

TRUSTS

A trust includes any arrangement where one person (the “Trustee”) holds money or property (the “Trust Fund”) for the benefit of someone else (the “Beneficiary”).

One of the simplest examples of a trust arises when a grandparent opens a bank account for his grandchild. This is called a “Bare Trust”, because the money in the account really belongs to the grandchild and the account is only held by the grandparent because the grandchild is too young. When the grandchild reaches 18 he will be able to insist on having the money paid over to him.

One of the most common forms of trust under English law is the joint ownership of land or property, because English law states that when two people own land or property, they hold it “on trust”, even though they probably hold it on trust for themselves, so that the Trustees and the Beneficiaries are the same people.

However, when most people refer to a “trust”, they usually mean something a little more complicated: perhaps a “discretionary trust”, where the Trustees can decide how and when to distribute the Trust Fund amongst the Beneficiaries; or an “interest in possession trust”, where there is at least one person who is entitled to receive the income of the Trust Fund, or to occupy a property held in the trust.

Trusts can be set up in your lifetime or on death, and are used in many circumstances, and for many different reasons. They are often used in estate planning, for example, to pass assets down to future generations, even if the intended beneficiaries are too young to hold the assets themselves, or are not even yet born! They are also particularly useful for the protection of assets from claims arising on divorce or bankruptcy, or even from poor financial management by the intended beneficiary.

The important thing is to get the right advice when choosing a trust. You need to be sure that the trust will achieve your aims, even if circumstances change in the future, and you need to understand the tax implications, for you, for the trust itself and for the beneficiaries.

At Taylor & Emmet, we have the expertise to be able to tell you when a trust might be suitable for you, to guide you through the myriad choices to right one, and then to advise and assist the Trustees in the running of the trust in the future. As solicitors, not only can we advise on any legal issues that may arise, but we are also able to deal with the accounting aspects of running a trust, such as the preparation of trust accounts and the completion of tax returns.