Dune Financial

A Guide to Personal Injury Trusts

If you receive an award relating to a clinical negligence or personal injury settlement the use of a Personal Injury Trust will allow you to protect your current, and/or future, entitlement to certain types of state benefits and local authority assistance.

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The use of a Personal Injury Trust

What is a Personal Injury Trust?
A Personal Injury Trust protects your current and/or future entitlement to means tested benefits and state support by ring fencing your legal settlement so that it is effectively disregarded for the purpose of welfare benefit and state support assessments.

Instead of the settlement being paid out directly to you and placed into your own bank/building society account a Personal Injury Trust will be established on your behalf and held by your chosen trustees.

Is a Personal Injury Trust right for me?
If you receive a settlement from a legal case which relates directly to a personal injury, clinical negligence or criminal injury sustained by you and are receiving means-tested benefits these could be affected/reduced if the settlement is not placed into a Personal Injury Trust.

Future entitlement may also be affected or even stopped if you have a certain amount of capital held in your own name.

When should a Personal Injury Trust be set up?
It is often in your best interests to set up a trust as soon as you are aware that you will be receiving an interim payment or final settlement relating to your case.

A 52 week disregard period will apply to the first payment received (this may be an interim payment or final settlement) from a personal injury, clinical negligence or criminal injury case, for the purposes of assessing entitlement to means tested benefits and state support. This could include not only interim payments and final settlements but also a capital payment from a charity. As the rule on the type of payment the disregard applies to can be unclear, we always recommend seeking advice prior to this being paid out to you.

Who should be my trustees?
Your appointed trustees should be people that you trust and have your best interests in mind, this may include family members, close friends, or a solicitor. It is usually recommended that two trustees are appointed to act on your behalf. Where the settlement being received is substantial or where there may only be one person you wish to appoint, it is usually recommended that a solicitor is appointed to act on your behalf as a professional trustee.

What are the trustees responsibilities?
The chosen trustees hold your legal settlement and look after the award in accordance with your wishes and a set of rules outlined within the Trustee Act 2000 which are designed to protect you.

What if something happens to my trustees or I no longer wish them to act for me?
If this does occur then you have the power to replace them and appoint new trustees.

Will I still be able to access my Personal Injury Trust?
A Personal Injury Trust bank account will be established on your behalf which will include a trust cheque book issued to the trustees. You are then able to request monies from the trustees who will issue you monies from the trust fund.

Will payments from my Personal Injury Trust affect my benefits?
It is advised that the monies held within your Personal Injury Trust are used towards one off expenditure or that the trustees issue varying amounts for specific purposes. It is not advisable that the monies from your Personal Injury Trust are used towards meeting regular household income costs. The rules of means-tested benefits entitlement allow you to hold a certain amount of capital in your own name before it begins to affect the level of benefits you receive. Providing that the capital paid out from your trust does not exceed this limit your means tested entitlement should remain unaffected.

Where you require money to pay for more expensive items or to repay debts which fall above the capital limit it is advisable that your trustees pay these directly from the trust to the recipients to avoid you holding large sums of money in your personal account.

Is there a limit to the amount of money I can place into a Personal Injury Trust?
There is no limit however you can only put the amount that relates to your legal settlement into the trust. You are not able to add additional monies into the trust for example that may have come from personal savings or an inheritance. Dependent upon your circumstances you may decide to place only a proportion of your settlement into the trust however it is recommended that you obtain specialist advice if this is something that you are considering to ensure that it is appropriate.

What happens if my circumstances change and I no longer require the trust?
You can instruct your trustees to transfer the monies across to you at any time and dissolve the trust should you decide that this is no longer required. If you are still in receipt of means tested benefits and/or support at this time then it is recommended that you obtain advice on dissolving the trust as this may affect your entitlement.

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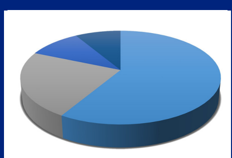
What happens if I die?
If you were to die any monies held within the trust at the date of your death would be distributed in line with your wishes outlined within your Will. If you die without making a Will you do not have any control over how the monies are distributed as this would be done in accordance with a set of rules (Laws of Intestacy). It is therefore advisable that you also take out a Will at the same time as establishing your Personal Injury Trust.

What are the tax implications?
The settlement held within the Personal Injury Trust is treated as yours for the purposes of taxation and is therefore taxed in the same way as if you held the money yourself.

How can Dune Financial Planning Ltd help?
We are specialists in advising individuals who have received a legal settlement relating to a personal injury or clinical negligence case. Our advisers are friendly and approachable and will guide you through the steps involved in establishing a Personal Injury Trust and appointing your chosen trustees. We will then assist the trustees with setting up a suitable trustee bank account and provide assistance in how to notify your local benefits agency that a Personal Injury Trust has been established.

Should you and your trustees then require financial planning advice in relation to your settlement our advisers would then be happy to discuss your options.



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