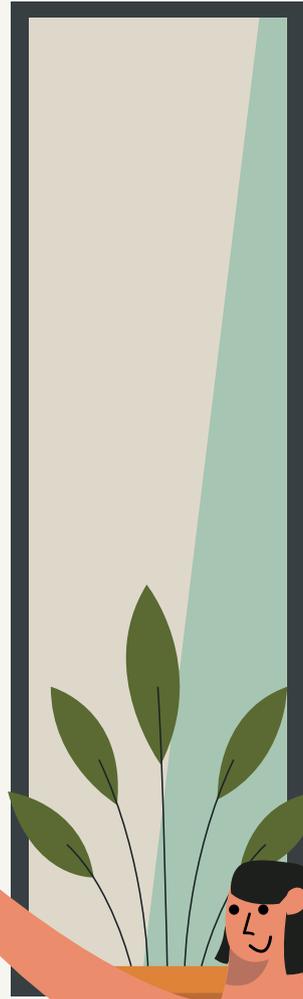




A Guide to Trusts



We offer a range of Trusts to enable you to ensure that you can make suitable provision for your partner and beneficiaries within your Will.

There are three main Trusts available that can be written into your Will and we offer a further Trust that is outside of your Will - The Estate Management Plan, please see separate brochure for more information.

The **range** of **Trusts** we offer are:

- The Protective Property Trust
- A Right of Occupation Trust
- Disabled/Addicted Beneficiary Trust

The **Protective** Property Trust

This Trust may be suitable for people who wish to give protection to some of the value of their home and examples of this could be in relation to:

- Long Term Care funding
- The survivor in a couple entering a new relationship at a later date.
- Making provision for children from an earlier relationship without causing hardship to the surviving partner.



A couple will typically own their home as Joint Tenants and this means at the time of the first person's death the property will pass and be wholly owned by the survivor. Whilst this may seem a comforting position it does mean that the whole house value could be taken into account if the survivor requires long-term care.

In addition, should the survivor enter a new relationship at a later date, then their new partner would ultimately be able to make a claim upon the whole value of the property at the time of death or of divorce, depriving your beneficiaries of some of their inheritance.

Another risk is that as the survivor owns the property solely, they could also at a later date change their Will so as possibly to disinherit the deceased's children or beneficiaries from an earlier relationship.

There is an alternative way that a couple may own a property together and it is called Tenants in Common and this is whereby each person owns half of the property each. This enables them to leave their portion through a Trust to selected beneficiaries, but crucially without disadvantaging the survivor:

At E.L.M we lodge the necessary paperwork with the Land Registry so as to change the ownership of your home from Joint Tenants to in Common. A mortgage on the property will not be affected by this action.

We then create a Trust in your Will. This enables you to leave each person's half of the house to chosen recipients but ensures that the survivor can live in the house for the rest of their life and even move house if necessary.

The deceased person's half of the house is owned by their Trustees (typically the survivor with other nominated persons*) and is ultimately held for the benefit of the named beneficiaries during the Trust period, however they do not have any control over or benefit from the asset whilst the survivor is alive.





This half of the house is therefore not owned by the survivor and could not be taken into account for Care assessment or other claimant needs.

NOTE: You need a minimum of TWO Trustees for a Trust of Land so there would not be a sole survivor.

The survivor can still live in the house and move should they wish to do so. If they met a new partner, then the deceased's half of the house cannot be claimed by the new person. The beneficiaries named in the Trust of the deceased will always receive their inheritance as that person intended.

Your Consultant will be able to advise you of the current thresholds for assets being taken into consideration in regards to assessing Care funding.

If a property is in a sole name, we can change the property into Tenants in Common subject to the necessary legal work fees and Land Registry charges for which your Consultant will advise.

Right of Occupation Trust

If the property is owned by a person in their sole name and if they did not want to make the property into joint names with their partner, they can still provide protection for that person or anyone else who they wanted to allow to live in that property after their death.

A Right of Occupation Trust allows a person to state in their Will that at the time of their death a specific person(s) shall have the ability to live in that house for a period of time subject to conditions that the owner may impose:

- Rest of life
- Specific period of time
- Until remarriage or cohabitation.



If the owner wishes, the Trust can also be constructed to permit the survivor to move house during the Trust period.

The person granted the right of occupation does not own the property, instead the property is owned by the deceased's Trustees ultimately for their named beneficiaries.

The person subsequently living in the house does not own the property and therefore it cannot be used by the Local Authority to fund their Care costs nor can a new partner make a subsequent claim upon it.

Disabled or Addicted Beneficiary Trust

There is often a requirement for a loved one to benefit from a Will, however that beneficiary may have circumstances that mean such an inheritance could disadvantage them or lead them into harm.

A beneficiary who receives Means Tested State Benefits would lose their entitlement to those benefits if they have assets in excess of a certain amount or level stated by the Benefits Agency. They would therefore have to use their inheritance to fund themselves until they have reached the agreed threshold and then reapply.

A beneficiary who has an addiction such as alcohol, drugs or gambling may therefore use an inheritance to fund their addiction to their possible detriment.

This group of people can therefore be included within your Will, however the inheritance does not pass to them directly but instead to your chosen Trustees who manage these funds on behalf of the beneficiary

The Trust is created within, your Will and states who will be your chosen Trustees to manage the asset for the named beneficiary and also provision can be made within the Trust to detail as to where the funds shall pass on the event of death of the beneficiary.

Details of all the relevant costs of such Trusts will be provided to you by your Consultant at the time of taking your Will instructions.

Our **specialist services** include:

- Will drafting
- Probate
- Executor support
- Document storage

We are **here to help**

If you have any questions, would like additional guidance or need some support, we're here when you need us.

For more information or to arrange a home visit please call

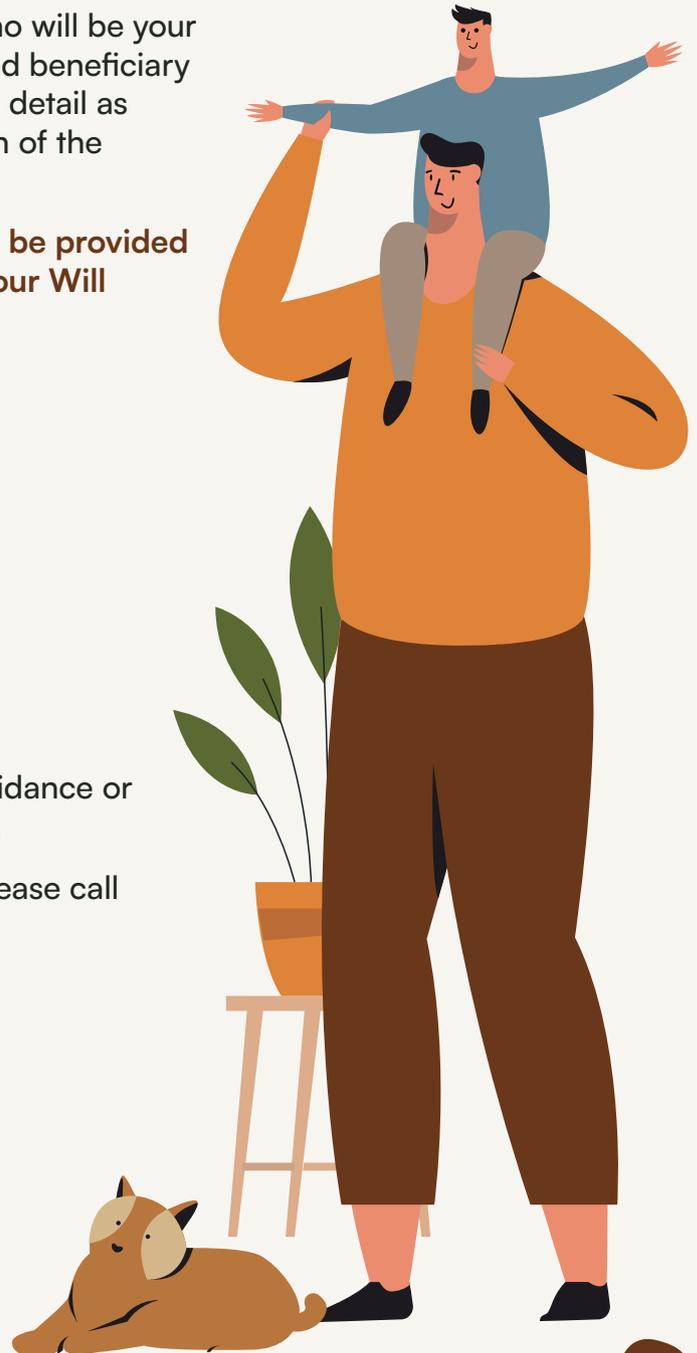
0117 952 0698

or Freephone

0800 01 WILLS

For more of the local services we can provide please visit:

www.elm-online.co.uk



Terms & conditions and variable pricing applies, please ask your consultant for further information.



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