



Dickins Hopgood Chidley

SOLICITORS

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Trusts explained

What is a trust?

In principle, trusts are a simple concept. They are a private legal arrangement where the ownership of someone's assets is transferred to someone else to look after and use to benefit a third party.

The person giving the assets is usually called a "settlor" (or "testator" if it is done by Will). The people asked to look after the assets are called "trustees", and the person benefitting is the "beneficiary".

The distinctive feature of a trust is the separation of legal and beneficial ownership of the asset(s) involved. The trustees legally own the asset, but they must always put the interests of the beneficiary above their own. The settlor can be a trustee, but they must still act in the interests of the beneficiary, not themselves.

Trusts can take effect during the settlor's lifetime or within their Will.

Why use a trust?

Trusts are very common in everyday life and most of us will come into contact with them at some point. Company pension schemes, for example, are usually structured as trusts, and trusts are commonly used for charitable funding.

For most people however, the type of trust they are most likely to come across personally is a trust established for managing their family's finances. Some common situations are:

- To provide for a husband or wife after death while protecting the interests of children in the long term;
- To protect the inheritance of young children until they are old enough to take responsibility themselves;
- To provide for vulnerable relatives who need support to look after their affairs;
- To help succession planning in family businesses.

Trusts are particularly useful when planning how money and assets should pass from one generation to another, especially when there are divorces or second marriages involved.

Are trusts secret?

Trusts are personal arrangements, and most people expect them to be kept confidential. Quite often, even beneficiaries of a trust may not be aware of it, possibly because a parent would prefer their children not to know that they are at some point going to receive benefits from it. Recognising this, there is no requirement to register a trust or to publish the names of the parties involved. However the tax authorities will generally need to be informed of the establishment of a trust and any suspicious activities should be reported and investigated, so trusts are not regarded as "secret", but their confidentiality is generally preserved.

Trusts and Tax

Trusts are often represented as being vehicles to avoid tax. In reality, there are virtually no circumstances in which anyone would be advised to set up a trust to gain tax advantages. In setting up a trust, the settlor is giving up ownership of the asset and such a dramatic move only normally makes sense if the settlor has clear objectives for this, and tax is likely to be a secondary issue.

Any tax advantages given to trusts are tightly targeted by tax authorities to those seen as doing social good, such as charitable trusts or those benefitting a vulnerable relative. Even then the rules are policed closely. Most other trusts attract few tax advantages. The official position in the UK is that trusts are tax-neutral, although many professionals now think that the UK system penalises some types of trust. In line with the official policy, trustees must give HM Revenue full details when a trust is established and are generally personally liable for the taxes due on the trust.

Seek Advice

Anyone considering a trust, whether during your lifetime or in your will, is advised to seek professional assistance, to ensure that all options are considered and that the trust is suitable for you and meets your requirements. The tax consequences of the trust should be discussed in full so that you are fully appraised of your position.