

# Personal Injury Trust



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**If an injured person has received an award from a personal injury claim, a Personal Injury Trust is necessary to ensure their compensation is not considered when their finances are being assessed for benefits and care.**



#### **Why would I need a Personal Injury Trust?**

Any compensation received from a personal injury claim could take finances of the injured person, or their family members, above the threshold for means-tested benefits or local authority care. Eligibility for means-tested benefits is assessed on the total income and capital of an individual's household.

However, by placing the compensation into a Personal Injury Trust, the money is not considered when assessing how much capital the injured person has.

The existence of a Personal Injury Trust would mean that the award is disregarded when assessing a partner's eligibility to claim means-tested benefits, so even if the injured person does not intend to claim means-tested benefits themselves, a Personal Injury Trust may still be necessary.

#### **How will having a Personal Injury Trust help me in the future?**

There may be more long-term reasons as to why an individual may want to set up a Personal Injury Trust. This could include concerns about funding care home fees in later life, protecting assets from divorce or bankruptcy, or fluctuating mental capacity.

A Trust may not be suitable if it is too complicated for the injured person to understand and administer, or if the costs of setting up the Trust and administering it are disproportionate to the size of the award. It is best to seek professional advice before deciding on a Personal Injury Trust.

#### **How do I set up a Personal Injury Trust?**

There are a number of different Trusts which could be used depending on the individual's circumstances. Regardless of which type of Trust is used, two to four Trustees would be required, all of whom must be over the age of 18.

Professional Trustees, such as solicitors, are not always required, although it may be a good idea depending on the vulnerability of the injured person and the sum awarded.

A separate bank or building society account must be opened for the Trust funds, and should always be kept separate from any other funds held in the injured person's name. The Trust will become tainted if there are funds placed in the Personal Injury Trust which are not connected to the award, and therefore may be taken into account when assessing the injured person's capital resources.

It is best if funds from the Trust are used to directly cover any expenses and necessary payments rather than making regular payments directly to the injured person.

#### **When should I set up a Personal Injury Trust?**

The Trust should be set up as soon as possible after receiving compensation, as the capital will only be ignored for a short period of time before it becomes considered assessable capital. The time limit will run from the first interim payment received.

#### **How Blaser Mills can help**

Setting up the Trust does not have to be unnecessarily complicated or expensive. One of our Wills, Trusts and Probate solicitors can advise as to which type of Trust will best suit your needs as well as to offer guidance to the Trustees appointed.

**To talk to us, please call 020 3814 2020 or contact the Head of the Wills, Trusts and Probate team at [mit@blasermills.co.uk](mailto:mit@blasermills.co.uk)**

020 3814 2020  
blasermills.co.uk

Offices in  
High Wycombe | Amersham  
Rickmansworth | Silverstone  
London



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