

PROPERTY TRUST WILLS

Factsheet



These Wills are for couples who wish to provide for each other whilst gaining some protection against the cost of residential care fees.

Couples have a duty to provide for each other when the first of them passes away. There is also a possibility that, at that stage, the survivor will need to go into a rest home or nursing home. If all the assets belong to the survivor then the vast majority may be spent in paying for the residential care fees.

To create Property Will Trusts, the couple first of all sever their joint tenancy in their home so that they each own their own share in the property. They must each then make Wills under which their respective shares in the property are held in trust for the survivor so as to ensure his or her continued occupation of the home.

The Wills would enable the survivor to move property and for the Property Will Trust's share to be reinvested in the new property.

If the right to reside is for the rest of the survivor's life then, if the survivor has to go into care and the property is sold, the Property Will Trust's share would be invested within the Trust to produce an income for the survivor. Alternatively, the survivor's interest in the Property Will Trust could cease when he or she goes into residential care and at that point the Property Will Trust would be distributed to the Beneficiaries.

Property Will Trusts are mainly used for protecting against residential care fees but they can also be used for:

- Couples on their second marriage in order to protect the first partner's share for his or her children whilst still providing adequately for the survivor;
- Young couples who are concerned about the premature death of one of them; and the remarriage of the survivor and the whole estate passing to the survivor's new partner rather than the couple's children.

Found this information useful and want to know your next steps?



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