



Renaissance Legal

Why Make a Trust

Trusts have been around for many hundreds of years. The original concept appears to come from medieval times when all land was owned by the Crown and to transfer land from one person to another you allowed someone to 'use' it until the Crown authorised the transfer.

Trusts are now used for many reasons, including family succession planning, asset protection and tax planning.

What is a Trust?

A trust is the formal transfer of assets to others to hold for the benefit of someone else. The person creating the trust is known as 'the Settlor'. The people (or trust company) holding the assets are known as 'the Trustees'. The person (or persons) who benefits is known as 'the Beneficiary'.

It is usual for the trust to be made by deed, but some trusts can be made purely by the conduct of the Settlor. This is where the law on trusts becomes complicated as you can create a trust purely by your actions and this might even be unintentional.

Trusts made in your lifetime are called 'Lifetime Trusts' and trusts made in a Will are called 'Will Trusts'. Lifetime Trusts nearly always take effect immediately. Will Trusts only come into effect on the death of the person who made the Will.

A typical example of a Lifetime Trust is where grandparents place money in trust to pay for the school fees of their grandchildren. Will trusts are far more common. If you make a provision in your Will that your children inherit your estate at a certain age, then you have created a Will Trust.

Why make a Trust?

As trusts are so diverse, the reasons for making them are equally as diverse. Some of the usual reasons for making a trust are:

- To stop a family member inheriting assets too young;
- To stop someone who may be vulnerable from frittering away the assets;
- Protecting someone who is vulnerable from the influences of others;
- Where there is a risk of bankruptcy of a family member, or divorce, or incapacity;
- To protect yourself if you have a fear of losing capacity or being influenced by others;
- To tax plan for future generations.

When should I set up a Trust?

It is usually advisable to create a trust as early as possible. Having said that, you should not rush into any arrangement without fully understanding and considering all of the implications of the trust that you are creating.

Lifetime Trusts are usually difficult and costly to change once they have been created. Will Trusts are easier to change as until the death, the Will Trust does not come into effect.

What types of Trusts are there?

Trusts fall into one of two main categories depending upon how income from the trust is dealt with. The categories are 'Interest in Possession Trusts' and 'Discretionary Trust'.

- 1 Interest in Possession Trusts in their simplest form gives the income from the assets to the Beneficiary for the rest of the Beneficiary's life or for a fixed period. When the Beneficiary dies the right to income might pass to another Beneficiary or the trust might come to an end with the assets remaining passing to another Beneficiary.
- 2 A Discretionary Trust is one where none of the Beneficiaries have the right to income and the Trustees have a discretion as to how they pay or apply income and capital to the Beneficiaries.

Complementary services

When making a trust it is a good opportunity to review or make a Will, review your financial circumstances, any tax planning you have in place and consider making a Lasting Power of Attorney.

As lawyers we are not permitted to provide you with financial planning advice but we work alongside local and national Independent Financial Advisors who we can refer you to.

Please refer to our **Why Make a Will, Inheritance Tax Planning** and **Lasting Power of Attorney** information sheets for further details of these services.

How we can help

We will guide you through the decisions to be made to enable a trust to be created for you that suits your needs and personal circumstances.

If you would like to discuss this further then please call us on 0845 505 60 50 or email us at info@renaissancelegal.co.uk