

The Future Life Planning Series



# PROPERTY TRUST FUNDS

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*For many couples their property is their main asset and the one they wish to protect for their children or beneficiaries to inherit.*

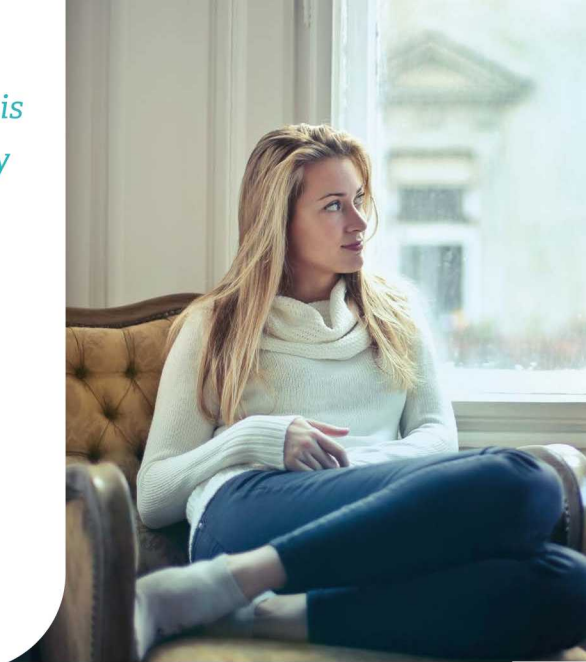
A common concern is how to protect children from losing their inheritance, if the surviving spouse or partner remarries or enters into a new relationship and chooses to benefit others.

Another common concern is Care Home costs and how to protect your children's inheritance from being taken into account should the surviving spouse or partner, need care in the future.

### Property Ownership

Most couples will own their property jointly and many will own it as what is called "Joint Tenants". This means that on the death of the first of the couple to die the property will automatically transfer to the survivor. The survivor is then free to pass the entire property on to whomever they choose on their death and the entire property will be taken into account if the surviving spouse or partner requires care in the future.

By changing the ownership of the property to what is known as "Tenants in Common" more planning options become available as each party can then give their share of the property to whomever they wish on their death and it does not automatically transfer to the survivor.



### Property Trust

You can set up a property trust within your Will to ring fence the capital of the property. This means that the share of the property belonging to the first to die passes into a trust for the children (or other beneficiaries) but with certain provisos in favour of the surviving spouse or partner. These can include:

- A right for the surviving spouse or partner to live in that particular property;
- The right for the surviving spouse or partner to sell that property and use the proceeds of the trust to purchase, or assist in the purchase of another property;
- The right for the surviving spouse or partner to receive the income from any surplus funds generated on the sale of the property;
- The right for the surviving spouse or partner to request that capital monies be released from the trust in their favour.

If you wish, you can also add wording to say that the rights of the surviving spouse or partner end if they remarry, enter into a new civil partnership or co-habit with a new partner.

This means that the surviving spouse or partner cannot redirect the share of the property belonging to the trust. The final beneficiaries of this share have already been determined in the Will of the first to die. If the survivor remarries, has more children or simply changes their Will at a later date, those changes will only affect their own share of the property.

Similarly, if the surviving spouse or partner becomes in need of care, the share of the property belonging to the trust will not be taken into account in any means test assessment for care fee funding.

Although most commonly used for properties, this type of trust fund arrangement can be used to safeguard other assets such as investments and can be a useful tool for estate planning and providing for different beneficiaries.

Including a Trust in your Will is an important matter and has lasting legal and tax consequences. For clear, friendly advice on all aspects of trust and estate planning, please contact our highly experienced private client specialists today.



*"Catherine was very prompt and considerate in her replies, and very patient and informative with all my many questions!"*

C.M



## WHAT OUR CLIENTS HAD TO SAY

*"Friendly exact explanations on all legal aspects, helpful throughout and always with a smile" Mr & Mrs C, Westbury*

*"Very understanding. I'd recommend Emma Taylor for all later life matters"*  
Mrs W, Chippenham

*"We liked Phillip's quiet efficiency, his understanding and knowledge of the subject"*  
R & L Bunnett, Corsham



### HAVE YOU BEEN PUTTING OFF UPDATING YOUR WILL?

Get in touch today.



### ARE YOU AWARE OF THE INTESTACY RULES?

Speak to your lawyer for more information.

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