

Flexible Life Interest Trust

How does it work?

The Flexible Life Interest Trust is an arrangement created in your Will that leaves a life interest in your residuary estate to your spouse or partner and can be used to ensure that this portion of the estate is protected against a future marriage or relationship, creditors or other difficulties that the surviving spouse or partner could encounter after your death.

It is ideally suited to relationships where each partner wishes to guarantee their respective estate eventually passes to their children. During the lifetime of the surviving spouse [or partner] the intention would normally be for the surviving spouse or partner to benefit exclusively.

Who looks after the trust?

Trustees that you appoint in your Will will manage the Trust Fund after your death. The appointment of trustees needs to be considered carefully, as they will collectively make decisions as to whom, when and how much is paid from the Trust Fund to the beneficiaries or loaned to the beneficiaries. The surviving spouse [or partner] could be a Trustee and therefore involved in this decision making process.

What about Inheritance Tax [IHT]?

The value of the Trust Fund would form part of the estate of the second spouse or partner for IHT purposes. However, provided the Trust Fund value, together with the survivor's estate, is below twice the IHT nil-rate band [currently £325,000 - 2016/2017], it would not be subject to IHT on the death of the second spouse. The Trust gives flexible powers to the Trustees that can potentially lower the value of the joint estate for IHT purposes.

Can the Trust include my share of my home?

Yes, the Trust can include your share of any property owned by the first spouse [or partner] to die. This is subject to it being owned as "tenants in common". The process of converting your property to "tenants in common" is included in our service free of charge.

Can assets or money be loaned to the beneficiaries?

Your Trustees have very flexible powers to deal with the assets in the Trust. For instance, they could transfer assets your surviving spouse [or partner] and take security in the form of a charge or a loan note [IOU]. Loans could also be made to any other beneficiary, but this can be restricted to those authorised by the surviving spouse. The use of this power could potentially lower your joint estate for IHT purposes.

What about other jointly owned property?

Assets that are held by a couple jointly will usually pass automatically to the surviving joint owner and not through the Will of the first to die. Thus, if a couple wish to take planning steps through their Wills, it is necessary to ensure that each partner has assets in his or her sole name, or that any joint property is held by the partners as “tenants in common”.

Assets held as “tenants in common” will still be in the joint names of the owners, but the share of the deceased will not pass automatically to the surviving joint owner. Instead, it will devolve in accordance with the provisions of any Will, and therefore may be used in your estate planning exercise via the Flexible Life Interest Trust.

What about the probate process on my death?

Where a property is owned as “tenants in common”, or when a Will creates any form of trust, Probate will almost certainly be required to either deal with the share of the property of the deceased or to set up the trust under the terms of the Will. This will involve legal and administrative fees if professional services are utilised at that time.

Contact your Lifetime Solicitors Adviser now to discuss how the Flexible Life Interest Trust could help protect your estate and lower your tax bill!