

# COMPENSATION PROTECTION TRUSTS

## Compensation and means-tested benefits

If you receive a compensation payment in respect of a personal injury and you are in receipt of means-tested benefits (for example Income Support), your benefits may be stopped because the compensation you receive may take you over the means-tested financial threshold. Having the damages paid in to a Compensation Protection Trust (also known as a Personal Injury or Special Needs Trust) can preserve your continuing entitlement to means-tested benefits. Over the course of a year that could amount to quite a significant sum of money particularly when receipt of means-tested benefits can also provide entitlement to other valuable services such as free prescriptions and school dinners for children.

By setting up a Compensation Protection Trust, you can ring-fence your compensation money to ensure it is disregarded in any assessment for means-tested benefits. You will be able to claim or continue to receive your means-tested benefits without the money you have received from your personal injury settlement being taken into account. This will mean you can use your compensation for the purpose for which it was intended and not to meet a potentially significant shortfall in your income should you lose your means-tested benefits.

Even if you are not in receipt of means-tested benefits at the time your personal injury claim is settled you should also consider whether it would be wise to set up such a Trust. If you have an injury which causes a continuing inability to work then circumstances can change whereby an application for means-tested benefits could be made.

## Compensation and the cost of Local Authority care

Such a Trust can also protect your compensation with regard to care home fees. Should you ever require long-term care in the future, the money (capital and income) in your Compensation Protection Trust will be disregarded when you are assessed for liability to pay care home fees.

## What is a Compensation Protection Trust?

The Trust is created when you sign a Trust Deed. This will state that your compensation is to be held by Trustees and used for things you need. You can choose your Trustees or change them. The Trust Deed will explain how your money is to be invested and looked after for your benefit.

Your normal daily living expenses are supposed to be met by your means-tested benefits. These are things like gas, electricity, water, food most rents, mortgage interest etc. Those payments should continue to be met from your means-tested benefits where possible. If there is a shortfall (for example an unexpectedly large heating bill) then that can be met by the Trust.

Day to day expenses which aren't covered by means-tested benefits such as your telephone bill, TV, the cost of extra care etc. can be met from your Trust. In addition that money can be used to pay for a house, new care, petrol, holiday, home improvements and much more.

The money you do not need can be invested by your Trustees to provide for the long term.

A Compensation Protection Trust can be wound up should your circumstances change to the extent you no longer require its protection.

Upon your death any money left in the trust will be included in the value of your estate for inheritance tax purposes.

## **Who should be your Trustees?**

You will need to choose at least two. You can choose family members or a professional person such as your solicitor, accountant or financial advisor.

Your choice of Trustees is very important. They are responsible for investing your money and ensuring they comply with the regulations which provide for the special treatment given to this money. They should ensure you are involved in decision making. Your Trustees will also need to complete tax returns on your behalf.

## **Capacity**

If the person who is entitled to receive the personal injury award does not have mental capacity to manage their own affairs then they cannot sign the necessary Trust Deed. Instead they will require a Deputy appointed by the Court of Protection to manage their affairs.

Foot Anstey can provide specialist advice to ensure your trust is set up to meet your individual needs. We can also act as a Professional Trustee if needed to ensure your compensation funds are effectively managed and invested.



**CONTACT US – 0800 044 8488**