

Protecting Your Assets

Property Protection Trust Will - your questions answered

1. What is a Property Protection Trust Will?

It is a will designed to help protect property from an assessment to long term care fees.

2. How does it work?

The half share of the home which belongs to the first person to die passes into the Trust and the survivor can still benefit from his/her share of the house. On their death the trust fund passes to others, usually to children.

3. Who is a property protection will suitable for?

It is a will for couples who are concerned that one of them may possibly require long term care in the future.

4. How does a property protection trust will work?

Each person in the couple makes a will leaving their share of the property to a property protection Trust.

5. What happens to the title deeds?

When each will is made your solicitor will also ensure that the family home is owned in joint names as tenants in common. After the first death, the legal title will be transferred into the joint names of the surviving person and the trustees (these are usually the same persons as the executors).

6. Who controls the Trust?

The trustees control the Trust. The trustees will usually be the surviving partner and at least one other person.

7. Could the trustees evict the partner who survives?

No. The Trust gives the survivor the right to stay in the home (they also keep the half share of the home that they own).

8. What are the inheritance tax implications?

This type of will does not adversely affect your inheritance tax position.

9. What happens if the surviving spouse needs to move into residential care?

The value of the half share of the property in the Trust is not included in the financial assessment by a local authority. The half share belonging to the surviving spouse is a capital asset of the surviving spouse and so may be subject to assessment.

10. Isn't it easier to simply give half of the property to the children when a parent dies?

It may seem simpler, however if children become bankrupt, get divorced or die, a forced sale of the house may be needed so the child's share of the property can pay his/her creditors, the court or his/her executors. Or a family dispute can mean they request that the house is sold so that they receive their share of the value.

If a half share of the property is owned outright by the children, when the surviving spouse dies, the children may be exposed to capital gains tax on their share when sold if the home has increased in value from the date of the gift and it is not their residence. There will not be any capital gains tax liability on the share of the property held by the Trust.

11. What if the surviving spouse wants to move house?

This is fine. The home can be sold, and another bought. If the new property costs less than the original home, any profit would need to be shared equally between the surviving spouse and the trustees.

12. What if I change my mind?

Since the Trust does not come into existence until the first spouse dies, you can simply change your will(s) before this time.

For an appointment or to discuss further, please contact me



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