

Personal Injury Trusts



If you've received compensation from a personal injury claim, putting it into a trust can ensure that your funds are protected and give you peace of mind for the future.

The money may be awarded for a specific purpose, such as to cover the costs of rehabilitation, care therapies and property adaptations, or to compensate for future lost income. It's important to consider whether a Personal Injury Trust (PIT) could be used to ensure a suitable structure is in place to manage funds in the future, as well as ensuring that you're able to claim all of the state benefits and state funding you're entitled to.

Protection when claiming means tested benefits

Depending on the nature of the injury, you may be eligible for a number of benefits and support services. If the compensation has been paid directly to you, it will be included as part of the assessment when calculating your entitlement to means tested benefits. This means that you could lose benefits you already receive or not be entitled to receive them in the future. Means tested state benefits include Income Support, Jobseekers Allowance, Housing Benefit, Council Tax Benefit, Income Based Employment Support Allowance, and Universal Credit.

Your compensation can also be included in a financial assessment carried out for the purposes of care home funding or entitlement to funding to meet your care needs.

If it's arranged for the compensation to be paid into a PIT, this will ensure you're still able to claim the benefits you're

entitled to. A PIT can protect your money from being used in the wrong way, especially if the trust is for a child or a vulnerable adult. It may also be persuasive in protecting assets from a claim against your estate, in cases of divorce or bankruptcy for instance, although there's no guarantee.

Basic principles of a PIT

The people appointed to look after the PIT are called "trustees" and can make decisions on behalf of you, the sole beneficiary. The terms of a PIT are governed by a document called a Trust Deed, which sets out certain rules and responsibilities. The trustees will need to set up a trust bank or building society account to hold the compensation award separately from your existing personal finances. You can, however, have up to £6,000 in your own personal accounts and that of any partner that you live with, without it affecting your benefits.

The money within the PIT can be invested with the support of a financial advisor. Personal accounts can then be topped up with money held in the PIT as and when required.

If you pass away any money or assets held in your PIT and estate would be dealt with in accordance with your Will. If a Will hasn't been created, the estate would be dealt with by the rules of intestacy in accordance with the law.

How and when do I set up a trust?

If you've received compensation through us or another solicitor, we can draft a Trust Deed to establish the PIT. It's best to set up the trust before any compensation is received and it will need to be done within 52 weeks of the first payment you receive in your personal injury claim, as your benefits could be at risk if you don't set it up within this time period.

Who can be a trustee and what do they do?

You must choose at least two people (maximum of four) to be trustees of the PIT and they can be anyone over the age of 18. Choosing reliable and responsible trustees is very important and this can often be a close family member or friend. You can also be trustee. We can act as a professional trustee if you wish/need.

The trustees are responsible for managing the money in the PIT account according to the terms on which the PIT has been established.

This could include:

- Running a bank account
- Making investments
- Buying or selling property
- Arranging care, therapy and equipment costs
- Preparing annual Trust accounts & tax returns.

What funds can go into a PIT?

The benefit regulations say that any funds, which are awarded as a consequence of a personal injury, can be disregarded when assessing entitlement to means tested benefits, provided these are placed in a PIT. Only compensation received from a personal injury award, charitable or public donations following an accident, and pay outs from travel insurance can be paid into a PIT.

How do I pay for things with money from the Trust?

The trustees will set up a trust bank or building society account to hold the compensation award separately from your personal finances. The account should be set up in the name of the PIT such as "The Joe Bloggs Trust". Money can be released from the PIT for you, but all trustees should be signatories to all payments.

The trustees can pay a company or organisation directly, which is often the best option, but can also pay you the money direct from the trust account. Some banks are also able to offer bank transfers for trusts.

Can a PIT be set up for children or those who lack capacity?

Usually, the decision to set up a PIT will be one for the person receiving the compensation. However, if a person is unable to make their own decisions, it will be necessary to get court approval to set up a PIT on their behalf.

Children – A High Court Judge will need to approve the creation of a PIT to hold funds on behalf of a child, until they reach the age of 18. The Court will want to be satisfied that a PIT is suitable and will approve the trustees and type of trust to be used. This will usually be the best option if it's likely that the child will have capacity at 18.

People who lack capacity – In order to make decisions for someone who lacks capacity in relation to their finances, an application must be made to the Court of Protection (COP). A judge will then decide on the most appropriate method for management of that person's finances. Most of the time a deputy will be appointed but there are some instances where a specific type of trust may be put in place.

How we can help

As the largest personal injury and COP firm in the country, firm in the country, we've helped thousands of people manage and invest their money after a life changing injury. Our solicitors have extensive experience setting up PITs and can work closely with other professionals and financial advisors to create a bespoke plan tailored to you and your needs.



My solicitor was brilliant, showing compassion and integrity while being prompt, polite, and conscientious.

Tracy
5* Trust Pilot review

