Property Trust Wills

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Property Trust Wills

Are ideal for spouses/ partners who jointly own a home and who wish to:

- Protect their children's inheritance from the effects of re-marriage following the death of one spouse/partner.
- Protect the inheritance of children from previous relationships.
- Protect up to one half of the value of the home from the effects of long term care fees.

How Do They Work?

Essential to the working of Property Trust Wills is the way in which you own your property. Most couples own their home as joint tenants. This means that when one of them dies, the home will automatically pass to the survivor.

We would alter the ownership of the home from joint tenants, to tenants-in-common. This means that you will each own an identifiable share in the home.

This has the important advantage in that the deceased spouse/partner can leave their share of the home in trust for beneficiaries of their choice whilst granting the surviving spouse/ partner a life interest in the home for the surviving spouse/partner's lifetime.

Should the surviving spouse require long term care, the local authorities could only take into account their share in the home, and not the whole. Should your spouse/partner remarry after your death, your share in the home would be protected for beneficiaries of your choice and would not pass to your spouse/partner's new wife or husband.

Client Example

Mr and Mrs Jones own number 1 Example Street as joint tenants, and they decided to prepare Property Trust Wills to protect their shares in the property from the effects of re-marriage.

Firstly, we would alter the ownership from joint tenants, to tenants-in-common.

We would then create a life interest in 1 Example Street for the surviving spouse, with the eventual net sale proceeds passing equally between their children.

The surviving spouse would be given the right to move to another property if that is their wish, and any monies realised from the sale of the property would be invested by the trustees of the Will and the survivor would have the benefit of the income from those investments for the remainder of their lifetime.

Let us suppose that 1 Example Street is valued at around £200,000 and that Mr Jones passes away first. Mrs Jones then decides that she wishes to move to a smaller property valued at £100,000. Mrs Jones could sell 1 Example Street and use Mr Jones' "trust" of £100,000 to buy the new home. Mrs Jones could then do as she wishes with her £100,000.

Alternatively, Mrs Jones could own half of the new property and the Trustees would own the other half of the property. Mrs Jones could then do as she wishes with her remaining £50,000, and the Trustees could invest the remaining

£50,000 from Mr Jones' "trust", in say a bond, and Mrs Jones would have the income from that bond during the remainder of her lifetime.

On Mrs Jones' death, Mr Jones' half share in the property and the money in the bond would pass to his chosen beneficiaries. Mrs Jones' half share in the property would pass to her chosen beneficiaries.

If Mrs Jones re-married during her lifetime, Mr Jones' share in the home would have been protected for his beneficiaries.

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