

ARRANGING LIFE COVER TO THE BEST ADVANTAGE: OWN OR JOINT LIFE, TRUSTS ETC.

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Most life companies and intermediaries, if asked, would say that they have always offered best advice to their customers. But the Financial Services Act and subordinate rules have formalised the concept. One of the areas which needs special attention is the question as to how life cover should be written so as to give maximum benefit to the customer's estate and beneficiaries, an area which is sometimes overlooked. There are various alternatives and a choice of own life policies, life of another policies, joint life policies and policies in trust has to be examined.

The straightforward way of writing life cover is on the life of the person concerned so that the benefit will fall into his or her estate and be distributed to his beneficiaries along with other assets. Although this has the advantage of flexibility, it has strong taxation and other disadvantages. With few exceptions, the best way of protecting the customer's family when he takes out life cover is either to ensure that his or her spouse is the owner of the policy, to write the policy on joint lives or to arrange for the policy to be written under a flexible trust. This may have the effect of avoiding the loss of up to 40% of the proceeds in inheritance tax. Additionally it may avoid the need for probate. Many married couples nowadays place all their assets including their house, their bank and building society accounts and their other investments in joint names. Frequently it is found that they have to take out probate or letters of administration for no other purposes than to recover life insurance proceeds.

The life of another policy does not solve all the problems. Often the insured dies before the life insured and the family wish to continue the policy. Unfortunately, it can only be transferred into the ownership of another member of the family through the personal representatives of the deceased owner. Perhaps the ideal case for the life of another policy for spouses is where the surviving spouse is the one to be benefitted and where it is not intended to confer further benefits on other members of the family.

If it is thought that the policy will continue in force even if the life insured survives the other spouse, a better way might be an own life policy written in trust. If at least one trustee survives the life insured there should not be any need for probate, and the trust can be flexibly written so as to benefit the spouse or other members of the family.

The joint life first death policy is an alternative way of proceeding in cases where a lump sum is required for the survivor, whichever spouse dies first. This might arise for instance where it is intended that other income-yielding assets will pass on to the next generation on the death of either spouse.

On the other hand, the joint life second death policy is now one of the most important of planning tools, and has been since the introduction of capital transfer tax. These policies, written in trust, enable the customer and his or her spouse to enjoy the full income from their joint assets until both have died, whilst relying on the policy to replace the inheritance tax on their death. The premiums which they pay can be exempt from inheritance tax under the annual exemption and normal gift rules.

Key man insurance and business succession planning call for different remedies, and are in themselves a large subject. Key man insurance is by definition life of another insurance and is written by a business on the life of a key employee in whom it has an insurable interest and whose death would result in financial loss. Business succession planning is entirely different from this and policies which are written in order to provide a lump sum for the buy-out of a deceased or retiring partner or shareholder may take a variety of forms. Perhaps the neatest is an own life policy on flexible trust for the primary benefit of continuing partners or shareholders. This will be accompanied by a binding buy-out agreement, generally in the form of cross-options.

It has been suggested that in the age of best advice, the adviser who fails to recommend sufficient life cover will be as vulnerable to criticism as the one who over-sells his products. It is, of course, equally important that life cover be arranged in the most advantageous way as unnecessary tax bills can also give cause for discontent.

THE INTERNATIONAL REINSURANCE ASBESTOS CLAIMS CONFERENCE

The International Reinsurance Asbestos Claims Conference took place in London in March 1988 amid reports that more asbestos producers were abandoning the Asbestos Claims Facility.

Though the conference had a broad perspective overall, it concentrated on coverage matters: declaratory judgment costs, punitive damages, and the central topic of aggregate extension clauses. It was contended that the variety of versions of such clauses would enable differing aggregations of original claims to be made by cedants, according to the language of the particular clause in use.