

Securing your child's financial future - an introduction to Wills and Trusts



Glossary of Terms

Beneficiary

A person or organisation benefitting from a Trust or Will

Settlor

Person creating a Trust

Trustee

A company or person appointed to look after a Trust

Consenter

A named person in the Memorandum of Wishes who makes joint decisions with the Trustee – not legally binding

Memorandum of Wishes

Confidential instructions from the Settlor to the Trustee

Trust

(also called a Settlement) – Property held by Trustees for the benefit of named beneficiaries

Deed

Document setting out the terms of the Trust

Capital

Assets held in a Trust

Will

Document disposing of your assets

Estate

Total value of all assets

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Introduction

Ravenswood Trustees Limited (RTL) was established as a not-for-profit company in December 1994 in response to a very great need by families to offer a continuing service of financial support to people with learning disabilities and autism (now more commonly called neurodivergence and neurodevelopmental disabilities) when parents and grandparents have died. Rules covering benefits and local authority funding are very complex and confusing. Other family members or friends may not be willing or have the experience to manage a child’s financial affairs after parents have passed away.

The directors of RTL include skilled professionals in fields of law, accountancy, investment management and former social workers, together with parent representatives. None of the directors receive any remuneration for their work which is undertaken on a voluntary basis.

When RTL is appointed, it would be the sole Trustee. The reason is that investment companies are demanding more and more personal data, and anti-money laundering criteria is changing constantly. Owing to the additional work, the expenses involved and the requirements of investment managers, RTL can only work with a nominated Consenter, rather than a co-Trustee. The Consenter, who would be named in the Memorandum of Wishes lodged by the Settlor with the Trustees, should know the beneficiary well and would be consulted when decisions regarding the Trust are required.

To date, there is no limit on the size of the total funds held for a person in a discretionary Trust. Should the beneficiary be receiving income or capital outside the confines of the Trust, it will affect their entitlement to means-tested benefits resulting in having to contribute towards the cost of their care.



Important considerations for families



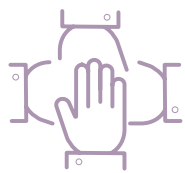
Make a Will. This is most important. Under current legislation it does not follow that a spouse will necessarily inherit an estate. In some cases, where there is no Will, assets may go to the State if there are no relatives.



Decide who will benefit. It is never too early to make these decisions. Your Will can always be changed during your lifetime if circumstances change.



Benefitting someone who is neurodiverse or with neurodevelopmental disabilities. If you intend to leave assets to someone who cannot handle their own affairs, it is vital to leave such assets in Trust. Leaving assets directly can cause many problems. The beneficiary could lose statutory benefits, and their assets would have to be controlled by a Deputy appointed by The Court of Protection, a process which can be cumbersome and complicated.



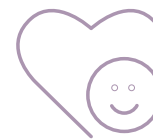
Inheritance tax. As personal assets increase, so more and more people are considering lifetime inheritance tax planning. One way to mitigate some or all tax is to make regular payments to a Trust, utilising the annual gift exemptions available. You may wish to take financial advice from your accountant.



Set up a Trust. A Trust can be created at any time. There is no need initially to put more than a token sum into the Trust to set it up and assets can be left to the Trust under the terms of your Will. As part of inheritance tax planning, assets may also be transferred to the Trust during your lifetime.



How do I set up a Trust? Ravenswood Trustees Limited will prepare a Trust and act as sole Trustee. A family member or friend can be appointed as a Consenter.



Is setting up a Trust very expensive? This is not necessarily the case. Ravenswood Trustees Limited can provide a full package to incorporate a new Trust and make new Wills for a competitive fee.



What are the running costs of a Trust? The annual administration fees charged by Ravenswood Trustees are very competitive. Ravenswood Trustees Limited is a not-for-profit organisation and passes preferential rates on to the Trusts managed. Please ask for a copy of our Standard Terms and Conditions for full details.

IMPORTANT: These notes are intended for general guidance only and have been prepared reflecting current legislation and means-tested benefits rules. Specialist tax advice may be required depending on the amount to be settled. You are strongly advised to obtain independent advice.



About Trusts

Families of people who are neurodiverse or with neurodevelopmental disabilities will naturally be concerned to provide financial security as far as is possible for those who are unable to manage their own affairs, and especially after parents have died.

It is most important to make a Will. If there is no Will, it does not follow that a spouse or in fact any other relative of the deceased's choice will automatically inherit all the estate. Depending on its value, only part of the estate could go to

a spouse, with the balance passing to children or other relatives. In such cases, if a person who is neurodiverse or with neurodevelopmental disabilities inherits assets, it will be necessary to apply for a Deputy to be appointed by The Court of Protection to administer the inheritance. In addition, the inheritance could jeopardise means-tested statutory benefits and local authority funding. The person might not be able to make a Will without a direction from the Court, and this will certainly complicate the matter. It is very important to update your Will.

Assets should be left to that person in

Trust. Although it is very important to make a Will, it is not necessary that a Trust should be created through a Will. It is preferable that the Trust is set up during the lifetime of the parents, even though initially there may be little capital. The Will would stipulate how much should be placed into Trust from the parents' estates.

At the present time, a positive advantage of placing assets into a discretionary Trust is that the capital and any accumulated income will not be taken into consideration when calculating means-tested benefits. Statutory Authorities take into account any funds passed on to the beneficiary in their own name which are nominated in Wills.

Assets held in Trust will be the responsibility of the Trustees who will administer the affairs of the Trust on behalf of the beneficiary. As Trustees, they will be requested to follow any instructions given by the Settlor (the person who creates the Trust) in his or her lifetime.

Handing over money to someone to "look after my child" or even giving it to a sibling is not to be recommended, as it could lead to problems. Setting up a Trust is the best way to ensure that assets benefit the beneficiary.

There are different types of Trusts depending on the needs of the beneficiary. The Trustees should take a long-term real interest in the beneficiary and if that person is unable to handle their financial affairs or make decisions, then the Trustees will also need to take a very personal and practical interest in the individual.

Families should consider using the services of RTL because the start-up costs of creating a discretionary Trust are modest. RTL has been specifically set up for the purpose of administering discretionary Trusts. Under our scheme the minimum amount that can be placed in a Trust is £100 and there is a competitive set-up fee.





What is a Trust?

In simple terms a Trust (also called a Settlement) is created when A (the Settlor) gives assets to X (the Trustee) so that X can manage these on behalf of B (the beneficiary): B may have what is called a “beneficial” or “equitable” interest in the settled amount (i.e. the right to receive the benefits from it).

Why create a Trust?

There are several reasons why Trusts are commonly created:

1. A Trust enables the Settlor to make a gift to someone who, for one reason or another is personally unable to manage their assets: this is often the reason for setting up a Trust in favour of someone who is neurodiverse or with neurodevelopmental disabilities;
2. A discretionary Trust will minimise any loss of means-tested benefits which would result if the beneficiary had funds in their own name;
3. A Trust can sometimes be used to reduce tax, particularly Inheritance Tax;
4. A Trust can be used to provide

benefits for a number of different people. For instance, Settlers may direct their Trustees to pay part of the income from the Trust to one of their children during that child’s lifetime, and to pay the capital to their other children after the first child’s death;

5. A Trust could ensure that a fund is available to meet any shortfall in funding and to provide “top-up” to enable the beneficiary to choose where he or she wishes to live;
6. A Trust can provide for extras when a person is in funded residential accommodation.

Why should I appoint Ravenswood Trustees Limited as my Trustee?

RTL is an independent not-for-profit company, limited by guarantee and was set up in 1994. The Company Directors are very experienced in understanding the problems and needs of people who are neurodiverse or with neurodevelopmental disabilities. Quarterly meetings are held where each Trust is reviewed. By appointing a Corporate Trustee rather than an individual, there is a much greater degree of financial continuity.

Are Trustees required to care for a beneficiary?

The duty of a Trustee is limited to managing the Trust assets in accordance with the terms of the Trust deed. It is not incumbent on RTL to deal with the day-to-day care of the beneficiary.

What is a discretionary Trust?

Under the terms of the Trust deed the Settlor gives the Trustees power to decide how the income is to be divided up amongst a number of beneficiaries. The Settlor may also give the Trustees the option of retaining and reinvesting income. The Trustees also have power to distribute, resettle or retain the settled capital.

How is a discretionary Trust created?

A discretionary Trust can be created either by the Settlor’s Will or by the Settlor signing a document called a Settlement, Trust deed or declaration of Trust. A difficulty in creating a discretionary Trust by Will is that a well-drafted Trust will normally be long, since it would have to cover varied contingencies over a period of many years. To include all this in a Will would make the Will excessively long. Therefore, a discretionary Trust should be set up while the Settlor is alive to consider questions such as inheritance tax or to receive the proceeds of an insurance policy. It is for these reasons that the RTL Settlement is worded, so that if the Settlor wishes, the Trust can be set up with a nominal sum of money. More funds can be added later, either by a gift in the Settlor’s lifetime or by the Settlor’s Will. Funds may be added during the lifetime of the Settlor as part of IHT planning.

Can one have a discretionary Trust intended to benefit one person?

Yes, you can have a discretionary Trust that is primarily intended to benefit just one person. However, to make the Trust discretionary, the document creating the Trust will contain details of other people

who could potentially benefit from the Trust. You may leave a Memorandum of Wishes with the Trustee directing whom you intend to benefit from the Trust and how any benefit should be allocated, such as payments for holidays or items not covered by Local Authority funding. You may update your Memorandum of Wishes periodically as circumstances change and the Memorandum is a confidential document.

What property can be included in a Trust?

All types of assets can be held in a Trust. Settled property (which is also sometimes called “the Trust fund”) will usually be cash/ investments to produce either income or an increase in capital. Properties or assets, like a house or flat to live in would be considered, and whether it is practical for the Trustees to retain a particular asset for the beneficiary to use will depend on circumstances. It is essential for the Trustees to have the power if they think it necessary, to dispose of any asset and to use the proceeds for the purpose of the Trust. This could include the purchase of another asset or by investing the proceeds to produce income or an increase in capital.

Will the size of a discretionary Trust affect State benefits and Local Authority funding?

To date, there is no limit upon the size of the total funds held for a person in a discretionary Trust. Only the income or capital received by the beneficiary in their own name will affect an entitlement to means-tested benefits or render the beneficiary liable to contribute towards the cost of care.

Questions of tax, social security benefits and Local Authority funding are very complex, and further advice should be sought in individual cases.





How to contact us

If you would like to discuss the services offered by Ravenswood Trustees Limited please contact:

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