Free Legal Advice #2

Protecting Your Assets

Flexible Life Interest Will - your questions answered

1. What is a Flexible Life Interest Will?

It is a will which provides that, when the first person of a couple dies, their assets pass into a Trust rather than to the survivor.

2. How does it work?

The Trustee (who manages any assets held in the Trust) holds the assets to pay any income from the Trust to the survivor for the rest of their life (a Life Interest).

This could include the right for the survivor to occupy any property in the estate.

3. How long does the will last?

Normally the Life Interest will last until the survivor dies. With Flexible Life Interest, the trustees have the power to rearrange capital and income during the lifetime of the survivor.

4. How will the Trustees know how to use their powers?

You decide how you want the Trustees to exercise their powers, and we can then prepare a letter of your wishes.

This normally details that you want your spouse/partner to live comfortably for the rest of their life and then for the monies to pass on to your intended beneficiaries.

5. What happens to the Trust Fund if my spouse/partner remarries or cohabits?

The new partner or spouse has no claim against the Trust Fund. Your spouse/partner is only entitled to the income from the Trust. The capital remains safe for your intended beneficiaries.

The trustees could also remove the right to income if they thought this was appropriate. The Flexible Life Interest Will allows you to provide for your spouse/partner and gives you reassurance that the people you want to benefit from your estate will do so.

6. What happens to the Trust Fund when my spouse/partner dies?

The funds can stay in the Trust or they can go to your intended beneficiaries. Following your letter of wishes, the trustees would normally ask your intended beneficiaries what they want to do.

There may be good reason to keep the Trust going, depending on the circumstances of the beneficiaries at the time.

7. What about inheritance tax (IHT)?

If you are married or in a civil partnership a Flexible Life Interest Will can also help save inheritance tax. There is no IHT to pay when the first person dies, and their IHT allowance passes in full to the survivor.

If the capital is then rearranged and the survivor lives for seven years after the rearrangement, this will then be free of IHT and the survivor will still have a double allowance available.

8. How can you protect your assets from care fees?

A Flexible Life Interest Will can offer protection if the person you are survived by had to receive residential care. The assets in the Trust would not be taken into account when assessing your spouse/partner's ability to pay for care. Your intended beneficiaries receive the Trust capital intact.

If you would like more information about protecting your assets from care fees, please refer to our advice leaflet #1 *Protecting Your Assets – Property Protection Trust Will.*

For an appointment or to discuss further, please contact me

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