



Discretionary Trust Wills

A Discretionary Trust Will allows the Testator to leave all or part of their estate in Trust so that a “trusted person” can oversee the distribution of their estate.

You may wish to protect your estate from being lost through divorce or bankruptcy or worry that your beneficiaries may not manage their inheritance wisely. In some cases, they may lose entitlement to means-tested state benefits.

Decide who manages the finances

Choose a “trusted person” to oversee the inheritance you will be leaving. You can appoint one (or more) of your children or an independent trustee.

Discretionary Trusts can protect your beneficiaries’ inheritance from many areas including:

Divorce

Any beneficiary who gets divorced faces the prospect of losing a large part of their inheritance as a consequence. Setting up a Discretionary Trust avoids this problem by keeping your assets for your own bloodline.

Bankruptcy

Subject to certain conditions, leaving your assets in a Discretionary Trust will mean they are not seized if your beneficiaries should go bankrupt. Whilst the funds are still sitting in the Discretionary trust they are not capable of being taken into account for assessment by the Court or trustee in bankruptcy.

Children with Problems

Children with problems such as alcohol, drugs or gambling or just plain overspending would benefit from some independent control over their inheritance, which a Discretionary Trust can provide.

Vulnerability and Loss of Mental Capacity

There is of course a danger that should any funds pass to vulnerable persons or should a beneficiary lose mental capacity then this leaves their inheritance open to unwise decisions or fraudsters. By leaving a fund in a discretionary trust the Trustees can ensure that they are available for the beneficiaries should they require them but without running the risk of either depletion or being unable to access funds without a Court of Protection Deputyship order.

Means-tested Benefits

Any beneficiary who is receiving means-tested benefits may be able to continue to receive these benefits while having their inheritance protected in the Discretionary Trust.

IHT advantages

Although not effective to save any Inheritance Tax on the parents’ death, this trust will protect the assets for their children and grandchildren. This will be of particular benefit if the children are likely to be over the Inheritance Tax threshold or if there is any possibility of them ever getting divorced. The Trust allows the children to borrow all the assets and use them, without them ever becoming part of their taxable estates.