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WILLS AND TRUSTS:

FINANCIAL PLANNING FOR SOMEONE WITH A LEARNING DISABILITY

PROTECTING YOUR LOVED ONE'S FUTURE

At David Lewis we can support people over a long period of time, so we know it's really important to plan for the future.

We're often asked for advice by parents, families and carers regarding their loved ones and how to make sure they are provided for when they are no longer around.

Whilst financial planning can protect your family member and give you peace of mind it can also feel complicated. This guide aims to answer the key questions we hear regularly from parents and carers...

How can I ensure minimal change to my son's or daughter's life?

How will they manage financially when I'm gone?

Will leaving them a lump sum affect their benefits?

Can I influence their care when I'm no longer around?

What's the difference between a will and a trust?

Is it enough to write a will?

Should I leave my son or daughter an inheritance?

We hope this short guide will answer some of your questions and be a helpful tool to start your journey.

Our aim is to be as straightforward as possible but please be aware that this information is not a substitute for professional legal advice. We always encourage you to seek support from a solicitor before writing a will or setting up a trust.



START WITH THE BASICS

MAKE A WILL

A will is one of the most important documents you'll ever write. It's the only way to make sure the people and the causes you care about are looked after, and it's where you can decide what happens to your money and possessions. If you don't write a will, your estate will be dealt with by the state.

In a will you can set out everything you want to happen with any property, money and belongings you own after your death. If you have a child who is under 18, you can also include guidance on how you want them to be looked after. You do this by naming a guardian.

Once you have made your will, it is important to review it every 3-5 years to ensure that it covers any changes in your circumstances and that it doesn't come become invalid.

WHERE DO I START?

We suggest having a conversation with a couple of solicitors who specialise in wills and trusts. Do ask them about their costs and what experience they have setting up wills and trusts for parents of children with learning disabilities and complex needs. You can find a list here:

The Law Society 020 7320 5650 www.lawsociety.org

The Society of Trust and Estate Practitioners (STEP) 020 3752 3700

www.step.org

THE CHALLENGES OF LEAVING AN INHERITANCE IN A WILL

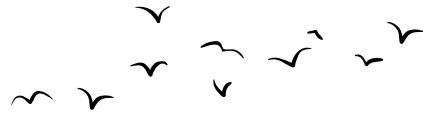


Leaving your child with learning disabilities and/or complex needs an inheritance can create many difficult situations. If your child doesn't have the sufficient mental capacity to manage an inheritance then a court will appoint a Deputy to manage it on their behalf. This person may or may not carry out your wishes.

In addition, an inheritance can have a direct impact on a persons benefits and care package. Local authorities can use inheritance funds to pay for services and activities. This can complicate a long standing care package that you may have fought years to secure.



SET UP A TRUST



Setting up a Trust is a positive step to help protect your loved one's future. A Trust is a way of protecting money and property for a disabled relative or friend, helping them to continue their lives with minimal disruption.

HOW WILL A TRUST PROTECT YOUR CHILD WITH A DISABILITY?

If you know someone with complex needs, you'll be aware that support often needs to be life-long. The Trust you set up should look to last for the lifetime of the disabled person. Trustees can use the fund to pay for things that the disabled person wants or needs at different stages of their lives.

Safe, secure and no impact on benefits

Setting up a Trust means you can safely and securely leave money for your child without them having to worry about the responsibility of looking after it in their lifetime or it being mismanaged by them. Importantly, using the right type of Trust, typically a Trust specifically for a 'vulnerable beneficiary' does not affect means-tested benefits or local authority funding.

Access to funds as soon as they're needed

By putting money into a Trust for a person with a learning disability, you can make the money available for them in their lifetime should they need it. You can also instruct where the money should go on their death, for example to your other children or family members, or to charity.

HOW DOES IT WORK?

A Trust can be part of a will or separate from a will and you will need a specialist solicitor to advise you and draw up the documents.

Essentially, you will appoint Trustees who will manage the Trust fund. They will make decisions based on your wishes for the benefit of an individual or a group of individuals who are known as beneficiaries.

The Trustees of your Trust can be friends, family or a professional advisor, such as a qualified lawyer or a trust corporation. Or they can be a combination of these. Speak with them beforehand to ensure they are happy to take on the role. Make sure you appoint people as Trustees that will make the right decisions for your child or relative.

The documents will include a letter of wishes where you might say how you'd like Trustees to help pay for the person's care, how the money can improve the person's quality of life and what you'd like Trustees to pay for or buy for the person.

A Trust can be created immediately and in your lifetime or it can be created after your death if this is written in your will.

HOW DO I SET UP A TRUST?



Setting up a Trust is highly specialised and should only be handled by a qualified solicitor or legal professional with experience in this area.

The solicitor will discuss your needs and wishes for your loved one and from this they will advise which type of Trust is most suitable.





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David Lewis provides outstanding education, residential, medical and therapeutic support for people with learning disabilities, epilepsy and autism.

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This information is not a substitute for professional legal advice. October 2023.
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