



The Property Preservation Trust

None of us can predict the future, but you want to know that your children will inherit your share of the home whatever happens.

There is no need to worry; a few simple steps will ensure that your share of the home is kept intact. A Property Preservation Trust works by protecting your share of your home (or other property, if required) or the value in it.

By leaving your share of your property in a trust with a life interest to your partner* you can ensure that your assets will not be lost should your partner re-marry, or be diluted if that partnership then ends in divorce. It also protects the trust property from bankruptcy and care costs for the surviving partner.

My parents drafted basic mirror Wills but my brother and I still didn't inherit much as the house went to my father's new partner!

How does it work?

In simple terms, the Will of the first to die gifts their portion of the property into the Property Preservation Trust (so nothing happens to the property until first death). It is held on the terms of the trust for their chosen beneficiaries (such as children) until second death, thus preventing any loss of inheritance on 2nd death due to re-marriage, divorce, bankruptcy or care costs in old age.

However, this Trust also protects the interests of the survivor, allowing them to live in the property until their death, (or, if required, until they cohabit or remarry.) If the survivor goes on to remarry, they cannot leave the whole of the property to their new spouse, as a portion is already owned by the Trustees on behalf of the chosen beneficiaries.

The survivor can also move house as many times as they wish, using the whole of the proceeds towards another property, or potentially releasing equity from their share (for themselves) by purchasing a smaller property, a greater proportion of which will then be owned by the Trustees.

Other considerations

Most couples own their property together as Joint Tenants. This means that following the death of one partner the property passes automatically to the survivor and no one else, becoming wholly owned by them. In order to "Will" your share to a chosen beneficiary you must first become Tenants in Common and then you each own a portion, usually 50%, to pass on as you please via your Will. The change is a simple one and can easily be arranged by Cornerstone Wills as part of the process of making your Wills.

This trust is not generally used to reduce the Inheritance Tax applied to the estate on either 1st or 2nd death but neither does it disadvantage it.

*For simplicity, the word partner has been used throughout. This term refers to spouses, civil partners, and unmarried partners.

A CASE HISTORY

How the children lost out on their inheritance

John and Amy jointly owned their home, which was worth £450,000, and had a further £75,000 in investments. Their Wills left their assets to each other and, on second death, to their two children. Amy died in June 2005 with all her estate passing to John.

John married again in August 2006 to Julie, a family friend. They purchased a new property together and reminded each other that they needed to write new Wills, but had not done so before John died in October 2007.

The house automatically passed to Julie, as it was owned as a Joint Tenancy. The investments and cash also passed to Julie, who, as his wife is entitled to the first £250,000 of his estate. His children inherited nothing on his death or on Julie's death.

How could John and Amy have protected their children's inheritance?

A Property Preservation Trust in each Will would have protected the children's inheritance against the consequences of John's remarriage. On Amy's death, her Will leaves her share of the property to her and John's children 'in Trust' although John has the right to stay in the property. On his death, his children would inherit Amy's half of the property held in trust as this would not pass to Julie.

Had John needed to go into care as he got older, half of the property would already be in trust for the children following Amy's death and therefore safe from being used to pay the costs of his care.

