

WILL TRUSTS FOR CHILDREN

How to ensure that both your children and your assets are protected

When you make your Will you may have young children, or your children may be adult but may have problems such as money difficulties, a failing marriage or are unable to look after money. In such circumstances what is the best way to provide for your children in your Will but ensure that your assets are protected for the future?

Leaving assets to young children

If you leave assets to children in your Will then, unless you specify otherwise, the children will (after your death) received their inheritance outright at the age of eighteen, with no restrictions on how they deal with the money. Many people believe that this is too young an age to receive a potentially large sum of money. Even when children are older than 18, circumstances may arise where it would be inadvisable for them to have unfettered access to the assets.

Instead, your Will can be drafted so that the child only becomes entitled to the assets when they reach an age greater than eighteen, commonly twenty-one or twenty-five or at the discretion of the trustees.

Leaving assets to older children

However, including age contingencies such as these do not deal with the situation where, having reached the specified age, the child is still irresponsible with money, or receives the assets outright and later encounters difficulties such as a business failure or marriage breakdown. Such an age qualification can also result in an additional inheritance tax charge. Consequently, you may wish to consider including flexible and protective trusts for your children rather than age conditions. These could be life interest or discretionary trusts.

How do life interest will trusts for children work?

Where provision is made for children in your Will using life interest trusts the assets in your estate are held by Trustees (of your choosing) for the benefit of your children. Your children would be entitled to receive the income during their lifetime, and, in addition, the Trustees could also advance capital to the children at their discretion if the trust gives them power to do so. This ensures that the capital is protected throughout the duration of the trust, both from the children spending it in unsuitable ways and against misfortunes that might befall the children in the future.

For ultimate flexibility: discretionary trusts

If you wish to retain complete flexibility over how income or capital is used for the benefit of your children, then you might wish to consider including a discretionary trust for your children in your Will. This has a protective element like the life interest trust but, as no one person has a right to either income or capital, the trustees have complete discretion over to whom the trust assets should be distributed; i.e. once they have divorced or no longer have financial difficulties. In the interim the income could either be accumulated or distributed to other beneficiaries. As with the life interest trust

there is no more IHT payable on your death than if you left your estate to your children outright. A Letter of Wishes can be left by you to guide the trustees in the exercise of their discretion.

The capital in the trust does not form part of the beneficiary's estate on their death which means that an IHT charge of up to 40% does not arise at that point and the trust can continue for future generations.

How do I choose which trust to use?

This will depend on your circumstances and we can help you reach this decision considering all the factors.

How can GL Law help you?

We have specialist lawyers who will take time to get to know you in order to provide you with advice tailored to your specific needs and wishes.

Full and transparent information about our fees structure will be provided at the outset, and the basis of our charging agreed before we begin work.

For more information or to speak to a solicitor please contact us by calling 0117 906 9400 or email hello@gl.law

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