



# The ELM Guide to Trusts

# What is a Trust?

A Trust, or Trust arrangement, is a powerful tool for safeguarding your assets and has been used in the UK for hundreds of years. A Trust is a legal arrangement where a person, known as the Settlor, transfers assets to another person or group, known as Trustees. The Trustees hold and manage the assets according to the terms outlined within the Trust deed or Will. Any assets held are then inherited by the Beneficiaries named within the Trust.

There are various types of Trust that can all be tailored to your specific circumstances and needs. You can also choose when your assets are placed into Trust; for example, during your lifetime or once you have passed away.



**Always seek legal advice when considering your options. Trusts are complex, and their effectiveness depends on an individual's circumstances.**

# What types of Trust do we do?

- Property Protection Trusts
- Right to Occupy Trusts
- Vulnerable Person/Disability Trusts
- Discretionary Trusts



# Property Protection Trust

Typically, a couple will own their home as Joint Tenants, meaning the property will pass entirely to the survivor. Whilst this may seem like a comforting position, it does carry some risks. For example, if the survivor requires long-term care, the whole house may be taken into consideration. Additionally, should the surviving spouse enter a new relationship, their new partner may be able to make a claim against the full value of the property at the time of death or divorce, depriving your Beneficiaries of some of their inheritance.

Another danger is that the surviving spouse will own the entire property, and they may change their Will at a later date. In doing so, they may disinherit any of your children from an earlier relationship.

There is an alternative way that a couple may own a property, known as Tenants in Common, whereby each person owns half of the property. This enables you to leave your share of the property within a Property Protection Trust, without adversely affecting the surviving partner.

By utilising a Property Protection Trust within your Will, you can protect your share of the property and plan for:

- Long-term care funding.
- Children from previous relationships missing out on their inheritance.
- A surviving spouse or partner re-directing assets through a new Will.

# Right to Occupy Trust

A Right to Occupy Trust allows you to specify in your Will that upon your passing, a person of your choice will have the right to reside in your property for a period of time of your choosing. For example:

- The rest of their life.
- Until they remarry or cohabit.
- Until you wish for your Beneficiaries to inherit the property.

You can even permit them to move property. However, they will never own the house as it is managed by your Trustees and will ultimately be inherited by your chosen Beneficiaries.



# Vulnerable Persons or Disability Trust

This Trust may be suitable for people who have Beneficiaries where receiving an inheritance could disadvantage them or lead them to harm.

If one of your Beneficiaries receives means-tested benefits, they risk losing their entitlement if their assets exceed a certain threshold. They would, therefore, have to use their inheritance to support themselves until they fall below the threshold and then reapply.

Furthermore, if one of your Beneficiaries has an addiction, they may use their inheritance to fund their habit, which could be detrimental to their health.

These individuals can still benefit from your Will, but instead of receiving their assets directly, they go into a Vulnerable Person Trust or Disability Trust. Your chosen Trustees can then manage their inheritance, ensuring the funds are used appropriately.



# Discretionary Trust

This type of Trust may be suitable for people who don't know who they want to inherit or want to give their loved ones the power to decide. You give your Trustees the ability to determine who, among a group of your chosen Beneficiaries, will inherit, as well as the amount and timing of the distribution.

Discretionary Trusts are extremely powerful as they allow your Trustees to respond to changing or unforeseen circumstances, such as changes in your Beneficiaries' financial situations.

However, you may still want to guide your Trustees, which is typically achieved by including an Article of Wishes alongside your Will Trust. An Article of Wishes lets you outline conditions under which your Beneficiaries should receive their assets, but your Trustees are under no legal obligation to follow the guidelines in your Article of Wishes.



**Choosing your Trustees is a significant decision. Please discuss your intentions with them beforehand and always choose trustworthy individuals.**

**Also consider if your Trustees will be available long-term as Trusts can extend over many years.**

# Will Trust or Lifetime Trust?

A Will Trust, also known as a Testamentary Trust, is established through the terms of a Will. These Trusts only offer protection after you have passed away.

A Lifetime Trust is established during your lifetime and enables protection immediately. We use a Lifetime Discretionary Trust at the core of our Estate Management Plan to protect your family home.

For more information, please view our Estate Management Plan brochure.



# Pricing (all prices include VAT as standard)

## Will Trusts:

- £250 per Trust

## Lifetime Trusts:

- Available as part of our Estate Management Plan

# 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.

Call us at:

0117 952 0698

or visit our website:

[elm-online.co.uk](http://elm-online.co.uk)



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