



Your Guide to Trusts

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Welcome to the Kirwans Guide to Trusts.

There are many things to consider when preparing for your future and that of your loved ones, but did you know that there are various legal arrangements available to help you put your plans in place today?

This guide has been produced by leading Private Client experts to provide you with the information you need when considering Trusts.

Trusts can protect your assets and are widely used when providing for children in a Will or when caring for vulnerable loved ones. Trusts can provide you with the security and peace of mind you need when planning ahead.



At Kirwans, our Private Client specialists invest time to understand your needs and will advise you on the more complex areas that may arise. For example, whether there are any vulnerable family members that the Trust should be tailored for to ensure it is used in the best way to protect them.

Our expertise doesn't stop at Trusts. With Kirwans you have access to a team that can provide you with the support you need for all of your Private Client matters. From Wills, Lasting Powers of Attorney and Court of Protection to Care Home Planning and Estate Administration. We can guide you on your legal journey and ensure your future planning is on the right track.

Our Client Commitment

- 24/7 access to Private Client legal specialists
- Day to day support and advice
- Concise and honest advice tailored to your needs
- Regular updates ensuring you are fully informed
- Transparent pricing with no hidden costs
- Prompt and thorough response to enquiries

Q. What is a 'Trust'?

A Trust is a legal arrangement that enables one or more persons, known as 'Settlor(s)' to transfer legal ownership of their assets to other individuals, the 'Trustee(s)'. The 'Trustee(s)' are responsible for holding these assets for the benefit of one or more 'beneficiaries'.

Assets can include land, money, property, shares and investments amongst many others.

Trusts can be made at any point in your lifetime and can be written within your Will so that the Trust takes effect upon your death, or set out in a legal document called 'the Trust Deed'.

Q. What is a 'Trustee' and what are their duties?

As the word suggests, a 'Trustee' is someone you trust. For example, your partner, spouse, a family member or even a close friend. In some cases it is advisable to use an 'independent Trustee', for example a Solicitor. We are often called upon to act as a professional Trustee for our clients.

A Trustee is someone of your choosing that you wish to look after your assets. They must be over 18, mentally able and must not be bankrupt.

Trustees are legally responsible for the management of your assets held in a Trust and must carry out certain obligations and duties. Their role is to:

- deal with trust assets in line with the trust deed
- manage the trust on a day-to-day basis
- pay any tax due on the income or chargeable gains of the trust
- decide how to invest the trust's assets and/or how the assets in the trust are to be used – although this must always be in line with the trust deed

It is a role that shouldn't be taken lightly and careful consideration is required when choosing your Trustee(s).

Q. Why should I consider creating a 'Trust'?

Trusts can be a practical approach in helping to protect your assets as well as bringing you peace of mind that your loved ones, or future generations, can be provided for. Trusts may be set up for a number of reasons, for example:

- to control and protect family assets
- for those who are too young to handle their affairs
- for those who can't handle their affairs because they are incapacitated
- to pass on money or property while you are still alive
- to pass on money or assets when you die under the terms of your Will - known as a 'Will Trust'

There are many different types of Trusts available and each may be taxed differently by HMRC. It is important to seek expert legal advice from the outset to ensure that the Trust is protected and that any tax issues are considered at the earliest stage to ensure the Trust is created in a compliant and tax efficient way.

Q. Are different types of Trust Funds available?

Yes. Once you have decided that you would like to create a Trust, the next step is to find the type of Trust that is right for you and your requirements, and one that will bring the greatest benefits.

There are various types available including; Bare, or Simple Trusts, Discretionary Trusts, Disabled Trusts, Life Interest Trust or Personal Injury Trusts. A summary of each of these can be found below.

It is vital that you seek professional advice when choosing a Trust as there may be more complex tax or legal implications depending upon individual circumstances.

Bare Trust

A Bare Trust, also sometimes called a Simple or Mandatory Trust, is a Trust in which the beneficiaries have the right to both the income and any capital and may call for both to be placed into their own name(s). Any income received must be distributed within the tax period in which it was earned.

Discretionary Trust

A Discretionary Trust is one in which the amount of shares of each beneficiary are not fixed by the 'settlor' but instead are decided at the discretion of the Trustees.

Disabled Trust

In the event that the Trust is for a person considered vulnerable or unable to manage any assets themselves, this type of Trust is advisable.

Life Interest Trust

A Life Interest Trust is one that provides the lifetime beneficiary with an income from the Trust. This is usually for a period of a lifetime. When the beneficiary passes away, the Trust passes to the other named 'beneficiaries'. These subsequent beneficiaries are known as 'the remainder men'.

Personal Injury Trust

A Personal Injury Trust is often created if the 'settlor' receives damages from a Personal Injury reward. By receiving the compensation into a Personal Injury Trust the settlor's means tested state benefits can be protected.

It is important to recognise that there are many other specialist Trusts available for a variety of purposes. Our Private Client specialists are on hand to advise you on the most suitable Trust for you and your family.

For all your Private Client needs contact our team today

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Important Notice

The information in this guide is based upon current law of England and Wales and HM Revenue & Customs, which is subject to change.

We cannot accept responsibility for any liability that may arise as a result of any action taken or not taken as a result of this information.

This guide does not constitute legal or tax advice.

To be fully aware of the implications of a Trust, it is important to seek advice from a qualified Solicitor and Financial Advisors.