

# ADVISER GUIDE TO RELEVANT LIFE POLICY AND TRUST

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FROM VITALITYLIFE

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A Relevant Life Policy provides a lump sum benefit on the death of an employee. It is an alternative way for employers to provide individual death in service benefits to employees, outside of a registered group life scheme and is a tax-efficient alternative for company directors paying for their own life cover.

This guide is to help you understand the benefits of VitalityLife's Relevant Life Policy and Trust and to provide technical support in a way that's easy to digest.

If you have any further queries let us know and we'll try to answer them as simply as possible.

*In this document the term "spouse" includes a registered civil partner under The Civil Partnership Act 2004 and any reference to widow, widower and married couple should be construed accordingly.*

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## 1. The VitalityLife Relevant Life Policy - a tax efficient employee benefit

### 1.1 Introduction

Following the changes to pensions in the UK introduced from 6 April 2006, i.e. post "A-day", only certain types of employee benefit, including death-in-service benefits, are treated in a favourable way for tax purposes. By "favourable" we mean tax deductibility for the employer contributions and no tax on the sum assured paid on the death of the insured employee.

The best known tax-favoured employee benefit is membership of a registered pension scheme. Post "A-Day" employers can also set up unregistered schemes generally referred to as employer-financed retirement benefits schemes (EFRBS). These are subject to a special tax regime unless they provide "excluded benefits". A Relevant Life Policy is not a registered pension scheme and is not an EFRBS. Provided the Relevant Life Policy satisfies certain conditions, it escapes any tax charges.

The conditions that need to be satisfied for a policy to qualify as a Relevant Life Policy are set out in the legislation and explained in detail in the next section.

### 1.2 The statutory conditions for a Relevant Life Policy

Section 393 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) deals with the qualification conditions for Relevant Life Policies. This section deals with "relevant benefits provided under an employer-financed retirement benefits scheme".

Sub-section 393(B)(4) defines a Relevant Life Policy 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 section 393B(3) of ITEPA.

The relevant conditions to be met for a policy to be a Relevant Life Policy within the single life category are:

- Under the terms of the policy a capital sum is payable or arises on the death in any circumstances of the insured person under the age of 75;
- The policy does not have and is not capable of acquiring a surrender value;
- No sums or other benefits may be paid under the policy except those prescribed;
- A tax avoidance purpose must not be the main purpose, or one of the main purposes, for the policyholder (the employer) or any person beneficially entitled under the policy; and
- Any sums payable or other benefits arising under the policy must 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.

Provision of a terminal illness benefit is possible as it falls within section 393B(4)(c) ITEPA 2003 which provides that apart from a death benefit, an ill-health or disablement may also be provided benefit for an employee during service.

**The VitalityLife Relevant Life Policy satisfies all of the above conditions.**

## 2. The Relevant Life Policy and Trust - objectives and suitability

### 1.3 The Relevant Life Policy in detail

The Relevant Life Policy:

- Is a term assurance effected by an employer on the life of an employee and funded by the employer;
- Provides for a lump sum benefit payable either on death or the terminal illness of the employee during employment and before age 75;
- Does not have a surrender value at any time;
- Is effected by the employer subject to a special Relevant Life Policy Trust.

### 2.1 Objectives

The main objectives of the Relevant Life Policy are:

- The provision of Life Cover (including terminal illness) under the Policy for the chosen Beneficiaries which will not form part of the (inheritance) taxable estate of the Employee.

#### Achieving the objective

It is a well-established fact that life assurance can be an effective and economic way of ensuring that funds are available to an individual's family/dependants following his/her death. To ensure that the benefit is outside of the taxable estate of the individual the Relevant Life Policy Trust is needed.

As well as providing important tax benefits, a Policy that is subject to the Relevant Life Policy Trust will not be an asset of the Employee's estate for probate (confirmation in Scotland) purposes, which means that a speedy payment of the benefit can be made.

- Income tax freedom on the employee benefit

#### Achieving the objective

The Relevant Life Policy is one of the few employee benefits that can be provided tax free.

- Tax deductibility for the employer

#### Achieving the objective

Premiums paid by the Employer to a Relevant Life Policy qualify as deductible expenditure for the Employer, provided the Policy is not effected with a tax avoidance motive.

The VitalityLife Relevant Life Policy is designed to meet the criteria for a "single life" Relevant Life Policy set down in sub-sections 393B(4) (b) and (c) of the Income Tax (Earnings and Pensions) Act 2003.

The Plan also enables an Employee to continue the policy if they leave the employment of the Original Employer either as a Relevant Life Policy if they have a new Employer who is happy to pay premiums (known as the Corporate Continuation option) or as a personal trust policy if the policy is not to continue as a Relevant Life Policy and the Life Assured is to continue premium payments (known as the Personal Continuation option).

### 2.2 Key issues affecting suitability

- The Relevant Life Policy is not suitable where it is intended to include other benefits such as Serious Illness Cover or any other benefits payable during the Employee's lifetime, e.g. income protection, disability cover or unemployment protection, or any of the permitted benefits beyond age 75 or post-employment.
- The employer must be happy that they cannot benefit from the policy. This means that the Relevant Life Policy cannot be used to provide keyperson cover.
- Under the Relevant Life Policy Trust the Trustees decide who (from the classes of Beneficiary specified in the trust) should benefit from the trust fund and when.
- The Employee must appreciate that he/she cannot make a binding nomination of a Beneficiary.
- The arrangement is suitable for use only with new Policies.
- The arrangement can be used by individuals domiciled in the UK. The trust provides a choice of applicable law to suit the Employer and Employee. The tax implications of the Trust and Policy are the same throughout the UK.

### 3. The Relevant Life Policy Trust provisions in detail

The Relevant Life Policy Trust is a Discretionary Trust that gives the Trustees power to appoint benefits under the trust among a wide class of Beneficiaries which includes the Employee. No Beneficiary is entitled to any benefit until the Trustees decides.

#### Declaration

The Employer confirms that they will pay the premiums under the Policy and that the main purpose of the Policy is the provision of the relevant benefit to the Employee and is not aimed at tax avoidance.

#### Definitions

**The Beneficiaries** are those in favour of whom an appointment of benefits by the Trustees under the Trust can be made. They include the Employee (the Life Assured), the spouse, widow or widower of the Employee, the children and the remoter issue of the Employee, their spouses, the brothers and sisters of the Employee and their issue, anybody who would benefit from the estate of the Employee on the Employee's death as well as any individual or charity nominated in writing to the Trustees by the Employee. The class of Beneficiaries is therefore very wide and can be added to by the Employee - all that is necessary is a written notification to the Trustees.

**The Default Beneficiaries** are the individuals who will benefit if the power of appointment is not exercised by the Trustees by the end of the trust period (i.e. 125 or 80 years, depending on the jurisdiction, from the time the trust is created). They are named in the trust deed (normally at the direction of the employee). At least one person must always be named and, if more than one is named, the shares in which they are to benefit must be stated. This is necessary to ensure that a valid Trust has been created.

#### Principal trust terms – (Part 4 of the Trust)

This part of the Trust deed contains the beneficial provisions – i.e. who can receive benefits from the trust and when.

As previously indicated, the power to appoint capital and income under the trust is vested in the Trustees.

If the trust is governed by the law of England and Wales the Trustees have power to accumulate any trust income for the duration of the trust – under Scots law this period is restricted by law to 21 years from the date of the Trust.

In default of appointment by the end of the Trust period, the Default Beneficiaries – those named by the Employee in the trust or if none then those specified in default – will benefit. It is, however, most unlikely that the trust fund

will not be distributed within 125/80 years (as appropriate).

The Trustees have wide powers included in the trust to advance capital from the Trust fund to the Beneficiaries.

The Trustees also have power to make loans to the Beneficiaries. The power to lend may be more appropriate than the power to advance in many circumstances - for example, where it is not intended to further increase (for IHT purposes) the estate of the surviving spouse who nevertheless requires funds from the Trust to spend.

In such a case, say after the death of the Employee, the Trustees could make an interest-free (repayable on demand) loan to the surviving spouse. The funds borrowed from the Trust would be offset by the debt owed to the Trust. To the extent that the funds borrowed were spent and any outstanding debt was repaid on the borrower's death, the estate of the surviving spouse would be reduced for IHT purposes. If the surviving spouse had previously made gifts to the Employee, the deduction for IHT purposes may not be allowed.

#### Administrative powers of the Trustees – (Part 5 of the Trust)

The Trustees have wide administrative powers to deal with the Policy and to reinvest the proceeds of the Policy in any way they wish. Dealing with the Policy includes exercising any option, say to increase benefits. Therefore the Trustees' co-operation will be required if the Employee wishes to increase cover when this is allowed under the Policy. The Trustees will not be able to add any benefits payable during the lifetime of the Employee whilst the policy remains a Relevant Life Policy.

The Trustees also have power to borrow funds and to make payments to parents or guardians of minor Beneficiaries.

#### Appointment and dismissal of Trustees – (Part 6 of the Trust)

The power to appoint new or additional Trustees is vested in the Trustees (i.e. initially the Employer).

A Trustee who is an Employer may however be dismissed in one of three cases:

- (i) After the benefit under the Policy has been paid to the Trustees then, provided there are at least two individuals or a Trust Corporation acting as Trustees in addition to the Employer, the Employer may be dismissed from his office as Trustee by

the remaining Trustees. At this stage there will be no further employer/employee relationship and this provision is designed to allow family members to then take control of the trust assets - the situation that will frequently be preferable.

- (ii) If the Employee leaves the employment of the current Employer and joins another employment and the policy is to continue as a Relevant Life Policy with the new employer paying premiums, then it may be desired that the new Employer will be appointed as a Trustee.

In these circumstances, provided there are at least two individuals or a Trust Corporation acting as Trustees in addition to the former Employer, the former Employer may be dismissed from this office as Trustee by the remaining Trustees and the new Employer appointed.

- (iii) Where the Employee leaves the employment of the current Employer and although the policy is to continue, it will not continue as a Relevant Life Policy. In these circumstances, provided there are at least two individuals or a Trust Corporation acting as Trustees in addition to the former Employer, the

former Employer may be dismissed from his office as Trustee by the remaining Trustees and, if appropriate, other personal trustees appointed.

Any dismissal of a Trustee must be made by deed, a copy of which will have to be sent to the Employer. Unless the trust is governed by Scots law, the Trustees must act unanimously.

#### **Remuneration and liability of Trustees – (Part 7 of the Trust)**

Trustees who act in their professional capacity are entitled to charge fees. The employer Trustee cannot charge fees for acting as Trustee.

The liability of individual Trustees is limited so that they will not be held liable for any loss to the Trust fund provided they act in good faith. A Trustee who is paid for his services will also not be liable for negligence.

#### **The law of the trust – (Part 8 of the Trust)**

The Employer can choose which law should govern the trust. This should normally be based on where the Employer's principal place of business is located, ie. England, Wales, Scotland or Northern Ireland. This will be particularly relevant to the Trustees should they need to clarify any legal matters relating to the trust or should any dispute arise.

## **4. The Relevant Life Policy and Trust – objectives and suitability**

Provided all the statutory conditions (outlined in Part 1 of this guide) are satisfied the following should apply:

- The death benefit (including terminal illness benefit) will not form part of the Employee's lifetime allowance for pension purposes.
- Premiums paid by the Employer will generally be treated as a business expense for tax purposes.
- Premiums paid by the Employer are not treated as a benefit in kind for the Employee (Life Assured).
- The premiums paid also do not form part of (and so do not reduce) the Employee's annual allowance i.e. the amount that can be contributed by or on behalf of an individual to any registered pension scheme with the benefit of tax relief.

- Premiums are not assessable on the Employer or Employee for National Insurance contributions purposes.
- The benefits under the Policy will be paid free of income tax.
- While the death benefit is payable through a Discretionary Trust it will generally be paid free of inheritance tax and will not form part of the Employee's estate for inheritance tax

If the policy does not satisfy the conditions for a Relevant Life Policy, it will be taxed as an employer-financed retirement benefits scheme. Under such a scheme the benefits, when paid, will be subject to income tax and the premiums paid by the employer in respect of an individual employee can only be treated as a business expense when the benefits come into payment and are taxed on an individual. Also, depending on the circumstances, Employer payments may be subject to the disguised remuneration tax rules.

## 5. The UK tax implications of the Relevant Life Policy Trust

### 5.1 Establishment of the trust

The creation of the trust will not give rise to a transfer of value for inheritance tax (IHT) purposes.

No additional payments (other than the Employer's regular premium payments) should be made to the Trust by anybody during the currency of the trust, as this could have adverse IHT consequences.

### 5.2 Continuing premium payments

The premiums paid by the Employer will not give rise to any IHT consequences.

### 5.3 IHT whilst the trust is in existence

As the Relevant Life Policy Trust is a settlement, special IHT charging rules apply. Under these rules there may be IHT charges

- On every ten year anniversary of the trust - "the Periodic Charge" or
- Whenever property leaves the trust (e.g. when capital is advanced to a Beneficiary) - "the Exit Charge"

For the purposes of calculating any of these IHT charges, the trust is treated as if it was created by the Employee when the arrangement was established.

The chargeable transfers that the Employee made in the 7 years before he joined the arrangement are therefore relevant to the tax calculations.

In practice, with any VitalityLife Relevant Life Policy, it is unlikely that any such charges will ever arise. However, for those with policies with very substantial sums assured or where the Employee has already made other chargeable lifetime transfers, the IHT charges may be relevant. Full details of these charges are as follows.

#### The Periodic Charge

Periodic charges at ten yearly intervals may be applied to the value of the assets in the Trust. The rate of IHT charged will be determined based on an "assumed transfer" by an "assumed transferor". This will mean that it will broadly be necessary to take account of:

- The value of the property in the trust on the ten year anniversary, certain additions made to the Trust (added property) and the value, when they were set up, of any other trusts created on the same day i.e. "related settlements". This total is known as "the assumed transfer".

- The Employee's cumulative total of chargeable transfers made in the 7 years immediately preceding the creation of the trust (assuming there has been no added property) and any sums paid out of the trust in the 10 years prior to the 10 year anniversary. This is known as "the cumulative total of the assumed transferor".

The maximum liability will be 6% of the value of the Trust property (initially the Policy) over the nil rate band available to the Trust. In most cases, the Policy will have no or very little value.

In cases where the Employee has not made any chargeable transfers in the 7 years before the Trust is created, no payments have been made out of the trust in the previous 10 years and there has been no added property (and regular premiums paid direct to VitalityLife can be ignored for this purpose), there will be no liability provided the value of the Trust Fund (i.e. the Policy or the proceeds if the Life Cover Benefit has been paid but not distributed by the Trustees) at the time of the periodic charge does not exceed the available nil rate band of the trust that is applicable at the ten year anniversary. Any excess over the then nil rate band will suffer IHT at an effective rate of 6%.

#### Example

In May 2013 Nick's employer applies for and, from outset, creates a Relevant Life Policy Trust. The Employer pays regular annual premiums of £2,000. These have no IHT consequences.

Nick has made no chargeable transfers in the previous 7 years. No payments are made out of the trust in the first 10 years. Nick dies in April 2023 and the Life Cover Benefit of £450,000 is paid to the Trustees. In May 2023 the Trustees have not yet paid out the funds to the Beneficiaries (say, because the intended Beneficiaries are very young). The Trust Fund is worth £450,000. Let's assume the nil rate band available to the trust is then £400,000. The IHT charge will be calculated as £50,000 at 6% = £3,000. This equates to 0.66% of the total value of the Trust Fund.

If all the trust assets are distributed before the tenth anniversary, in many cases no tax charge will arise (see next section).

If assets remain in the trust after a claim is paid, either on death or terminal illness or if further assets are added to the trust, the Trustees will need to take specialist tax advice.

If Nick is alive and well at the tenth anniversary, the value of the trust fund (comprising the Policy) for IHT will be nil as the Policy is a term assurance with no surrender value. If Nick is however then in serious ill health, the policy may then have a value.

### The Exit Charge

Exit charges will be based on the value of property leaving the trust or being appointed absolutely to a Beneficiary.

Exit charges within the first 10 years will be nil, regardless of the value of the property leaving the trust, if the value of the cumulative total of the Employee's chargeable transfers in the 7 years prior to creating the trust is below the nil rate band at the time of exit (assuming no added property and no related settlements). If an exit charge does arise, it will increase according to the number of quarters that have expired since the trust was created.

The amount of any exit charge occurring after the first 10 years will be derived from the rate of tax charged at the previous 10 year anniversary (if any) and the length of time (in 3 month periods) that the property has been in the Trust since the last periodic charge. If there was no charge at the previous 10 year anniversary there will be no exit charge.

### Example

Assume Nick died as in the earlier example and the Trustees continue to hold the funds in the trust as the intended Beneficiaries are minor children. In May 2029, 6 years since the first 10 year anniversary (when a 0.66% IHT rate was charged), the Trustees of Nick's trust make a payment of £50,000 to a Beneficiary. The IHT charge will be  $£50,000 \times 0.66\% \times 24/40 = £198$ .

No IHT charge will arise on property paid out of the trust if there was no IHT charge at the last 10 year anniversary.

Exit charges should not arise on loans made by the Trustees to Beneficiaries.

Certain transactions and events, such as capital payments to the Beneficiaries and the value of the trust property on 10 year anniversaries may also have to be reported to HM Revenue & Customs on Forms 100c and 100d (respectively), and Form D34 (if a life assurance policy is transferred out of the trust or the trust assets include a life assurance policy at a 10 year anniversary). However, no reporting is required, broadly speaking, if the Employee remains UK domiciled, the Trustees are resident in the UK, there are no related settlements and the total value of the "notional transfer", i.e. the value calculated for the purpose of the periodic or exit charges, does not exceed 80% of the nil rate band.

### 5.4 Payment of benefits to Beneficiaries (after the death or terminal illness of the Employee)

Any payment of trust capital to the Beneficiaries (where the Policy is and always has been the sole asset of the trust) should not give rise to any income tax or capital gains tax liability. The IHT implications on payments would be as explained for exit charges in 5.3.

### 5.5 Death of the Employee

On the death of the Employee on whose life the Relevant Life Policy has been effected, the value of the Policy will be outside of the Employee's estate for IHT purposes.

The Benefit will be paid free of IHT to the Trustees to distribute in accordance with the terms of the Trust.

### 5.6 Income tax

There is unlikely to be an income tax charge where the Policy is primarily providing protection benefits such as under a VitalityLife Policy. As the VitalityLife Relevant Life Policy in a term assurance and never acquires any surrender value there is no possibility of any chargeable event gain that could be subject to income tax arising.

It should be noted that a change of Trustee or the death of a Trustee gives rise to no tax implications.

## 6. The Relevant Life Policy and Trust - FAQs

### Q. Who can effect a Relevant Life Policy?

Relevant Life Policies can only be effected by Employers for their Employees. The application form therefore must be completed by the Employer. The Employer can be a limited company, partnership, LLP or a sole trader.

### Q. What is required to set up the Policy?

In addition to the application form, the Employer must also complete the Relevant Life Policy Trust request. The Trust documentation must be completed at the same time as the application, i.e. before the Policy is issued.

### Q. How is employee defined?

There must be an Employer/Employee relationship. Directors and officers of a company, including shareholding directors, are also treated as Employees for this purpose. However, partners, LLP members and sole traders are not employees.

### Q. How are the benefits under the Policy payable?

The only benefits provided under the Policy are a death benefit and terminal illness benefit payable on diagnosis of a terminal illness as defined in the Policy. The terminal illness benefit is only payable as long as the life assured is still in employment.

On a claim arising any benefits will be paid by VitalityLife to the Trustees of the Relevant Life Policy Trust. The trustees have discretion as to who should receive the benefit from the classes of beneficiaries specified in the Trust.

### Q. Does the Employee have any say in who should benefit on his death?

The Employee, called the Life Assured under the Trust, can and should complete a non-binding expression of wishes to his Trustees. This is similar to the method used when nominating beneficiaries under a registered pension scheme. An expression of wishes form is provided by VitalityLife for this purpose. It should be kept by the Trustees.

### Q. If the benefit is paid on terminal illness, is the Employee entitled to this benefit?

Any benefit payable on terminal illness will be paid in the same way as the death benefit, i.e. to the Trustees of the Trust.

As the employee is one of the Trust beneficiaries, the Trustees can make the

payment to the Employee or the Employee's family. The Trustees will need to consider all the circumstances at the relevant time in order to decide who should receive the benefit.

### Q. What benefits are included under the policy?

The policy gives your client's employees access to a range of discounts and rewards to encourage them to look after their health. Every year, we help them track what they've done to look after their health. Then, depending on how much effort they've made, they'll achieve a Vitality Status of Bronze, Silver, Gold, or Platinum which will affect what rewards and discounts are available to them.

Your client can choose to enhance their plan by adding either Vitality Plus or Vitality Optimiser. Both options give the person covered access to an additional range of rewards and discounts to help keep them motivated; from discounted monthly gym fees to money off travel and holidays.

Vitality Plus gives your client the opportunity to receive cashback. The amount of cashback that they could receive will depend on your client's employees' efforts to improve their health - the higher their Vitality Status the more they could receive.

Vitality Optimiser changes the way the protection premiums for our plans work and means the plan owner can also benefit. It makes the initial cost of the cover more manageable by giving them an upfront discount on the protection premium - depending on the age of the person covered and cover term. As the person covered by the plan takes steps to improve their health it gives the plan owner the opportunity to keep the premiums low after the first year - or to reduce them even further. They could even earn cashback. The higher the Vitality Status of the person covered, the bigger the premium discounts and cashback the plan owner could receive. The person covered by the plan also gets access to an additional range of rewards and discounts to keep them motivated.

Please note that Vitality Optimiser and Vitality Plus are available for an extra fee. Minimum monthly protection premiums and further terms and conditions apply.

**Q. What happens if the employee leaves employment (otherwise than through death)?**

If the Employee leaves employment, the Employer must notify VitalityLife. What happens to the plan then depends on the circumstances. If the employee wishes for the policy to continue this could be achieved by either:

- A new Employer continuing to make payments so that the policy remains a Relevant Life Policy. This is known as the Corporate Continuation Option (see below), or
- The Life Assured (i.e. the Employee) continuing premium payments with the policy no longer being a Relevant Life Policy. This is known as the Personal Continuation Option (see below).

In both of these circumstances, there will usually need to be a change of Trustees. Further information on this is given in the section 'Can a Trustee be removed?', below.

Alternatively, if the Employee leaves and wishes to retain their Life Cover and add other covers such as Serious Illness Cover, Vitality and Terminal Illness Benefit, the Life Assured can lapse their Relevant Life Policy and effect a new policy providing personal cover for the remainder of the original term and the same amount of cover without any further medical evidence. If the Life Assured adds other benefits or changes the amount or term of the Life Cover we may require further medical evidence.

**Q. What happens if the Employee leaves the employment of Original Employer but their employment effectively continues with a connected Employer?**

This may happen if, for example, a firm run as a partnership incorporates or if the Employee is seconded to another place of business with an associated Employer. For the purpose of the Relevant Life Policy Trust, the Employer includes any other firm or company to which the business of the Original Employer is transferred and which continues to employ the Life Assured and this includes any business to which the Life Assured may be seconded.

**Q. Are there any tax or other implications of the Life Assured paying premiums under the Policy?**

If the Life Assured takes over premium payments (i.e. under the Personal

Continuation Option) the policy will no longer be a Relevant Life Policy and it may be desired to include health benefits such as Serious Illness Cover, Income Protection, Terminal Illness Benefit. VitalityLife would consider an application from the trustees to add such benefits on the policy at that time.

**Q. Apart from the income tax and corporation tax benefits explained above are there any other tax implications of the Policy?**

There are no other tax implications as long as the employee is alive. Once the death benefit is paid to the trustees, as the trustees will hold the benefit on discretionary trust, then the normal rules which apply to the taxation of discretionary trusts will also apply here. This will mean potential periodic charges and exit charges. These are fully explained in section 5.

**Q. Are there any limits on the amount of the death benefit that can be provided under the Policy?**

There is no limit prescribed by legislation but usually the level of benefit will be calculated as a multiple of the Employee's remuneration.

VitalityLife will consider whether the level of cover is appropriate on a case by case basis, however this is likely to mean the maximum cover available is the lower of:

- 20 to 25 times the annual remuneration of the person covered if they are under the age of 35;
- 15 to 20 times the annual remuneration of the person covered if they are aged 35 or above; and
- £20,000,000.

**Q. Why is a trust necessary when taking out a Relevant Life Policy?**

It is one of the conditions set down in the legislation that the death benefit must be paid to or for the benefit of individuals or charities and a trust suits this purpose best.

**Q. Does the Employer have to be a Trustee?**

The Original Employer is automatically a Trustee and it is expected (although not strictly necessary) that they will remain a trustee at least as long as the Policy is in force and they pay the premiums. This should also simplify any claim process.

**Q. Who should be the additional Trustees?**

If the Trust is to be governed by Scots Law, it is absolutely essential that additional trustees are appointed at the outset. There is no rule on who can be a trustee. Anybody over 18 years of age and of sound mind can be trustee. Usually this would be one or two members of the family of the employee.

**Q. Can a Trustee be removed?**

There are three occasions on which the original Employer may be removed as a Trustee:

- (i) After the benefit under the Policy has been paid to the Trustees then, provided there are at least two individuals or a trust corporation acting as Trustees in addition to the Employer, the Employer may be dismissed from his office as Trustee by the remaining Trustees. This provision is included because it is thought that in most cases it would be preferable for the trust fund to be controlled by family members after the Employee's death and the death benefits have been paid to the Trustees.
- (ii) If the Employee leaves the employment of the current Employer and joins another employment and the policy is to continue as a Relevant Life Policy with the new employer paying premiums, then it may be desired that the new Employer will be appointed as a Trustee.

In these circumstances, provided there are at least two individuals or a Trust Corporation acting as Trustees in addition to the former Employer, the former Employer may be dismissed from this office as Trustee by the remaining Trustees and the new Employer appointed.

- (iii) Where the Employee leaves the employment of the current Employer and although the policy is to continue, it will not continue as a Relevant Life Policy. In these circumstances, provided there are at least two individuals or a Trust Corporation acting as Trustees in addition to the former Employer, the former Employer may be dismissed from his office as Trustee by the remaining Trustees and, if appropriate, other personal trustees appointed.

Continued premium payments by the Life Assured would be gifts for inheritance tax purposes. As the Life Assured is also a beneficiary under the trust, such gifts could be gifts with reservation of benefit.

To avoid such a problem, the Life Assured could be removed completely as a beneficiary under the Trust and by the Trustees exercising their power of exclusion in the trust deed. This action must be taken before the Life Assured pays any further premiums under the policy.

In England, Wales and Northern Ireland the Trustees must act unanimously. If the trust is governed by Scots law, the Trustees can act by a simple majority.

**Q. What happens if the Employer goes into Liquidation?**

If this happens before the benefit is paid and results in the termination of employment, the policy can continue if either the Corporate Continuation Option or Personal Continuation Option are exercised.

If the original Employer is a Trustee and the benefit has been paid, new trustees will have to be appointed. This should be done before the employer company is liquidated. Having additional Trustees appointed to begin with will avoid potential problems arising at such time.

**Q. Can the Trust provisions be changed once the Trust has been set up?**

The Trust is irrevocable and so changes to it can not generally be made, other than with permission of the Court.

The Trust is effected specifically for the purposes of dealing with a death in service benefit. In addition, as the Trust is discretionary and includes wide powers granted to the Trustees, it is unlikely that in practice any need to change the Trust Terms should arise, other than that described above.

**Q. Can anybody be a beneficiary under the Trust?**

Legislation provides that whilst the policy is a Relevant Life Policy the beneficiaries must be restricted to individuals and charities. There is a list of potential beneficiaries specified in the Trust. The Employee/Life Assured can add other beneficiaries in the future by notifying the Trustees in writing.

**Q. How soon after the Employee/Life Assured's death do the Trustees have to distribute the Policy proceeds?**

There is no time limit as such and the Trust can continue for up to 125 years in England and Wales and Scotland and for up to 80 years in Northern Ireland which are the legal limits on how long any trust can last in the relevant jurisdictions. However, the Trustees will be failing in their duty to the

Beneficiaries if they do not use the funds to provide for the Beneficiaries soon after receiving them.

**Q. Is a separate trustee bank account needed?**

As VitalityLife will make any payment to all the Trustees, they may need to consider setting up a trustee bank account before the proceeds are paid into them. There is no need to have a bank account from outset.

### **Changes to the Tax Law**

The notes in this Adviser Guide are based on VitalityLife's understanding of the law and HM Revenue & Custom's practice as at 1 April 2014.

We have made every effort to ensure it is accurate but accept no responsibility for our interpretation of the law, future changes in the law or for any loss you or anyone else suffer if you act based on any information we've given.

In relation to VitalityLife's Relevant Life Policy Trust, we have sought the views of leading Tax Counsel, who has confirmed that the arrangement is in his view efficient for inheritance tax purposes, however no guarantee can be given (although it is unlikely) that HM Revenue and Customs will not take a different view or that tax law will change in the future.

For a summary of Tax Counsel's opinion, please contact your Business Consultant.

## Next steps?

If your client decides to purchase a VitalityLife Relevant Life Policy then when they make it subject to the Relevant Life Policy Trust, it is important that they follow the process below to make sure all documents are correctly completed and submitted:

You/your client completes a Plan application form and the Relevant Life Policy Trust form. This Trust form must be dated on the date of the Plan application.

Consider appointing at outset at least one additional Trustee to act with your client and providing the Trustees with a Letter of Wishes to guide them.  
See VitalityLife 'Deed of Appointment of Additional Trustees' and 'RLP Letter of Wishes'.

Post the original Trust form along with the Plan application and the 'Deed of Appointment of Additional Trustees' (if appointed at outset) to VitalityLife, Stirling, FK9 4UE ; or scan and email copies of the documents to [rlptrusts@vitality.co.uk](mailto:rlptrusts@vitality.co.uk).

If you post the original Trust form(s), we will return the original Trust form(s) by special delivery once processed.

We will confirm to you and your client by letter when the Plan has been successfully placed into Trust.

Your client should then:

1. Provide all additional Trustees they've appointed with copies of the Trust form(s).
2. Provide the first additional Trustee with the original RLP Letter of Wishes (if produced) and copies to any other Trustees.
3. Make the Trustees aware of the place of safe-keeping for the original Trust form for ease at point of claim.
4. If the Trust form(s) were scanned and emailed to us, please ask your client to keep the original Trust form(s) in a safe place and inform the Trustee(s) that they **must** produce the original Trust form(s) at the point of claim.



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