

## What is a trust?

Imagine you asked a friend to look after some of your money, so they could use it to pay for your care if you got ill. If you just gave them the money straight out you couldn't be sure that they'd use it properly. They could spend it on whatever they like. So, instead, you can set up a trust. With a trust, the money has to be used according to rules you set out.

In the official jargon, a trust is a legal arrangement where one or more people or a company (called the trustees) controls money or assets (called the trust property) which they must use for the benefit of one or more people (the beneficiaries).

In the example above, your friend would be the trustee, your money would be the trust property, and you'd be the beneficiary – the person who benefits from the trust.

You can put money, investments or other assets into the trust. Depending on the type of trust you use, it may have to pay tax and the trustees may need to complete tax returns.

## When you might use a trust

You might set up a trust:

- **to support someone who can't manage their money**, so that their needs are looked after, even when you aren't able to help them
- **to make sure that your own money is used to look after you** if you can't look after yourself

A trust can be especially useful if you have a child with a mental health condition or learning disability and you're worried about how they'll manage financially after you pass away.

They can also help someone with a mental health condition or learning disability who's claiming state benefits, such as Disability Living Allowance (or Personal Independence Payment), or getting cash help from their local social services department.

The benefit payments can be made to the trustees, who'll use them according to the rules of the trust.

And as you probably know, people often set up trusts for children.

## How to set up a trust

The legal wording of a trust needs to be precise, so you should ask a solicitor to set it up. Find a solicitor to draw up a trust. The Law Societies keep searchable databases to help you find a qualified solicitor near you.

Find a solicitor in:

- England and Wales: [The Law Society](#)
- Scotland: [The Law Society of Scotland](#)
- Northern Ireland: [Law Society of Northern Ireland](#)

## Choose your trustees

You have to choose people to be your trustees, usually family members or close friends who you know you can rely on. Think carefully about who to ask, and make sure they're happy to take on the responsibility. You should have at least two trustees, but probably no more than three or four.

Alternatively, you can appoint a company as your trustee, such as a bank or firm of solicitors – but bear in mind they will charge.

## **How much does it cost to set up a trust?**

Instructing a solicitor to set up a trust for you can be expensive - typically around £1,000 or more. But using a solicitor helps you avoid costly mistakes further down the line - for example if the wording of your trust is ambiguous or misleading.

Some charities have schemes where they contribute towards the parents' costs of setting up a trust for a disabled child.

## **How does your local council treat income and capital from a trust?**

If you need long-term care and are a beneficiary of a trust, your local council will take into account the income and capital you're entitled to when they assess you financially for their support. How the money in trust is treated will depend on the trust's terms.

### **Absolute entitlement to the capital**

If you have access to the capital held in the trust then this will be treated by the local authority as capital you own.

### **Absolute entitlement to income**

If you do not have access to the capital in the trust but are entitled to receive income from it the capital is disregarded and the income is taken into account.

### **Absolute entitlement to capital and income**

If you have access to both the capital and the income in a trust the value of that income together with the capital are treated as capital you own.

### **Discretionary Trusts**

If you only have the right to receive payments from a trust at the discretion of the trustees the local authority can only take into account the actual payments you receive.

If you need care and transfer your money into a trust to avoid the means test for local authority support it will almost certainly be treated as deliberate deprivation of assets.

## **Get more information about trusts**

You can get much more information about trusts – including the types of trust and how they're treated for tax – from HM Revenue & Customs.

Find out more about trusts from the [GOV.UK website](https://www.gov.uk) opens in new window.