

# TOZERS

## Personal Injury Compensation Protection Trusts



**If you make a successful claim for compensation following a personal injury or because of medical negligence, and the money you are awarded is paid to you personally, you may lose any entitlement you have to means-tested benefits, either now or in the future.**

Setting up a compensation protection trust can enable you to make full and free use of your compensation without forfeiting any entitlement to means-tested benefits.

Generally, if you give away money and then claim means-tested benefits, you are treated as still owning the money for the purpose of the means test. Setting up a trust for your own benefit with your compensation for a personal injury is a specific exception to this rule.

Even if you do not currently receive benefits, placing the compensation award in trust for yourself as soon as possible after it is received can help to preserve any benefits to which you may become entitled in the future. No other funds can be placed in the trust; it must be used only for the compensation award. If you receive your award and do not set up a trust (because you are not currently entitled to benefits), it may be difficult to establish a trust in future years as it may not then be possible to determine which of your assets represent the remaining balance of the award.

## What sort of trust is used?

The trust used for this purpose is a 'Bare Trust'. This means that the money is held on your behalf by your appointed trustees but still belongs to you. You can tell the trustees to make payments to you at any time or even tell them to return the whole fund to you if you wish. All income received by the trust is treated as your income for tax purposes. The trustees do not have to submit tax returns.

## Can a trust be established for a child under the age of 18?

To establish a compensation protection trust for yourself, you must be over eighteen. In some circumstances, however, the Court will approve the establishment of a trust for a person under the age of eighteen. This enables the trustees to withdraw the fund from the Court and manage it on behalf of the person for whose benefit the award was made. This can have two advantages in addition to the protection of benefits:



- Firstly, the trustees can usually invest the funds at a better rate of interest than is currently provided by the Court.
- Secondly, the funds will not automatically be paid to the child on reaching the age of eighteen. As it is a bare trust, the child can demand payment of some or all of the funds on reaching eighteen, but it is often possible for the trustees to explain to the child why it is beneficial to leave the funds in the trust. If a trust is not established, the Court will pay the compensation fund to the child on reaching eighteen.

### Can the trustees make payments of any amount to me?

While funds remain in the trust, they can be protected from means-testing. If substantial payments are made to you, they leave the trust and will be taken into account for means-testing. It is usually possible, however, to make payments of an amount which will not affect benefits or to make payments directly to providers of goods and services rather than directly to you.

### How difficult is it to administer the trust?

The administration of a compensation protection trust can be simple or complex depending on what is involved. For an amount of, say, £150,000, the trustees could invest the money in bank and building society accounts and make payments to you, or to someone else on your behalf, as and when required. The trustees would have to keep accounts to show what they had received and spent.

The simplest way to do this is to open a bank current account for the trust and make all payments from that account. For larger awards, more sophisticated forms of investment may be required, involving the employment of investment advisers. Maintaining accounts for a large fund would be more complicated and may require professional assistance.

### Help with trust administration

Becoming a Trustee can be an honour but can also be quite a task. We offer guidance and support to help steer Trustees through their increasingly burdensome responsibilities. Each year, the new Finance Act can change the taxation treatment of some or all trusts. As part of our Trust Administration Service, we ensure that you are kept abreast of these changes so that you won't be caught out and hit with additional tax or penalties. Our guidance will also help ensure that you do not breach your duties as Trustee and will guarantee the smooth and efficient running of the Trust.

Our dedicated Trusts Officer can offer whatever level of support you need: whether that is simply giving advice on one or two issues or assuming responsibility for running the Trust as a whole. The accounting software we use allows us to give you an up to date snapshot of the Trust's assets whenever you wish and takes (almost all) of the pain out of completing the annual Trust Tax Returns. We manage Trusts of almost all conceivable shapes and sizes and have the experience needed to deal with whatever problem or query you put to us.

This note is intended only as an overview of the use of compensation protection trusts. Tozers can advise on all aspects of setting up and administering trusts and have a comprehensive trust administration service for those who would like the trust fund to be managed professionally.

**Get in touch**  
**Ready to talk?**

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