

Property Trust Wills

For Couples who jointly own property

Labour: legal services

Questionnaire

Protect your children's inheritance from the effects of long term care or re-marriage by preparing Property Trust Wills.

With people living longer, more and more people are going into residential or nursing care homes in their later years.

In order to pay for this care, the Local Authorities can sell your home and use the proceeds towards your care fees. This may mean that your hard earned estate will pass to the government rather than to your family or loved ones.

However, by preparing carefully worded Property Trust Wills, you can protect one half of the value of your home in the event that long term care becomes necessary.

How do they work? – Essential to the working of Property Trust Wills, is the way in which you own your property.

Most couples own their property as joint tenants. This means that when one of them dies the property will automatically pass to the survivor. Should the survivor then have to go into care, the whole of the property may be sold to pay for care fees.

It is however possible to sever the joint tenancy, so that the property is owned as tenants in common. This means that you each own an identifiable share in the property eg 50%.

You can then either give your share away in your lifetime, or put it into trust for the next generation, or dispose of it by your Will – the Property Trust Wills.

This would have an important advantage in that should the surviving spouse/partner need to go into care, the Local Authorities could only take into account that person's one half share of the property, and not the whole. You can even give your surviving spouse/partner a life interest in your share in the property.

As an example – Mr and Mrs B own a house valued at £200,000. They have a Property Trust Will with a life interest and Mr B dies. Mrs B then wants to move to a property valued at £100,000. She can sell the house and use Mr B's "life interest trust" of £100,000 to buy the new home. Mrs B can then do as she wishes with her £100,000.

The Trustees of Mr B's estate would own the new home but Mrs B would have the right to live there for life.

Furthermore, if the new house is priced at say £125,000, Mrs B could again use Mr B's £100,000 trust and add £25,000 to it herself. Thus, Mrs Jones would own a fifth of the property and the Trustees of Mr B's estate would own four fifths.

You can also prepare a straight forward Property Trust Wills without the life interest. As an example – Mr B dies and Mrs B sells the property worth £200,000. Mrs B buys wishes to buy a new property valued at £100,000. Mrs B would have to use her £100,000 towards the new property and Mr B's £100,000 would be paid straight to the beneficiaries under his Will.

Finally, there is the issue of re-marriage. Should your spouse/partner remarry after your death, this could have a dramatic effect on where your property ends up. This is because that act of remarriage cancels any Will your partner made whilst you were both alive and the new husband/wife/civil partner would then become his/her next of kin.

Your children for example, would be no legal relative to this person

and your estate could pass outside the family to someone you have never even met. However, if you have a Property Trust Will, once again your half of the house is protected by the trust and will not pass outside your immediate family.

Your Questions Answered

1. If we prepare Property Trust Wills, can the survivor move or will they be stuck in the same property?

You can move. The terms of the trust are flexible. We always ensure that the person living in the property has the option to move to a new property if he or she wishes. Perhaps the home would be too large and there would be a wish to move to a smaller property.

2. Can the children force me out of the house?

No. The terms of the trust dictate that they will only inherit when both of you die, just as they would normally.

3. Does this help with Inheritance Tax?

No. Since your partner has rights to use your half of the house this is regarded as though he/she owns the property for the purposes of calculating Inheritance Tax. The sole benefit of Property Trust Wills is planning for possible future care cost fees or protecting your half of the home from the problems of a surviving partner remarrying.

4. Why half – why can't I put the whole of the house in trust?

If the house is just in the name of Mr B then yes, he could put the whole of the home in trust for the children and allow Mrs B to live in it for the rest of her lifetime. If she requires care after his death then the whole of the property is safe. But, if she dies first and he needs care, the whole house is at risk since his trust is only activated by his death, by which time, care cost fees have drained his estate. Therefore, protecting half of your home is better than losing it all.

5. We don't have any children

You can include anyone or any organisation in your trust. Maybe other relatives or chosen charities or perhaps a combination of both. The choice is yours.

6. Will this protect the home if we both require care?

No. The trust is activated on death and not at the time of signing. However, since it is usually only a survivor that needs care, you are at least protecting one half of the home.

Your Details (Client A) – please use capitals

<p>Full name including middle names:</p> <hr/> <hr/>	<p>Date of birth:</p> <hr/> <p>Place of birth:</p> <hr/> <p>Are you permanently resident in England or Wales?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Address:</p> <hr/> <hr/> <hr/>	<p>Telephone numbers:</p> <p>Home:</p> <hr/> <p>Work:</p> <hr/> <p>Mobile:</p> <hr/>
<p>Marital status (please circle):</p> <p>married / single / cohabiting / divorced / separated / widowed / engaged / registered civil partnership</p>	<p>Email address:</p> <hr/>

Your Spouse/Partner (Client B)

<p>Full name including middle names:</p> <hr/>	<p>Date of birth:</p> <hr/> <p>Place of birth:</p> <hr/> <p>Are you permanently resident in England or Wales?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Address:</p> <hr/> <hr/> <hr/>	<p>Telephone numbers:</p> <p>Home:</p> <hr/> <p>Work:</p> <hr/> <p>Mobile:</p> <hr/>
<p>Marital status (please circle):</p> <p>married / single / cohabiting / divorced / separated / widowed / engaged / registered civil partnership</p>	<p>Email address:</p> <hr/>

Your Personal Circumstances

1. If you are unmarried, do you intend to marry or enter into a civil partnership in the near future? Yes No

2. If you are intending to marry or enter into a civil partnership in the near future, is the Will to be effective only after the marriage/civil partnership takes place? Yes No

3. If the Will is to take effect prior to and continue to be effective after the marriage/civil partnership, must the marriage/civil partnership occur within a particular time? Yes. By what date _____ No

4. Please give the name of your future spouse/civil partner. _____

Please complete where relevant:

5. Have you ever been divorced or dissolved a Civil Partnership?	Client A	Client B
	<input type="checkbox"/> Yes Former spouse/partner's name _____ Date of divorce/dissolution _____	<input type="checkbox"/> Yes Former spouse/partner's name _____ Date of divorce/dissolution _____
	<input type="checkbox"/> No	<input type="checkbox"/> No

6. Are you intending to be divorced or intending to dissolve a civil partnership in the near future?	<input type="checkbox"/> Yes Spouse/partner's name _____	<input type="checkbox"/> Yes Spouse/partner's name _____
	<input type="checkbox"/> No	<input type="checkbox"/> No

7. Are you separated, legally or otherwise from your spouse/civil partner or are you intending to become separated in the near future?	Client A	Client B
	<input type="checkbox"/> Yes Spouse/partner's name _____	<input type="checkbox"/> Yes Spouse/partner's name _____
	<input type="checkbox"/> No	<input type="checkbox"/> No

Please answer the following questions:

1. Is your estate worth more than £312,000 (Inheritance Tax threshold for the tax year 2008-2009)?	<input type="checkbox"/> Yes (please provide details of your assets on page 14)
	<input type="checkbox"/> No
2. Are you a director of a company or a partner in a firm?	<input type="checkbox"/> Yes (please provide details on page 14)
	<input type="checkbox"/> No
3. Are you a beneficiary of a trust, whether or not you receive income from it?	<input type="checkbox"/> Yes (please provide details on page 14)
	<input type="checkbox"/> No
4. Do you have any foreign assets (including property and bank accounts)?	<input type="checkbox"/> Yes (please provide details on page 14)
	<input type="checkbox"/> No
5. Do you have any agricultural assets?	<input type="checkbox"/> Yes (please provide details on page 14)
	<input type="checkbox"/> No
6. How do you own your home?	<input type="checkbox"/> Sole owner
	<input type="checkbox"/> Joint owner with someone else
	Names of all owners: _____
	Property held as: <input type="checkbox"/> Joint tenants (where the property automatically passes to the surviving joint tenants)
	<input type="checkbox"/> Tenants-in-common (where you each own an individual share in the property)
	<input type="checkbox"/> Don't know
	<input type="checkbox"/> Rented
7. Have you ever made a Will before?	<input type="checkbox"/> No
	<input type="checkbox"/> Yes (please state below where it is kept)

Children & Dependants

1. Please provide details of your children:

Name: _____	Address: _____
DOB: _____	_____
Male/Female	_____

Children & Dependants continued

Name: _____
DOB: _____ Male/Female _____

Address: _____

Name: _____
DOB: _____ Male/Female _____

Address: _____

Name: _____
DOB: _____ Male/Female _____

Address: _____

2. Please provide details of any children from previous relationships:

Name: _____
DOB: _____ Male/Female _____

Address: _____

Name of mother: _____
Name of father: _____

Name: _____
DOB: _____ Male/Female _____

Address: _____

Name of mother: _____
Name of father: _____

3. Certain dependants may be able to make a claim against your estate in the event that you make little or no provision for them in your Will

Do you have a spouse/former spouse who has not remarried/
common law spouse/civil partner/child/or a person who is
dependant upon you who will not be included in your Will? Yes
 No

Do you pay towards the maintenance of any person
who will not benefit under your Will? Yes
 No

If the answer to either of the above is 'yes' please give details and reasons below:

Executors

Executors are the people who you appoint to deal with your estate after your death. They may include family members (over the age of 18), solicitors or even your bank (although professional executors may charge). It is possible to appoint up to four executors and **at least two** are required for Property Trust Wills. Beneficiaries in your Will can also be appointed as executors.

1. Would you like to appoint your spouse/partner to act as your executor? Yes No

2. Would you like to appoint this firm as your executors? Yes No

3. Would you like to appoint this firm or your spouse/partner to act with other executors of your choice? Yes (please provide details below of the other executors of your choice) No

Full name: _____
Relationship: _____

Address: _____

Full name: _____
Relationship: _____

Address: _____

4. If none of the above, please provide details of your chosen executors. You may also wish to appoint back-up executors in the event that your chosen executors are unable or unwilling to act. If so, please fill in their details below and state whether they are to act as your primary or back-up executors:

Full name: _____
Relationship: _____
 Primary Executor Back-up Executor

Address: _____

Full name: _____
Relationship: _____
 Primary Executor Back-up Executor

Address: _____

Full name: _____
Relationship: _____
 Primary Executor Back-up Executor

Address: _____

Full name: _____
Relationship: _____
 Primary Executor Back-up Executor

Address: _____

Guardians of your Children

If you have children under 18 years of age for which you have parental responsibility, it is very important to give consideration to the appointment of guardians.

1. How many guardians do you wish to appoint? 1
 2/more

2. Please name the children you wish to appoint guardians for: _____

3. Is there anyone else who has parental responsibility for your children e.g. spouse/partner or former spouse/partner? Yes. Name: _____
Relationship to you: _____
 No

4. Please state the names and addresses of your chosen guardians below:

Full name: _____
Relationship: _____

Address: _____

Full name: _____
Relationship: _____

Address: _____

Full name: _____
Relationship: _____

Address: _____

Distribution of your Estate – Gifts of Money/Property

Whilst providing for your family and friends will of course be your priority, we hope that when deciding how to distribute your estate, you will consider leaving a gift to The Labour Party in your Will. You are under no obligation to do so, but if you want your values to live on for the benefit of future generations, by leaving a legacy to The Labour Party you will, in a very special way, extend your support for the party and its policies.

1. Do you wish to leave a cash sum or specific gift to a particular person, The Labour Party or other organisation? Yes No. If no, please go to next page

First gift

Full name of person/organisation: _____	Address: _____ _____ _____
Amount/item to be left: _____	Relationship: _____ _____ _____
If a minor is to benefit, at what age would you like them to receive their legacy? 18 is the legal minimum but this can be increased. <input type="checkbox"/> 21 <input type="checkbox"/> 25 <input type="checkbox"/> Other	

Second gift

Full name of person/organisation: _____	Address: _____ _____ _____
Amount/item to be left: _____	Relationship: _____ _____ _____
If a minor is to benefit, at what age would you like them to receive their legacy? 18 is the legal minimum but this can be increased. <input type="checkbox"/> 21 <input type="checkbox"/> 25 <input type="checkbox"/> Other	

Distribution of your Estate – Gifts of Money/Property continued

Third gift

Full name of person/organisation: _____	Address: _____ _____ _____
Amount/item to be left: _____	Relationship: _____ _____ _____
If a minor is to benefit, at what age would you like them to receive their legacy? 18 is the legal minimum but this can be increased. <input type="checkbox"/> 21 <input type="checkbox"/> 25 <input type="checkbox"/> Other	

Distribution of your Estate – The Residue

Your residuary estate is the balance after all debts, taxes, legacies and specific gifts have been paid.

The residue of your estate can be left to one person or organisation, or you can leave a percentage to two or more people and/or organisations. Residuary legacies have the advantage of keeping pace with inflation over specified sums of money or items. They are also a way of helping organisations such as the Labour Party, which you have supported during your lifetime, after ensuring that all of your loved ones have been taken care of first

1a. Do you wish to leave everything to your spouse/partner in the first instance?	<input type="checkbox"/> Yes	<input type="checkbox"/> No				
1b. If both you and your spouse/partner have died, do you wish to leave everything to your children equally and if so, at what age?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> 18	<input type="checkbox"/> 21	<input type="checkbox"/> 25	<input type="checkbox"/> Other
1c. If you are leaving any part of your estate to your children, do you wish to name them individually or refer to "my children". (The latter is recommended if there is a possibility of you having future children).	<input type="checkbox"/> By name	<input type="checkbox"/> My children				
1d. If any of your children have died before you or your spouse/partner leaving children of their own (ie your grandchildren), would you wish for the deceased child's share to pass to their children and if so, at what age?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> 18	<input type="checkbox"/> 21	<input type="checkbox"/> 25	<input type="checkbox"/> Other

Distribution of your Estate – The Residue continued

2. If none of the above, please set out below who you would like to leave your residuary estate to and in what shares.

First residuary beneficiary

Full name: _____	Address: _____ _____ _____
Share to be left ie 50% etc: _____	Relationship: _____ _____ _____
If under 18, at what age would you like them to inherit? <input type="checkbox"/> 18 <input type="checkbox"/> 21 <input type="checkbox"/> 25 <input type="checkbox"/> Other	If this person dies before you, would you wish their share to pass onto their children? <input type="checkbox"/> Yes <input type="checkbox"/> No

Second residuary beneficiary

Full name: _____	Address: _____ _____ _____
Share to be left ie 50% etc: _____	Relationship: _____ _____ _____
If under 18, at what age would you like them to inherit? <input type="checkbox"/> 18 <input type="checkbox"/> 21 <input type="checkbox"/> 25 <input type="checkbox"/> Other	If this person dies before you, would you wish their share to pass onto their children? <input type="checkbox"/> Yes <input type="checkbox"/> No

Third residuary beneficiary

Full name: _____	Address: _____ _____ _____
Share to be left ie 50% etc: _____	Relationship: _____ _____ _____
If under 18, at what age would you like them to inherit? <input type="checkbox"/> 18 <input type="checkbox"/> 21 <input type="checkbox"/> 25 <input type="checkbox"/> Other	If this person dies before you, would you wish their share to pass onto their children? <input type="checkbox"/> Yes <input type="checkbox"/> No

Alternative Provisions - Optional

Please use this section to state the names and addresses of those you would like your estate to pass to in the event that all the above have died before you. Please also state what share the alternative beneficiaries are to receive.

<p>Full name of person/organisation: _____</p>	<p>Address: _____ _____ _____</p>
<p>Share to be left ie 50% etc: _____</p>	<p>Relationship: _____ _____ _____</p>
<p>If under 18, at what age would you like them to inherit?</p> <p><input type="checkbox"/> 18 <input type="checkbox"/> 21 <input type="checkbox"/> 25 <input type="checkbox"/> Other</p>	<p>If this person dies before you, would you wish their share to pass onto their children?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Full name of person/organisation: _____</p>	<p>Address: _____ _____ _____</p>
<p>Share to be left ie 50% etc: _____</p>	<p>Relationship: _____ _____ _____</p>
<p>If under 18, at what age would you like them to inherit?</p> <p><input type="checkbox"/> 18 <input type="checkbox"/> 21 <input type="checkbox"/> 25 <input type="checkbox"/> Other</p>	<p>If this person dies before you, would you wish their share to pass onto their children?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Full name of person/organisation: _____</p>	<p>Address: _____ _____ _____</p>
<p>Share to be left ie 50% etc: _____</p>	<p>Relationship: _____ _____ _____</p>
<p>If under 18, at what age would you like them to inherit?</p> <p><input type="checkbox"/> 18 <input type="checkbox"/> 21 <input type="checkbox"/> 25 <input type="checkbox"/> Other</p>	<p>If this person dies before you, would you wish their share to pass onto their children?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

Property Trust Wills

The idea of preparing Property Trust Wills is to protect one half of the value of your home from care fees or re-marriage.

On the first spouse/partner's death, their share in the property will be held on trust for your chosen beneficiaries such as your children rather than passing directly to the surviving spouse/partner. However, the surviving spouse/partner will have the right to stay in the property until the trust period ends – usually on the surviving spouse/partners death. However, the trust period can also end on the re-marriage or cohabitation on the spouse/partner with another person.

If you would like us to include a Property Trust in your Will, please complete the following:

1. Please choose when you would like the trust period to end (you can select more than one option).

1.(a) On the death of the surviving spouse/partner Yes No

1.(b) On the re-marriage of the surviving spouse/partner Yes No

1.(c) On the cohabitation of the surviving spouse/partner with another person Yes No

2. Would you like the surviving spouse to have a life interest under the trust (please refer to the information page)? Yes No

3. Who would you like to benefit under the trust?

CHILDREN and / or GRANDCHILDREN and / or OTHERS

If 'others' please specify below:

First residuary beneficiary

Full name: _____	Address: _____ _____ _____
Share to be left ie 50% etc: _____	Relationship: _____ _____ _____
If under 18, at what age would you like them to inherit? <input type="checkbox"/> 18 <input type="checkbox"/> 21 <input type="checkbox"/> 25 <input type="checkbox"/> Other	If this person dies before you, would you wish their share to pass onto their children? <input type="checkbox"/> Yes <input type="checkbox"/> No

Property Trust Wills continued

Second residuary beneficiary

Full name: _____

Address: _____

Share to be left ie 50% etc: _____

Relationship: _____

If under 18, at what age would you like them to inherit?

18 21 25 Other

If this person dies before you, would you wish their share to pass onto their children?

Yes No

Third residuary beneficiary

Full name: _____

Address: _____

Share to be left ie 50% etc: _____

Relationship: _____

If under 18, at what age would you like them to inherit?

18 21 25 Other

If this person dies before you, would you wish their share to pass onto their children?

Yes No

Funeral Instructions

Please complete this section if you have any particular preferences.

Client A Burial Cremation

Special instructions:

Client B Burial Cremation

Special instructions:

Further Information

Please use this space to provide any additional information. Continue on a separate sheet if necessary.

Declaration:

Client A

I consent to FB Wills Direct acting on my behalf in order to prepare my Will in accordance with the instructions I have provided herein.

The information I have provided is true and represents my own wishes.

Signed: _____	Full name: _____ Date: _____
----------------------	-----------------------------------------------

Client B

I consent to FB Wills Direct acting on my behalf in order to prepare my Will in accordance with the instructions I have provided herein.

The information I have provided is true and represents my own wishes.

Signed: _____	Full name: _____ Date: _____
----------------------	-----------------------------------------------

Mandatory:	CLP Region: _____	Membership No: _____
-------------------	-------------------	----------------------



St. Michael's Court, St. Michael's Lane, Derby DE1 3HQ

T 01332 254420 **F** 01332 340273 **E** info@fbwillsdirect.com **W** www.fbwillsdirect.com



FB Wills Direct is part of Flint Bishop Solicitors. A list of partners is available to view at our office. Regulated by the Law Society. Authorised and regulated by the Financial Services Authority.