

Trusts in General



A Trust is an arrangement whereby assets (the Trust Fund) are managed by Trustees on behalf of a third party or parties (beneficiaries). The person transferring the assets into the Trust is known as the Settlor or Transferor.

A Trust ensures the people you choose are the only ones who can benefit from the Trust Fund and it essentially ring-fences assets which are often diluted because of possible future marriages; divorce; spendthrift dependents; beneficiaries with alcohol or substance abuse problems; and can be used to mitigate inheritance tax and reduce probate costs and times.

Various assets can be transferred into a Trust which can include property and land, cash, shares, bonds, valuable items (family heirlooms; expensive paintings; jewellery), business shares, etc. There are some assets which cannot be placed into a Trust, for example ISA investments.

Trusts can be created on your death by your Will or you can transfer assets into Trust while you are living (Lifetime Trusts). Lifetime Trusts cannot be contested however they can be challenged if being used as a vehicle to deliberately deprive assets from: paying for your care; being held as part of a divorce settlement; creditors; being taken into account when filing for bankruptcy.

Generally Trusts will either give someone an absolute right to income and capital of the assets within the Trust; give an individual an interest immediately on death (interest in possession) known as a life interest; or will be discretionary (distributed at the Trustees discretion) and some Trusts incorporate both latter elements.

A life interest Trust allows Trustees to hold assets for an individual (the life tenant) who is given a right to any income produced by those assets and allows the life tenant to occupy Trust property. You can choose the duration of the interest (for instance, for their lifetime or until they reach a certain age) and you are free to impose conditions (for example you can say the interest will end if the life tenant remarries).

A discretionary Trust can run for 125 years and allows you to choose multiple beneficiaries or classes of individuals (children; grandchildren; etc.). It allows the trustees to use the Trust in a discretionary format and the income and capital can be appointed out as they see fit and taking into consideration a letter of wishes you leave detailing your intentions.

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