

## Life Interest Trusts: Planning for care home fees – protecting your property and assets

Many people worry about the possibility of paying care home fees in later life. Often, people think it may mean having to sell their home. You might share these concerns, particularly when thinking about how to pay the fees, and whether this means your loved ones will receive less of the value of your property and assets after you are gone.

However, there are measures you can take. This help guide looks at how life interest trusts (sometimes called 'interest in possession trusts') can be used to safeguard part of your loved ones' inheritance, preventing the whole of your property from being taken into account should you require care in future.

### Care home fees

If it becomes necessary for you to receive residential care, you may be eligible to receive some help from the government with paying for your care fees. This involves a 'means test' which will look at all the money and assets which you own and determine the level of support you will receive based on the value you own.

In England if you own a total value of:

- **Over £23,250** – Then you will have to pay for the whole of your care yourself.
- **Between £14,250 and £23,250** – Then you can receive partial support with care fees from the government.
- **Less than £14,250** – Then all of your care fees will be paid by the government.

Where you own property, these thresholds are not very high at all. This is why making a life interest trust over high-value assets such as your home can make a difference to the means test.

### Making a life interest trust

Life interest trusts allow you to give someone rights during their lifetime over the trust assets, whilst also specifying who will ultimately receive the assets when that person dies. The person receiving the life interest (known as the 'life tenant') may be granted rights to use the assets or receive income from them, but will have no rights to dispose of them in their lifetime or through their Will.

Crucially, for care fees, the life tenant is not treated as owning the trust property. If you are the life tenant of a house, for example, and you undergo a means test, its value will not be taken into account for care fees.

Setting up a life interest trust can therefore achieve two important objectives:

1. It can allow the life tenant to continue to use and enjoy the assets in the trust for the rest of his or her life, without being considered as the owner.
2. It will protect the assets put into the trust for the ultimate beneficiary of the trust.

## Example

Henry and Theresa have a son, Matthew. They want to make sure that he receives their house when they die. The house is worth £300,000 and their joint savings are £20,000.

Although they are both fit and well at the moment, Henry and Theresa are worried that in years to come they might have to sell their house in order to be able to afford the care home fees.

They decide to make a life interest trust, specifying themselves as the life tenants and Matthew as the ultimate beneficiary of the trust. This allows Henry and Theresa to live in the house for their lifetimes and helps to ensure that Matthew will receive it when they die.

Life interest trusts can be used in a number of different situations, but their unique features make them ideal for couples with children, whose main asset is property, to provide for each other and their children.

Another common use of a life interest trust is to prevent the surviving partner of a couple from redirecting assets if they later remarry or enter into another civil partnership. A life interest trust can ensure that any children of the union are provided for by the partner who dies first. Our [help guide](#): 'Life Interest Trusts: Second and subsequent marriages' explains this further.

## Flexibility

Life interest trusts can also be flexible. A life tenant may wish to sell a house which is within the trust or they may need to downsize, for example. This is possible as long as the ultimate beneficiary's interest is preserved.

Any capital subject to the trust, and not used to buy a smaller property, would usually be invested by the trustees to produce an income for the life tenant, whilst the capital value would usually be protected for the ultimate beneficiary.

## Example

Continuing the example above, it later becomes necessary for Henry and Theresa to sell their house. They are able to do this as the life tenants of the trust, and any income generated from the £300,000 capital will go to them during their lifetime. However, the capital value of £300,000 is still held and protected in the trust for Matthew.

A life interest trust can also be set up in a Will and here could be many reasons for doing so.

In the context of care fees, this can be done to pass a high-value asset to your children whilst still providing for the surviving partner during their lifetime. For jointly held assets, if the surviving partner is made a life tenant of the deceased partner's share, only the surviving partner's share of the property would be taken into account for care fees. The ultimate beneficiaries of the life interest trust would be your children, therefore securing their inheritance.

However, to do this for jointly owned property, the property must be held as 'tenants in common'. If you are unsure how your property is held, or you wish to change to tenants in common, please [get in touch](#) and we can help you with this.

To find out more about joint property, and owning it as tenants in common, please read our separate [help guide](#) on 'Jointly Owned Property'.

You should be aware that setting up a life interest trust can have a number of tax consequences and in some cases will not work for care home fee planning purposes. To find out more about this and about trusts in general, please read our [help guide: 'Trusts: A Detailed Guide'](#).

## How Roche Legal can help

Dealing with legal issues can be confusing and stressful. We understand this, and we're always on hand to untangle jargon and offer support.

If you need advice on any of the issues raised in this help guide, please don't hesitate to [get in touch](#). Roche Legal is an award-winning legal practice, offering practical and caring advice.

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