



## What is a Trust?

A Trust arises when a person (the Settlor) transfers property to other persons (Trustees) who will hold that property in their name for the benefit of other persons, who may or may not at that time have been ascertained.

### Some of the main features of a Trust are as follows:

- A Trust can be used to ensure that assets pass down from one generation to another. This is particularly useful in the case of farms or large estates, where the Settlor does not wish them to be fragmented.
- A Trust can be a means of saving Inheritance Tax (IHT) or Capital Gains Tax (CGT).
- A Trust can ensure the preservation of assets. It can provide that children do not inherit until a certain age. It can ensure assets are preserved in the event of a beneficiary encountering financial or matrimonial difficulties.
- A Trust can help to ensure that the assets in the Trust are not taken into account in the assessment of nursing home charges.
- A Trust can either be set up during the Settlor's lifetime or alternatively on death under a Will.
- Trustees will be appointed. The trust assets will be in their name. Depending on the type of Trust, they decide when and what benefits each beneficiary receives. In the case of a lifetime Trust the Settlor can be one of the Trustees and therefore he can continue to influence how the assets in the Trust are dealt with.
- With a Discretionary Trust there is no need for beneficiaries to know they are actual or potential beneficiaries. The Trustees decide who will benefit, when and to what extent. The Settlor will however normally give a separate Letter of Wishes saying how he would like the beneficiaries to benefit, but this will not be binding on the Trustees.
- In the case of a Life Interest Trust the beneficiary, who is known as a Life Tenant, has an automatic right to the income from the Trust. He does not have any right to demand the payment to him of capital, although the Trustees might have power to transfer capital to him.
- A Trust can be a very flexible way of meeting the wishes of the Settlor and providing for beneficiaries. It can respond to changing circumstances and the changing needs of beneficiaries.
- The Trustees have complete control over the decision whether to retain or sell particular assets.
- In some circumstances a Trust can potentially be a means of sheltering the assets in the Trust for a period of up to 125 years.

# Types of Trust

The most common types of Trust are as follows:

## Life Interest Trusts

This is where someone is entitled to income from a Trust for life. The beneficiary is entitled to either enjoy the use of the asset, e.g. a house, or is entitled to the income from the Trust assets. He does not have a right to demand the payment to him of capital from the Trust, although the Trustees will often have power to transfer assets to the beneficiary should they consider it necessary.

If a house is left for life to a surviving spouse on death, the spouse can live in that house during his or her lifetime. It can at any time be sold and another, perhaps smaller house, can be bought in its place. In the event of the new house being less expensive than the old house, the surplus can be invested by the Trustees and the income paid to the spouse. The Trust would state what would happen to the Trust assets on the death of the beneficiary.

## Discretionary Trusts

This is probably the most flexible type of Trust and can also be a very useful instrument in tax planning.

The Trust names a number of beneficiaries, any of whom the Settlor might wish to benefit. It might name a surviving spouse, children, grandchildren and their respective spouses or widows or widowers. None of the beneficiaries as such is entitled to ask the Trustees for the payment of income or capital. The Trustees themselves decide who will benefit, when and to what extent. The Settlor will normally leave a separate Letter of Wishes informing the Trustees how he wishes them to exercise their discretion. None of the discretionary beneficiaries need know that he or she is a beneficiary. It is up to the Trustees to make their decision as to who benefits.

A Discretionary Trust is therefore an extremely flexible type of Trust. It can be used where the Settlor wishes to benefit a group of individuals, but has not yet decided what benefit each should take.

## Bare Trusts

In this type of Trust the beneficiary has an immediate and absolute right to the Property in the Trust. The Trustees have no discretion as to how the fund is managed. The beneficiary (if over the age of 17) can require that all the income and capital be transferred to the beneficiary.



## Trusts for disabled beneficiaries

This is a Trust set up for someone with a mental or physical disability. We can supply more information on this about these on request.

## Get in touch

If you or would like to find out more information about Trusts, please visit our website or contact our office.

[www.bowcockpursaill.co.uk](http://www.bowcockpursaill.co.uk)

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