A guide to trusts

THE LAW FIRM WITH
A PASSION FOR PEOPLE

Trusts have been in existence since Roman times and are still widely used today for a variety of reasons.

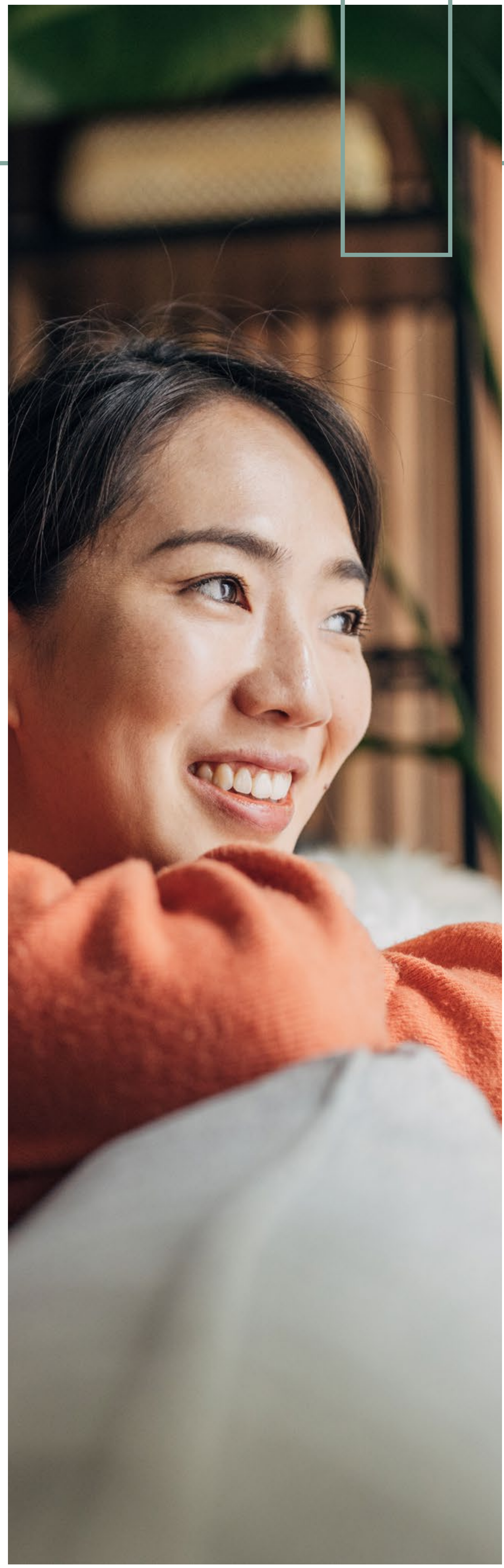
What is a trust?

In simple terms, a trust is a legal arrangement where a person transfers assets to trustees who then hold and manage those assets for the benefit of one or more beneficiaries.

Preserve assets for future generations while supporting current family members

How are trusts created?

Trusts can be created during lifetime or by will. When created by will, the will sets out the terms of the trust and the trust takes effect on death. When created during lifetime, the person creating the trust (the settlor) and the appointed trustees will usually sign a trust deed to establish the trust.



Why are trusts used?

There are various types of trust and many different reasons for creating them. Trusts can provide a flexible solution for a variety of family and tax issues, offering a means of:

- Preserving assets for the benefit of future generations whilst enabling current family members to benefit from the assets.
- Protecting assets for vulnerable beneficiaries (for example, a person unable to look after assets due to capacity issues or a child in financial difficulties or whose marriage is at risk).
- Passing on assets during lifetime.
- Holding and managing assets for children or grandchildren until they reach a specified age.
- Providing for a current spouse/partner as well as children from a previous relationship.
- Making use of inheritance tax allowances, exemptions and reliefs.
- Providing for charitable beneficiaries.

For blended families the inclusion of a trust in wills, often in relation to a property, can be an effective way to provide for both a current spouse/partner and children from a previous relationship.

About HCR Law

As an award-winning 'Top 50' UK law firm, we provide the full range of services that you would expect to organisations, business leaders and individuals. We are entrepreneurial in our outlook, so we're flexible and responsive to the needs of our clients, delivering the best outcomes for them.

We have more than 1,000 lawyers and support staff, including more than 180 partners. Our annual turnover is over £100m. Our roots go back to 1796 in Cheltenham and 1904 in Worcester, when our predecessor firms were founded. Our growth has been in response to client demand, and we have 13 offices in England and Wales, including an international HQ in London.

Clients value our honesty and our friendly approach, and we've been awarded the Law Society's Lexcel quality mark in recognition of our compliance and client care standards.

We truly partner with our clients and demonstrate our genuine commitment to them and what they're trying to achieve in all that we do. We are pragmatic and won't 'sit on the fence'. Clients have confidence in our advice because of our experience, specialist expertise, and the relationships we build with them.

Our awards

How we can help

The law in relation to trusts and trust taxation is complex and specialist advice should be sought. Our Private Client team has significant expertise in this area and provides specialist advice on all aspects of trusts, from creation and management to variation and winding up.

Creating the trust

The creation of a trust has various tax implications and the work involved usually includes a review of your inheritance tax position and also your will, often as part of a wider estate planning exercise.

The drafting of a trust requires a great deal of care to ensure your aims can be met through the trust and also that the trust is capable of adapting to changing circumstances over time.

It is usually appropriate to prepare a separate letter of wishes for the trustees which is not legally binding but guides them in the exercise of their discretions.

Registering the trust

Most trusts need to be registered with HMRC and we can deal with this on behalf of the trustees.

Advice on taxation aspects

The taxation aspects can be particularly involved and require careful consideration at the outset and during the continuance of the trust. What are the tax consequences of creating the trust? How will the trust be taxed once it has been created? What are the tax consequences when the trust comes to an end?

Advice on trustees and their duties

A trust should usually have between 2 and 4 trustees. Trustees usually have powers exercisable at their discretion and the choice of trustees is particularly important. They are the legal owners of the assets in the trust and are under a duty to look after those assets, investing and managing them for the benefit of the beneficiaries. They must act unanimously (unless the trust states otherwise) and their personal interests must not conflict with their role as trustee.

Where the person creating the trust wishes to appoint a professional trustee, the firm's Trust Corporation can be appointed. There is no requirement to have a professional trustee but it can sometimes be useful to have an independent, objective and experienced trustee with specialist knowledge of trusts to act with the other trustees.

HCR Law is a Top 50 UK law firm with offices in England and Wales

Talk Nia about managing the succession of your assets

Administration of the trust

In administering the trust, the trustees must usually take regular investment advice, deal with HMRC, submit annual tax returns, produce annual accounts and hold trustee meetings.

Certain trusts are potentially subject to inheritance tax charges on each 10 year anniversary and when assets are distributed to a beneficiary, although in practice this depends on a number of factors including the size of the trust and the available nil rate band. We can advise on when an inheritance tax return is necessary and we can prepare the return and calculate the tax payable.

Our specialist team administers a significant number of trusts. As well as dealing with the aspects referred to above, we can advise on and prepare trust documents such as deeds of retirement and appointment of trustees and deeds to distribute trust assets to the beneficiaries.

Other aspects

We also advise on, and deal with, the variation and winding up of trusts.

Contentious aspects

Our Disputed Wills, Trusts and Estates team can advise on any trust disputes which may arise.

Advice in relation to trusts is a complex area and it is advisable to instruct a lawyer who specialises in such matters. STEP (the Society of Trust and Estate Practitioners) is a professional body for those specialising in trusts and other related areas including wills, estates and tax. Membership of STEP is achieved by demonstrating experience and expertise in this field as well as a commitment to continuing training and development. At HCR, all Solicitors who advise on trusts are full members of STEP, working towards full membership or are supervised by colleagues who are STEP members. You will benefit from a high level of expertise and can feel confident in the advice you receive.

STEP
PLATINUM EMPLOYER PARTNER
England & Wales

Our specialist team advises on all aspects of trusts

Contact us

If you would like to discuss setting up a trust, either during your lifetime or in your will, or if you would like advice on an existing trust, please do contact us. We would be happy to help.

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"HCR are an exceptional firm who go above and beyond for their clients. They are transparent, provide pragmatic advice and are realistic with their expectations. With HCR, you feel as if they truly care about you and the matter at hand."

Legal 500 private client testimonial

Glossary

Trust	A legal arrangement where trustees hold and manage assets for the benefit of one or more beneficiaries.
Trustee	A person appointed to look after and administer a trust.
Settlor	A person who creates a trust during their lifetime.

Careful drafting ensures the trust adapts to changing circumstances

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