Wills Estates
& Probate Lawyers

WALSH
WEST
LAW

LEAVING PROPERTY IN A WILL – INFORMATION FOR CLIENTS
Walsh West Private Client Legal 2021

What can a property protection will trust do for you?

What is a property protection will trust?

Creating a Property Protection Trust (sometimes called an Asset Protection Trust or a Property Preservation Trust) through your will allows someone to benefit from your estate after you have died as if he or she owned the assets, without actually inheriting it. The value of his or her estate is therefore kept minimised.

Why Should You Consider Creating One?

The reason to create these types of trusts through your will is to prevent the wealth of the person who dies first from being used to pay for care fees for the spouse. Your children inherit a greater value.

If you have children and you die without having made a will, then your husband or wife automatically inherits the first £270,000 of value in the estate and half of the remainder. The children receive the other half of the remainder.

Many couples make wills that transfer all of the estate to the other, if the other survives, otherwise all to children.

The intention in both cases is for the survivor to be able to live comfortably for the rest of his or her life, before the joint wealth that both parents have accumulated over their lifetimes is passed on to the next generation.

In these situations, the surviving spouse will find himself or herself much wealthier as an individual as a result of the death of his or her husband or wife.

The issue here is not so much that the surviving spouse is more likely to have assets over the threshold at which he or she must pay for elderly care (because that threshold is relatively low), but rather that he or she has more wealth that can be used to pay such fees before falling back below the threshold. Many people feel that care fees erode what would otherwise be their children's inheritance.

For Example

Mr and Mrs Jones have assets worth £300,000 together, primarily in the value of their home. At this level of wealth, their joint estate does not qualify for inheritance tax at any rate.

They wish to leave as much as possible of their estate to their son.

Mr Jones dies before Mrs Jones, leaving her his share in the home and all his other assets.

After 2 years of continuing to live at home, Mrs Jones needs care and moves to a nursing home. Fees are slightly less than the UK average at £30,000 per year. Her new level of wealth means that she may have to pay such fees for just over 9 years (before her wealth drops below the current threshold for paying fees of £23,250).

She lives for 7 more years, and their son inherits £90,000.

However, had Mr Jones placed his assets in a property protection trust, Mrs Jones would still have been able to live in the family home, but the value of her estate would have been still £150,000 just after Mr Jones's death. Care costs for 7 years would have reduced the value of her estate to £14,250 (the level at which your local authority pays all care costs).

However, their son would have inherited that £14,250 plus the £150,000 left in trust

---

For help and advice with Estate Planning including Lasting Powers of Attorney, Wills, Trusts and Probate; call our team on 0203 488 7503, 01992 236 110 or contact us by email at welcome@walshwestcca.com or via our website www.walshwestcca.com