

Will Trusts – Ten Basic Facts

Will Trusts can be an appropriate way to leave gifts/inheritance for children from previous relationships or assets to a vulnerable/disabled person.

By **Paul Webb**, 30th October 2019

1. When Might You Consider Using a Will Trust?

Will Trusts can be used to protect property and assets within an estate.

They can be particularly appropriate to provide gifts and inheritance for children from previous relationships and to leave assets to a vulnerable or disabled person.

2. What are Other Potential Uses of Will Trusts?

Will Trusts can also be used for the following:

- To provide income or property for a second spouse during their lifetime, ensuring that the assets then pass to any children from the first marriage, after the death of the surviving parent
- Fund education for children and/or grandchildren
- Protect assets from creditors or divorcing partners.

In situations where it is proposed to pass assets to individuals resident in other countries, whether permanently or temporarily, a Will Trust may secure tax protection for the beneficiaries, from income and capital taxes, in the country in which they reside.

3. What is a Will Trust?

A Will Trust, also known as a Testamentary Trust, can be created within a will to further increase the protection of assets that are being left to others.

Depending on the circumstances, it might be appropriate to create a formal trust. Trusts are entities that allow someone to benefit from an asset without being the legal owner. The 'testator' creates the trust and appoints a person to manage it – the 'trustee'. The trustee manages the trust on behalf of the 'beneficiaries' – who will receive the income from the trust. The trustees will be named in the will and will be relied on to maintain the best interests of the beneficiaries, at all times.

4. Need for Professional Advice

Trusts can be complicated structures with tax implications, and professional advice should always be taken, before establishing one.

The tax position, should be carefully considered in relation to; the trust, the individual settling assets into the trust, and the beneficiaries.

5. Who can be a Beneficiary?

Anyone can be a beneficiary.

They might be:

- A named individual
- A class of individuals, such as 'my grandchildren and their descendants'
- A charity, or a number of charities
- Another organisation, such as a company or sports club.

It is possible for individuals who have not yet been born to be beneficiaries, this allows planning for future grandchildren and other descendants.

6. Property Will Trusts

Property Will Trusts are also known as Protective Property Trusts. This type of trust offers additional security for testators who own property and want to secure it for future generations. There are a number of circumstances, as detailed below, where it might be of benefit to have a Property Will Trust:

- Individuals who own a property with another person, including those who are married, unmarried, with or without children
- Individuals wanting to protect against the value of a property being taken into account to pay possible care home fees in the future, a point which is particularly relevant in the UK.

7. Flexible Life Interest Will Trusts

These are often used by individuals who own high value assets, where protection of the value is sought for future generations.

This type of Will Trust guarantees who will benefit from cash assets, property and investments if the testator's partner; remarries after their death, creates a new will which changes the original wishes, or authorises a nominated individual to receive an income which is generated from the investment, following the death of the testator.

8. Discretionary Will Trusts

A Discretionary Will Trust provides the opportunity to appoint a trustee to manage assets left to a beneficiary who is vulnerable and/or unable to manage his/her inheritance independently.

9. How might a Will Trust be Beneficial in Estate Planning?

The most important element of a Will Trust is that it helps increase certainty as to who will inherit the assets of an estate.

It may also assist in achieving a number of financial objectives:

- Take advantage of inheritance tax, business or agricultural relief, which otherwise might not be available after both an individual and his/her spouse have died
- Discount the taxable value of a family home by splitting ownership between a surviving spouse and a trust
- Help to ensure that a beneficiaries' access to benefits or state support is not affected by an inheritance.

How can Dixcart Help?

Dixcart can assist in advising individuals and families regarding establishing a Will Trust.

We have over forty years of experience in assisting individuals in establishing and managing trusts, and we offer trustee services across a number of the Dixcart offices.

For further information please speak to the Dixcart office in the UK:

advice.uk@dixcart.com or to your usual Dixcart contact.

Please also see our [Trusts and Foundations](#) page.