An introduction to Life Interest Trusts

Fact Sheet

verisonalaw

Overview

A Life Interest Trust is a type of trust that lets you leave your money or property to someone for their lifetime ('a life interest') but ultimately to others when that person (the 'life tenant') dies.

Typically you might leave a life interest to your partner. They then have the automatic right to the income generated by your assets during their lifetime, but no automatic right to the capital.

If you leave a property or your share of a property in this way, your partner would be entitled to live in the property for life, but your share would then pass to your ultimate beneficiary when he or she dies. This could, for example, be a child from a former marriage.

Life Interest Trusts can provide an elegant solution to other situations, which we explain later on in this article.

How Life Interest Trusts work

In effect what you are doing is leaving your share of the property to a third party (the Trust) and instructing them what to do with it.

This could be useful if:-

- You want to make sure your children inherit should you die and your partner remarries;
- You have remarried and want to make sure your children by a previous marriage inherit when your current partner dies;
- You want to leave money to someone but are worried about their spendthrift ways;
- You are concerned about the impact care home fees might have if your partner survives you and moves into care.

Care fees and your home

If you and your partner own a home and one of you needs to go into residential care, the house will be disregarded by the local authority as an asset all the time one of you is living in the property, because it is needed as a home.

If however, you die and your partner (who now owns the house solely) needs care, the local authority would take the property into account when deciding whether your partner should fund their care.

Currently if your assets are valued at more than £23,250, you may have to fund your own care.

There are some exceptions to this if they need care on health grounds, but the rules are complex and you would need to consult the local authority or take specialist advice.

With some care homes charging over £800 per week, one option for many people is to sell up and use the proceeds from the sale to fund their care.

Protecting your home with a Life Interest Trust

Life Interest Trusts can help to ring fence your share of your home, so that should you die and your partner requires a care home, your share of the property will not be taken into account by the Local Authority.

Here, in summary, are the steps you and your Solicitor need to take:-

- Change the way you and your partner own your property, from 'Joint Tenants' to 'Tenants in Common'. In the latter you each have your own distinct percentage share in the property (you legally own part of it, rather than share all of it).

- As part of your Will planning, get your Solicitor to create a Life Interest Trust in your Will dealing with your share of the property, along with any other assets you wish to include.
- By taking these steps, and **under current legislation**, the Local Authority will disregard the assets you leave to the Trust when assessing your partners' ability to pay care fees.

Please note that this is a complex area and this is not necessarily a good course of action for everyone. It is very important that you take specific advice based on your individual circumstances.

Life Interest Trusts: things to consider

Life Interest Trusts are not for everyone, they have lots of uses and care fees are not the only issue.

It is important to think about the financial needs of your surviving partner or other beneficiary should you die, as these Trusts limit the ways in which he or she can use your assets.

There are also other types of trust and other ways of structuring your Will that may suit the situation better, so we would strongly recommend you take advice from a specialist Solicitor.

Find out how we can help, contact Andrea Cox
023 9224 6719
e: andrea.cox@verisonalaw.com