

Property Protection Trusts (PPT's)

In general couples want the family home to pass to their children as a result many couples leave everything to each other initially in the hope that assets will pass to children in due course.

Unfortunately things don't always go according to plan, for example should your partner remarry after your death, the property could pass 'sideways' to their new spouse. Even where the surviving partner doesn't remarry but simply enters a relationship with a new partner, property can be passed to their new partner. Also in many cases the family home has to be sold to pay care fees.

A protective property trust is a simple solution that will come into force after the death of the first partner. It works as the first to die does not leave their share of the property to the survivor, but instead leaves it through their will into a protective trust, with the survivor and children named as the beneficiaries. When the survivor later passes away the house will be passed to the children, even where the survivor has re-married, gone into care, gone bankrupt or changed their will.

WHAT ARE THE BENEFITS?

AVOID CARE FEES

It is not unusual for residential care to cost upwards of £2,000 each month, with assets such as the family home used to fund this. Trusts can help to protect assets.

KEEP CONTROL

This type of trust structure is widely used to control assets after death, providing flexibility and certainty as to who property will ultimately pass to.

PROTECT CHILDREN

Leaving assets to a partner in the hope that they are later passed to children can be problematic with children often losing out, trusts can help avoid this.

SIDEWAYS DISINHERITANCE

Assets that pass to a partner who later re-marries or starts a new relationship often pass 'sideways' on future death or divorce, PPT's will prevent this.

GUARANTEE INHERITANCE

For couples who want to guarantee who ultimately benefits from their home, a Property Protection Trust is an essential tool in the estate planning toolkit.

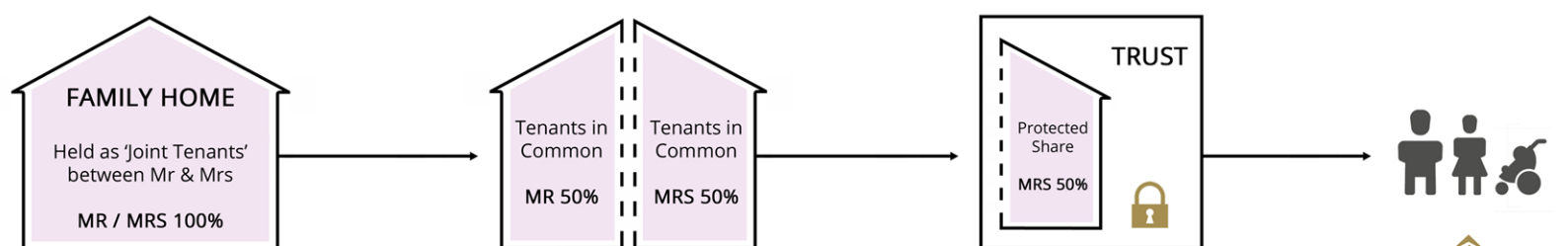
How do they work?

Tenancy in Common & Trusts Added to Wills (1)

Changing from a joint tenancy, to a tenancy in common is the first step. Each owner has a defined share of the property, making it possible to leave the shares into trust through the will.

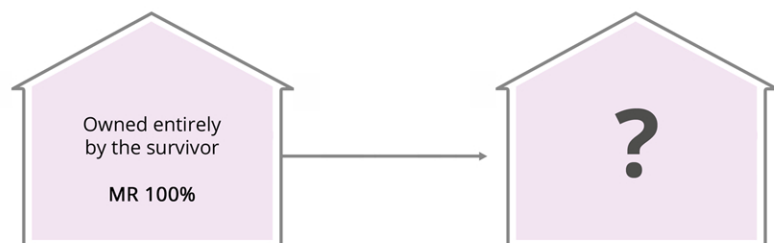
First Person Passes Away (2)

Now the property is owned on a 50/50 basis, when the first person passes away their share of the family home goes into the protective trust for the benefit of the surviving partner/spouse (instead of passing directly to the survivor). The survivor owns their 50% share and is the beneficiary or 'life tenant' of the deceased's share. This means that the survivor has the right to live in the property until they pass away, and has the flexibility to move home if they so wish.



Survivor Passes Away (3)

When the survivor passes away the share of the family home in the protective trust will pass to the beneficiaries (often the children). Even where the survivor has re-married; started co-habiting with a new partner; gone into a care home; changed their will or gone bankrupt, the share of the family home in the trust is protected.



Without a Trust

Where couples only have a simple will in place, the property will pass in its entirety to the surviving partner, beneficiaries could easily lose their inheritance if the survivor:

- Meets and co-habits with or gets married to a new partner;
- Changes the beneficiaries of their will to disinherit those originally named;
- Has financial difficulties or goes bankrupt (this often happens as a result of illness);
- Becomes ill in later life and needs residential or social care.

Q & A

Should I have a Property Protection Trust?

Having a PPT ensures that your most valuable asset, your home, passes to your chosen beneficiaries regardless of what the future holds, if this is your goal a Property Protection Trust (PPT) could help.

Can't I just give the house to my children?

Some people consider giving their property to someone else, such as a child, so that it won't be counted in the means test. However, this may be looked at as deliberate deprivation of assets, meaning you would have to pay the same level of care fees as if you still owned the property. Also, if anything happens during the lifetime of your child then you run the risk of your property being lost and you being homeless. For example, if your child became bankrupt, divorced or passed away, the property, which is in their name may no longer be available for you to live in. As a result, we would never recommend transferring a property into children or a third parties' names without meticulous planning and advice.

What if I don't go into care?

Trusts are still very much worthwhile, as they provide protection against many other risks. Take for example Mr and Mrs Smith, they have a child John, if Mr Smith passed away and left everything to Mrs Smith, their son John would lose out if later Mrs Smith enters a new relationship or gets re-married. John could also miss out if Mrs Smith changes her will or has financial difficulties in the future. These trusts can help protect the property for John in a variety of common situations.

Who oversees the Trust?

The trust is managed by the Trustees appointed in your will. Often clients choose their siblings or friends for this role, in addition it is usual for the surviving spouse or partner to be named as a trustee. Your trustees are in a position of responsibility, therefore those appointed must be trustworthy and reliable.

Is having a mortgage a problem?

This arrangement can be organised even where you have a mortgage in place, in this case the trust will protect the deceased's 'equitable interest', that is to say their share of the equity in the property.

We have separate children, will this help?

Leaving everything to your spouse or partner when you pass away in the hope that they in turn leave the assets to your children, could be unwise. This is because, if after your death, the surviving partner goes into care during their lifetime, your children could lose out. Also, if after you pass away the relationship between your children and the survivor breaks down, again your children could become disinherited. Finally, if having passed away the surviving partner becomes bankrupt or remarries, again your children could lose out. With a PPT, your half or share of the property can be guaranteed for your children's future.

Does a PPT save on Inheritance Tax?

For tax purposes you are taxed as though you own the whole property (although technically you would own only half), so there is no advantage from a tax perspective.

I am single, can I organise a PPT?

This type of trust is specifically for couples, however we provide a separate solution for single people called a 'Home Protection Trust'. Separate information about this is available.

What is Tenancy in Common?

You can own a property as either 'joint tenants' or 'tenants in common'. As tenants in common, you can own different shares of the property. The property doesn't automatically pass to the other owners if you die, instead you can pass on your share of the property in your will.

When is the best time to set up a trust?

Trusts should be set up when you are fit and healthy, as unfortunately, none of us know what's around the corner. Also these particular trusts can only be established whilst the joint owners of a property are alive. Often clients contact us after they have lost their partner, when at this stage a PPT cannot be organised.

Can we still move house?

Yes, there are no restrictions, moving home is done in the usual way without any additional paperwork or costs. The trust automatically follows you and your partner as long as you both own the new property as Tenants in Common. The trust also allows the surviving spouse to move home as he or she wishes. In such circumstances, the trust simply transfers to the new property, which is purchased in the joint names of the surviving spouse and the trustees. If the property purchased costs less than the original property then any equity released would be split between the survivor and the trustees. If the survivor purchases a more expensive property then the survivor would have to contribute the extra, but would own an increased share.

WHO PAYS FOR CARE?

The average cost of residential nursing care in 2014 was £755 per week (£562 for no nursing residential care). If the local authority is arranging your care, they will complete a means test to decide how much you should pay. They take into account most assets including your home (except where you live with a partner, child, or a relative who is disabled or over the age of 60). Currently, anyone with assets or income over £23,250 will not receive a contribution towards social or residential care, those with assets or income below £23,250 may receive limited help from the local authority, but will still need to pay some fees.

Can other assets go into the trust?

This particular type of trust is designed for the family home; however, we provide many different types of protective trusts for all types of assets.

Are there ongoing fees?

After the initial cost, unless professional trustees are appointed there is nothing more to pay.

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