

Who might need a Life Interest Trust?

Mr and Mrs B's Situation

Mr and Mrs B have been happily married for 15 years and have a wonderful life together enjoying their early retirement years and their expanding family of grandchildren. This is a second marriage for both of them. Mr B has two daughters from his first marriage and Mrs B has a son from her first marriage. They have a close relationship with all of the children, but the children were grown up when they married so do not have much of a day to day relationship with each other.

Mr B is worried that the wills they have at the moment are not suitable. They currently leave everything to each other outright if one of them dies. Their main concern is to ensure that adequate provision is made for the survivor if one of them dies. However, Mr B is worried that if he dies before Mrs B and all his estate is left to her, that Mrs B's son, who has recently been through a messy divorce, will pressurise Mrs B to leave all she has to him and leave Mr B's children out of her will. Mrs B's son is a lovely man, but has had real money problems and is maybe slightly envious of Mr B's daughters and the happy marriages and comfortable life they both have. However, it is important to Mr B that his daughters inherit a fair share of his estate and, much as he trusts his wife, he is worried that things would be difficult for her if he died first.

Mr and Mrs B jointly own a large house and they may downsize at some point (depending on how many sleepovers the grandchildren want as they get older!). They also have some savings and investments, totalling about £100,000. Mr B's work-related pension pays for their day to day living and they are able to make some savings as Mrs B also has a good

pension from her days working as an accountant before Mr B persuaded him to join her in early retirement after he retired from his work as a GP.

The Advice

Mr and Mrs B could consider preparing wills including a life interest trust for the benefit of each other during the remainder of their lifetime. Their wills could leave their half share of the house to the trust, and, if they want, any savings and investments they own at their death. Under the terms of the trust, the survivor could remain living in the house rent free. They would also be free to move house if they wished and the trust's share of the proceeds of sale of the house could be invested in the new house. If the trust held any money or investments then the survivor would be entitled to the income from those investments but would not be able to spend the capital. Upon the death of the surviving spouse, the trust would come to an end and the residue of monies/assets would be divided in accordance with the couple's wishes. Mr B could leave his 'share' of the estate ultimately to pass equally between his two daughters and Mrs B could leave her 'share' of the estate ultimately to her son.

The inclusion of a trust within a will does not mean that Mr B could for example not leave some money/assets outright to his wife and indeed many would choose to do this too, assuming assets allowed. However, a life interest trust does provide security and certainty for the children and indeed would put Mr B's mind at the rest, in this scenario, that his daughters would end up receiving his estate when Mrs B dies.

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The Outcome

Mr and Mrs B both decided to make wills incorporating life interest trusts. Mr B left Mrs B a legacy of £50,000 from his savings and then arranged for all his other assets to go in to the trust. When Mrs B dies and the trust comes to an end, Mr B's two daughters will inherit Mr B's estate. Mrs B decided to leave a legacy of £10,000 to each of her grandchildren (she has four from her son) and also £10,000 to Mr B and then to leave the rest of her assets in the life interest trust. However, on Mr B's death, she will be leaving the assets in the trust equally between her son and her four grandchildren, to avoid the idea of her son (who if you remember is not good at managing money) 'blowing' all of the money. Hopefully the money will be of use to her grandchildren for university education or to help with a deposit for a house in time.

Mr and Mrs B are both happy with the arrangements. It meant that they have had to have a proper talk about the future and also address each of their concerns about life without the other if one of them died. Both having gone through divorces, they were both practical enough to be keen to ensure that the children and grandchildren benefitted and also this way, if either of them were to meet someone else, the inheritance would be protected for those closest to them.

This case study is fictional and is not intended as, and should not be relied upon or taken as, legal advice. Individual circumstances vary and you should take specific advice on your own situation.