

Information

Personal injury trusts: advantages of a professional trustee from Thomson Snell & Passmore

Introduction

Our separate information sheet on setting up a personal injury trust (PI Trust) explains when such a trust may be appropriate to hold damages from a personal injury or clinical negligence claim. The Court which awards the damages will usually require the appointment of a professional trustee (typically from a firm of solicitors) where the beneficiary is a minor or has borderline mental capacity.

However, there can be other good reasons for involving a professional in the running of a PI Trust. This is particularly the case where the damages award is substantial, the beneficiary is financially inexperienced and his or her circumstances create a risk that the funds available could be mismanaged.

Why Thomson Snell & Passmore?

Thomson Snell & Passmore has one of the leading personal injury and clinical negligence practices outside of London. The Firm also boasts a nationally-recognised Court of Protection team. This means that we are used to acting on behalf of injured and vulnerable clients. Our expertise in this field is reflected in the large number of PI Trusts we administer with the active participation of partners who are experienced in trustee decision-making as directors of our Trust Corporation (for which, see our separate information sheet). The dedicated Trust Management team works closely with trustees to ensure that a PI Trust fund is looked after in the best interests of the person it is designed to support and protect.

What are the advantages?

Pending expenditure or investment for the beneficiary, PI Trust money can be deposited securely and flexibly through our client account and cannot be released without the trustees' authorisation. The money is, therefore, ring-fenced from the beneficiary's personal bank account without danger of the two becoming mixed or the funds being misused. We can organise routine payments, be they for care or household expenditure, and also manage and monitor cash flow over a period of time.

Where the trust is in receipt of periodical payments, we can ensure that annual proof of life statements are provided promptly.

Short-term investment may be necessary until such time as a longer-term strategy has been determined. As far as the latter is concerned, we assist trustees in their selection of suitable professional advisers, drawing upon our wide knowledge and practical experience of those offering investment services for recipients of large damages awards.

In addition, the strength of our Court of Protection practice means that we have access to a variety of specialised services relevant to the beneficiaries of PI Trusts. These cover matters such as case management, property adaptation, provision of special equipment and insurance.

Are there other advantages?

As a large, regional firm, we are able to offer a full range of services to the trustees and beneficiaries of PI Trusts. These include:

- conveyancing, for property purchase by trustees;

Head Office
Heathervale House
2-4 Vale Avenue
Tunbridge Wells
Kent TN1 1DJ
T 01892 510000
F 01892 540170

Thames Gateway
Corinthian House
Galleon Boulevard
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Dartford
Kent DA2 6QE
T 01322 623700
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- advice on State benefits for beneficiaries;
- accounting for trustees, and tax return preparation for beneficiaries;
- Will preparation for beneficiaries; and
- contract drafting for trustees in respect of carers not employed through an agency.

How much will it cost?

The annual running costs of a PI Trust administered through Thomson Snell & Passmore will depend on what is in the trust fund and how much administrative work is involved. Our Trust Management team will be happy to provide an estimate following receipt of sufficient information. If the PI Trust is authorised by the Court before a damages award has been finalised, the anticipated trust management expenses can, in general, be factored into the overall compensation claim. We are able to provide an expert witness service for this purpose.

Conclusion

The costs of professional trust management will be well worth incurring where a large damages award needs to be safeguarded for the ongoing and future care of a young or otherwise vulnerable beneficiary. In some cases, it will be possible for the professional trustee to step down when the beneficiary has grown up and acquired greater financial maturity. To that extent, a professional trustee can perform an important transitional role.

Disclaimer

This information sheet is written as a general guide. As any course of action must depend on your individual circumstances, you are strongly recommended to obtain specific professional advice before you proceed. We do not accept any responsibility for action which may be taken as a result of having read this information sheet.

If you require further information, please contact Brian Bacon, Sue Currie or Stuart Goodbody on 01892 510000 or by email at:

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