

**J P Mortgages**  
**INDEPENDENT**  
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What are Protective Property Trusts?



# Introduction

Most people own their properties as joint tenants which means that, whether or not they have a will, on first death the whole property passes to the remaining joint tenant.

## What does this mean for your estate?

- Care costs: Should the surviving partner need care then the whole property would be assessed to pay for the cost of care.
- Marriage after death: On first death, the surviving partner owns the whole property. What if they remarry? Your half of the property could be lost to the new spouse, disinheriting your children.
- Creditors or bankruptcy: If the surviving partner were to be subject to creditor claims or bankruptcy then the whole of the property is at risk.

A Protective Property Trust is a simple and cost effective way of addressing these potential threats.

# Protection Against A Long Term Care Problem

- If you own your home as Joint Tenants, you both own 100% of property. You can't do anything in your wills – it automatically passes between each joint tenant
- As the house is now in sole name it would be taken into account for care funding



- If you have assets above £23,250 you will have to fund your own care
- Average care costs £750 - £1,000 per week, £39K - £52K PA
- On first death of a couple the house will then be in single name. The value of the property will be included in person's estate to fund their own care

# What about Children from Different Relationships?

## Spouse/Partner Dies

Everything could pass to remaining spouse/partner



## Children may not Inherit

Everything could pass to remaining spouse/partner's children and they end up with nothing



# The Solution

## Step One

Split the tenancy into Tenants In Common 50/50



## Step Two

Wills are created to include Protective Property Trusts



## Step Three

After first death the deceased's share of the property is transferred into the Trust

## Lifetime Interest

1. Can't be charged Rent
2. Can't be evicted
3. Can still move Home
4. Can still Buy and Sell
5. Remaining Spouse has full control



## FAQ's

### Does the remaining spouse have full control?

- The Lifetime Interest gives the remaining spouse full control.
- They can't be evicted, forced to pay rent, forced to sell, but they can move or buy and sell if they wish to do so.
- They have a right to interest from the capital in the Trust if the property is sold.

### How long does the Trust Last?

- Only 1 Trust is used on first death. The Trust is written in such a way as they are dissolved on second death and the house is then distributed as per the beneficial interest on each trust.

### Can we have different beneficiaries on each Trust?

- Yes they can be totally different and have percentage shares on each Trust.
- This can be very useful if there are children from different relationships.

### What has to be done after first death to make this work?

- The share of the Property left to the Trust is transferred into the Trustees' names and they hold the share of the property on behalf of the Trust for the benefit of the beneficiaries. They cannot sell it for their own gain it is always for the beneficiaries.

### Why does this work for long term care?

- If the remaining spouse were to go into care then as they only own half of the property they can't be forced to sell as the Trustees can just refuse to sell, and the whole of the property cannot be classed as in their estate for care funding purpose.

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- Lasting Powers of Attorney for Property & Financial Affairs and Health and Welfare

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To help guide you through the process, we offer a FREE consultation so that we can best understand your needs and what you are trying to achieve. We will then draw up a tailored solution that meets your individual needs which we will present to you.

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