

Protective Property Trust

Protecting your Home for your Children

A Protective Property Trust enables you to leave a share of your home to your children (or other chosen beneficiaries) in your Will.

It stops your share of your home being diverted away from your children, whilst at the same time giving your spouse/partner the legal protection they need.

The trust protects your share of your home if, for example, your spouse/partner:

- Gets married or has a new partner
- Needs to pay for residential care
- Becomes bankrupt or gets into debt
- Changes his/her Will

As well as financial protection, a Protective Property Trust provides peace of mind.

It can help you achieve fairness, reduce the risk of family conflict and legal battles.

This is especially important for couples with children from different relationships, due to the higher risk of family conflict and inheritance disputes.



LOCAL WILLS DERBY

Talk to us about what matters to you.

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FREQUENTLY ASKED QUESTIONS

How does this work?

Most couples own their property as joint tenants. This means ownership automatically passes to the survivor. To include a Protective Property Trust in your Will, you will need to own your home as 'tenants in common' so you each have a share of your home to give via your Will.

I'm not sure whether we own our property as joint tenants or tenants in common?

Don't worry - we will check how you own your property and help you change to tenants in common if needed.

What rights will my spouse or partner have?

Typical terms of Protective Property Trusts include:

- A right to remain living in the home (usually for life)
- Flexibility to move home
- A right to income (e.g. if your spouse goes into care and the house is rented out)

If your spouse/partner moves home, the Trust can apply to the new property and any surplus from downsizing be shared equally between the deceased's trust and the survivor.

Isn't it simpler to just leave half of our house to our children in our Wills?

This is very risky! Imagine what would happen if your spouse/partner and children fall out, or your children want to sell, become bankrupt or get divorced? Your spouse/partner would be vulnerable and could even end up homeless. A Protective Property Trust is a safer alternative.

What happens if my spouse/ partner needs care?

The Local Authority will only consider what your spouse/partner owns when making decisions about paying for care. Your share of your home in Trust is protected for your children's benefit.

Who can be my trustees?

Family, friends or a professional trustee. Often the surviving spouse will be included as a trustee alongside their adult children if appropriate. Your choice of trustees will be discussed with you.

What do trustees do?

On first death, the property needs to be transferred into the names of the trustees. They must ensure the property is insured, maintained, keep records, and pay tax if due. 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. When the trust ends, the trustees will transfer the trust property to the beneficiaries.