by law, either expressed or implied, may be exercised so as to cause or permit any part of the capital or income of the Trust Fund to become payable in any way to, or for the benefit of, the Settlor or any Excluded Person.

8. Irrevocability

The Trust shall be irrevocable.

9. Number of Trustees and power to appoint new Trustees

- (a) There must be at least two Trustees at any given time of which one must be a person who is not the Settlor (such appointment must be by deed).
- (b) The power to appoint new Trustees shall be vested in the Settlor during his or her lifetime.

10. Power to remove Trustees and retirement of Trustees

- (a) The Settlor shall, during his or her lifetime, have the power to remove any Trustee without giving reasons for doing so and without the need for the other Trustees to agree, provided at least two Trustees remain following the removal.
- (b) The Trustees may remove a Trustee who cannot be found provided that:
 - (i) the Trustee who is being removed has not been in contact with any of the other Trustees within the period of 12 months preceding the removal;
 - (ii) the other Trustees have made reasonable efforts to make contact with the Trustee who is being removed; and
 - (iii) the removal is effected by deed executed by all of the continuing Trustees being at least two in number and a declaration is made in such deed that all reasonable efforts were made to contact the Trustee who cannot be found and that the continuing Trustees have written to the missing Trustee's last known address without success and that they have attempted to contact the missing Trustee through all other addresses given to them during their investigation. Such declaration shall be conclusive evidence in favour of any person dealing with the Trustees in good faith.
- (c) A Trustee may retire by giving notice in writing to the continuing Trustees provided that following the Trustee's retirement there are at least two continuing Trustees.

11. Power to add or exclude Potential Beneficiaries

- (a) The Trustees may by deed add or remove any person or class of person or charity nominated to them by the Settlor during his or her lifetime to or from the class of Potential Beneficiaries.
- (b) The Trustees may by deed add or remove any person or class of person or charity nominated to them by the Settlor during his or her lifetime to or from the class of Excluded Persons.

12. Trustee delegation and powers of Settlor as lead Trustee

- (a) Notwithstanding the trusts declared in this Deed, all powers conferred by the Policy on the Settlor shall, during the lifetime of the Settlor, be exercisable by the Settlor.
- (b) Notwithstanding the provisions of clause 12(a) above or any rule of law to the contrary, any of the Trustees or the Trustees jointly may authorise any person (including any one or more of the Trustees who may or may not be the Settlor) to exercise all or any functions on such terms as to remuneration and other matters as they think fit. A Trustee (or other person in a fiduciary capacity) shall not be responsible for the default of that person (even if the delegation was not strictly necessary or expedient) provided they took reasonable care in their selection and supervision. None of the restrictions on delegation in Sections 12 to 15 (inclusive) Trustee Act 2000 shall apply.

13. Power to invest

The Trustees shall have all the powers of investment granted to them by section 3 of the Trustee Act 2000 save that they shall not exercise such powers to invest any part of the Trust Fund in any wasting asset.

14. Power of management

The Trustees shall have all the powers of an absolute owner in relation to the management and administration of the Trust Fund.

15. Valid receipt

- (a) The Trustees may pay or transfer any assets comprised in, or income of, the Trust Fund to which any Minor is beneficially entitled, to that Minor or to any parent or guardian of that Minor and the receipt of the Minor or of that parent or guardian shall be a full discharge to the Trustees.
- (b) The Trustees may pay or transfer any assets comprised in, or income of, the Trust Fund to the person who purports to be the treasurer or other appropriate officer of any charity which is entitled to such assets or income, and the receipt of such person shall be a full discharge to the Trustees.

16. Power to charge

- (a) Any Trustee (except the Settlor), whether a solicitor or other person engaged in a profession or business or a person acting in a personal capacity, shall be entitled to charge and be paid all normal professional or other charges for business done, services rendered or time spent by such Trustee personally, or by such trustee's firm or company, in the administration of this Trust including acts which a Trustee not engaged in any profession or business could have done personally.
- (b) Any Trustee which is a trust corporation or company authorised to undertake trust business shall be entitled to reimbursement of its proper expenses (including expenses incurred in connection with professional or other fees and charges for business done, services rendered or time spent by any firm or member of a firm associated or connected with such Trustee) and to remuneration for its services in accordance with its published terms and conditions for trust business in force from time to time, and, in the absence of any such published terms and conditions, in accordance with such terms and conditions as may from time to time be agreed between such Trustee and the Settlor, or if the Settlor is unfit, unable or unwilling to act, the person by whom the power of appointing new trustees is for the time being exercisable.
- (c) The Trustees shall have power to pay out of income or capital, as they may in their discretion determine, any expenses relating to the Trust Fund (or any assets comprised within it) or its administration.

17. Other Trustee powers

The Trustees shall in addition to the powers referred to above and to the powers conferred on them by law have the following powers:

- (a) To borrow money for any purpose (including investment and the payment of tax or the making of any loan) upon any terms and the Trustees may charge property comprised in the Trust Fund for this purpose.
- (b) To lend all or any part or parts of the Trust Fund upon such terms as they may in their absolute discretion think fit, and on either a secured or an unsecured basis, to any Potential Beneficiary or Potential Beneficiaries provided that the Trustees comprise at least two individuals of which at least one is neither the Settlor nor the Potential Beneficiary to whom a loan is proposed to be made and that any such loan is repayable within the Trust Period.
- (c) To effect any Policy of insurance on the life of any person and in relation to any such Policy the Trustees shall have all the powers of an absolute beneficial owner.
- (d) To retain all or any part of the Trust Fund in its actual condition and the Trustees shall be under no obligation in exercising their powers of investment to have regard to the need for diversification of investments.
- (e) To appropriate any part of the Trust Fund in or towards satisfaction of the interest of any Potential Beneficiary and may for such purposes place such value on any property as they think fit.
- (f) To amend or add to the administrative provisions of this Trust provided such amendment or addition is by deed.

18. Liability for breach of trust

The liability of a Trustee for breach of the Trust shall be limited to breaches arising from the Trustee's own fraud, wilful misconduct or gross negligence except in the case of a Trustee acting in a professional capacity. The Trustees shall not be liable for the default of a person acting under a delegated power pursuant to clause 12 of these Trust provisions provided they took reasonable care in the selection and supervision of such person.

19. No duty to consult

The Trustees may exercise their powers with absolute discretion and are under no duty to consult the Potential Beneficiaries or accept instructions from any Potential Beneficiaries.

20. Governing law and jurisdiction

The governing law of this Trust shall be the law of England and Wales, without prejudice to the generality of the foregoing, that law shall govern the validity, construction, effects and administration of this Trust. The courts of England and Wales shall have exclusive jurisdiction in relation to the validity, construction, effects and administration of this Trust including, for the avoidance of doubt, in relation to the resolution of disputes regarding this Trust.

Potential Beneficiaries (optional)

The persons (or class of persons) the Trustees can choose to receive the Trust Fund, **in addition to the persons already included and listed in the definition of ‘Potential Beneficiaries’ in Section A):**

Name of Potential Beneficiary or definition of class (one)	
Address (if applicable)	
	Postcode
Name of Potential Beneficiary or definition of class (two)	
Address (if applicable)	
	Postcode
Name of Potential Beneficiary or definition of class (three)	
Address (if applicable)	
	Postcode

Gifted/Retained Benefits (where applicable)

Terminal Illness Benefit

I wish to gift the benefit under the Cover to this Trust, rather than retain it for myself

Critical Illness Cover

I wish to gift the benefit under the Cover to this Trust, rather than retain it for myself

Care Cover Benefit

I wish to gift the benefit under the Cover to this Trust, rather than retain it for myself

Please note:

If you tick any of the boxes relating to a Cover above, the benefits payable under that Cover **will be paid to the Trust** and not to you.

If you do NOT tick a box relating to a Cover above, the benefits payable under that Cover will NOT be gifted and **will be retained** by you.

Default Beneficiaries (mandatory)

The person(s) the Trust Fund will be paid to (and in what proportions) if the Trustees have not exercised their discretion and distributed the Trust Fund to any of the Potential Beneficiaries during the Trust Period:

Full name of Default Beneficiary	
Address (if applicable)	
	Postcode

Share (%) / Description of gift (one)

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Full name of Default Beneficiary	
Address (if applicable)	
	Postcode

Share (%) / Description of gift (two)

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Full name of Default Beneficiary	
Address (if applicable)	
	Postcode

Share (%) / Description of gift (three)

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Excluded Persons (optional)

The persons (or class of persons) the Trustees **CANNOT** pay, or choose to receive any of, the Trust Fund:

Full name of Excluded Person or definition of class (one)	
Address (if applicable)	
	Postcode

Full name of Excluded Person or definition of class (two)	
Address (if applicable)	
	Postcode

Full name of Excluded Person or definition of class (three)	
Address (if applicable)	
	Postcode

Execution of Trust

WARNING

BEFORE SIGNING THIS DOCUMENT PLEASE ENSURE THAT YOU/HE/SHE HAVE CAREFULLY READ ALL OF ITS PROVISIONS AND THAT YOU HAVE TAKEN INDEPENDENT LEGAL AND TAX ADVICE ON THE TERMS OF THIS TRUST, ITS SUITABILITY TO YOUR NEEDS AND CIRCUMSTANCES AND ITS CONSEQUENCES (INCLUDING TAX CONSEQUENCES) OF SIGNING.

EXECUTED AS A DEED by the Settlor(s) and the Trustee(s) and delivered on the date the declaration of trust is made.

Signed as a deed by:

Settlor	Signature of Settlor	Name of Settlor
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In the presence of:

Independent witness	Signature of witness	Name of witness
	Address of witness	
		Postcode of witness

(Please note that the witness(es) should be independent and not related to the Settlor or any of the Trustees.)

Additional Trustee (one)	Signature of Trustee	Name of Trustee
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In the presence of:

Independent witness	Signature of witness	Name of witness
	Address of witness	
		Postcode of witness

(Please note that the witness(es) should be independent and not related to the Settlor or any of the Trustees.)

Additional Trustee (two)	Signature of Trustee	Name of Trustee
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In the presence of:

Independent witness	Signature of witness	Name of witness
	Address of witness	
		Postcode of witness

(Please note that the witness(es) should be independent and not related to the Settlor or any of the Trustees.)

Additional Trustee (three)	Signature of Trustee	Name of Trustee
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In the presence of:

Independent witness	Signature of witness	Name of witness
	Address of witness	
		Postcode of witness

(Please note that the witness(es) should be independent and not related to the Settlor or any of the Trustees.)

Additional Trustee (four)	Signature of Trustee	Name of Trustee
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In the presence of:

Independent witness	Signature of witness	Name of witness
	Address of witness	
		Postcode of witness

(Please note that the witness(es) should be independent and not related to the Settlor or any of the Trustees.)

Execution by Trustee company (if applicable)

Signed as a deed for and on behalf of:

Name of Trustee company	
Name of director acting on behalf of Trustee company	
Signature of director	

In the presence of:

Independent witness	Signature of witness	Name
	Address	
		Postcode

(Please note that the witness(es) should be independent and not related to the Settlor or any of the Trustees.)

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