Flexible Life Interest Trust

Protecting your Family's Future

When making your Will, you may want to ensure your spouse/civil partner is well-provided for but feel anxious about what would happen if his/her situation changes.

If your whole estate passes directly to your spouse, there is a risk that your children's inheritance may be lost entirely or substantially reduced. If, for example, your spouse:

- Remarries/has a new partner
- Needs long-term care
- Owes money to others
- Changes his/her Will

If you are in a couple with **children from previous relationships**, you may be concerned about how family relationships can change after death and the increased risk of conflict and loss of inheritance.

You may also feel concerned about your children (or other beneficiaries) inheriting, for example, if they are **young**, **vulnerable** or go through a **divorce** in future.

As the future is difficult to predict, you may want **flexibility** so that decisions can be made at the time to protect inheritance from being wasted or ending up in the wrong hands.

Including a Flexible Life Interest Trust in your Will can offer several benefits:

- Protection for your spouse/civil partner
- Flexibility to respond to changing circumstances
- Asset protection
- Provide for multiple generations
- Protection of vulnerable or young beneficiaries
- Inheritance tax planning opportunities

LOCAL WILLS DERBY

Talk to us about what matters to you.

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Book an appointment.
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Flexible Life Interest Trust

What assets can I include in a Flexible Life Interest Trust?
Property, money, investments, and important possessions. Many people choose to include either the residue or whole of their estate within the trust.

How will my spouse be provided for?
Your spouse can be given a right to receive income generated from the trust for life.

Your trustees will also have powers to loan or gift the capital of the trust fund to your spouse and other named beneficiaries. This enables flexibility to meet future needs.

If you include your home in the trust, your spouse can be given a right to remain as well as flexibility to move to a new home that continues to be protected by the trust.

How are assets protected?
Assets are protected because the beneficiaries do not own the trust property. Trustees will only make distributions if they think that it is wise to do so. This means your legacy is better protected from third parties e.g. where there is remarriage, divorce, bankruptcy, care fees, lifestyle or vulnerability issues. You can include a letter of wishes to guide your trustees over how funds are used.

Who can be my trustees?
Trustees can be family, friends or a professional trustee. You should appoint between two to four trustees. You must be confident that your trustees will act fairly and responsibly in carrying out their duties.

The trustees must register the trust with HMRC within 90 days of the second anniversary of the death unless the trust has ended within two years of death. Your trustees may need to seek legal, tax and financial advice to run the trust correctly. Trust expenses are paid from the trust fund.

Why is this type of trust good for married couples/ civil partners?

- Assets passing into the trust benefit from the spousal exemption to Inheritance Tax.
- No periodic or exit charges from the trust fund apply whilst your spouse is alive

Will the Residence Nil Rate Band be available?
If you include your home in the trust, providing your trustees appoint the property out of the survivor's trust to qualifying beneficiaries within two years of the survivor's death, your executors may claim all or part of the Residence Nil Rate Band (up to £350,000).

For the full amount to be available, the surviving spouse's share of the property must be at least £350,000.

For this reason, many couples choose to have a separate trust (a Protective Property Trust) for their home so the availability of the tax relief is not reliant on the trustees or the value of the survivor's share of the property only.

What happens after my spouse / civil partner dies?

- The trust becomes a discretionary trust. Whilst this can provide ongoing asset protection for your beneficiaries, your trustees should seek advice on how to manage the trust in a tax-efficient way as different rules apply.
- Depending on the circumstances of the beneficiaries, if the trust is no longer necessary it may be possible for the trustees to end the trust early. Legal advice should be sought to ensure this is done properly.

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