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Asset Protection

At **Taylor Bracewell Solicitors** we receive more and more enquiries from clients who are concerned about protecting their assets for the next generation.

Property

Most people's main asset is their property, understandably that is the asset most people want to protect.

There are two different ways in which a property can be owned jointly;

- **Joint Tenants** – This is when one party dies and their share automatically passes to the surviving joint owner, irrespective of what their Will states. The surviving joint owner will then own the house in full and can dispose of it however they wish during their lifetime or on their death.
- **Tenants in Common** – This is where each party has their own separate share of the property which they can leave in their Will to whoever they wish, regardless of whether they die first or second.

There can be a number of different reasons for people to have concerns about protecting their assets – here we consider the most common two.

Protection from Care Fees

Many people worry about what would happen if they went into a care home and fear that their home and savings would be taken away from them to pay for their care.



At present, if a person enters full time care and they have property, savings & investments worth more than £23,250 then, generally, they will have to pay the cost of their care themselves (figures correct as at 2017/2018).

More often than not couples make Wills which leave their whole estate to each other on the first death. This means the survivor then owns everything. The problem with this is if the survivor goes into a care home all their assets, including those of the deceased, can be taken into account towards their care fees.

Asset Protection Trust Wills can ensure that your partner can still use and benefit from your assets if you die first, but if the survivor does ever need full time care, your assets will not be used to pay for it.

Second Relationships

It is common for a couple to make Wills leaving their estate to each other on their first death and to their children or other family on the second death. However, this may not be suitable for couples who are in a second relationship, particularly if they have children from a previous relationship.

If a couple make Wills leaving their assets to each other on the first death, then the survivor will own all of the combined assets. The problem with this is the survivor is free to change their Will at any time and the first parties chosen beneficiaries could be cut out completely. The survivor could remarry which would mean their Will would automatically be revoked and, again, the chosen beneficiaries of the first to die will lose out.

Asset Protection Trust Wills can ensure that your assets, or share of joint assets, are received by the beneficiaries you choose, regardless of who dies first.

How Asset Protection Trust Wills Work

A Trust is basically a legal arrangement, which in this case is included in your Will.

Trustees are the people responsible for handling the Trust after your death and, in most cases, are the same people as the Executors you appoint in your Will. The Trustees can include your partner and any beneficiaries you include in your Will. There must be at least two Trustees, preferably three.

There are various types of Trust which can be included in Asset Protection Trust Wills. All of the options can be discussed with you to see what best suits your circumstances.

One of the most popular type of Asset Protection Trust Wills is a Life Interest Trust. This is where the can use the share of their property owned by the first to die for the rest of their life before the share passes on to the next generation. This means that the survivor can continue to occupy the family home for as long as they need to. The advantage of this is that if the survivor ever needs full time care, only their own share of the family home can be assessed towards care fees. The share of the property of the first to die cannot be assessed towards care fees as the survivor does not own it, they only have the right to use it.

It is common for a couple to leave their cash, investments and personal possessions to each other outright and for only their property to be subject to an Asset Protection Trust Wills as doing so will have no significant impact on the survivor's day to day life or standard of living.

A life interest Trust for a share of property in Asset Protection Trust Wills is extremely flexible and if they wish to do so, the survivor can decide to move to a new property and use all of the money from the sale of the property to purchase a new property which would be held on exactly the same terms.

Taylor Bracewell Solicitors is a dynamic and forward-thinking legal firm with offices in Doncaster and Sheffield. We are passionate about providing individual service and connecting with our clients on a one to one basis. This enables us to fully understand our client's legal needs and deliver exceptional value in all our services.

If you would like more information about family law or would like to arrange an appointment to discuss matters further please contact us on 01302 341414 or 0114 272 1884.



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