

Protection of the Estates of Married Couples



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Generally, relatively few married clients or those in legal partnerships receive adequate advice on the protection and inter-generational tax planning of their estate, be it pensions, Death in Service (DIS) benefits, life cover, property assets, savings and investments or lifetime inter-generational transfers.

Integrated financial planning and effective legal planning are essential in delivering guaranteed outcomes for the distribution and protection of your estates. If you do not have Wills, you may be unaware of the complexities and misdirection of wealth that can occur under intestacy rules. If you, like so many couples, have simple Wills directing your estate to each other and then to your chosen Beneficiaries in equal shares you should achieve your desired distribution, but you may be missing an opportunity to protect the surviving spouse's interests, you may be missing tax planning opportunities and you will not provide inter-generational benefits to your chosen Beneficiaries.

The unpredictability of life requires us to be prepared but you ought to act now to address the shortfalls of the most common estate planning arrangements. On the death of the first of you, protective and tax efficient planning can be put in place and similarly protection, flexibility and inter-generational tax planning can be delivered to the ultimate Beneficiaries of your estate when both of you have deceased.

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A customised plan for your family can address any number of concerns such as:

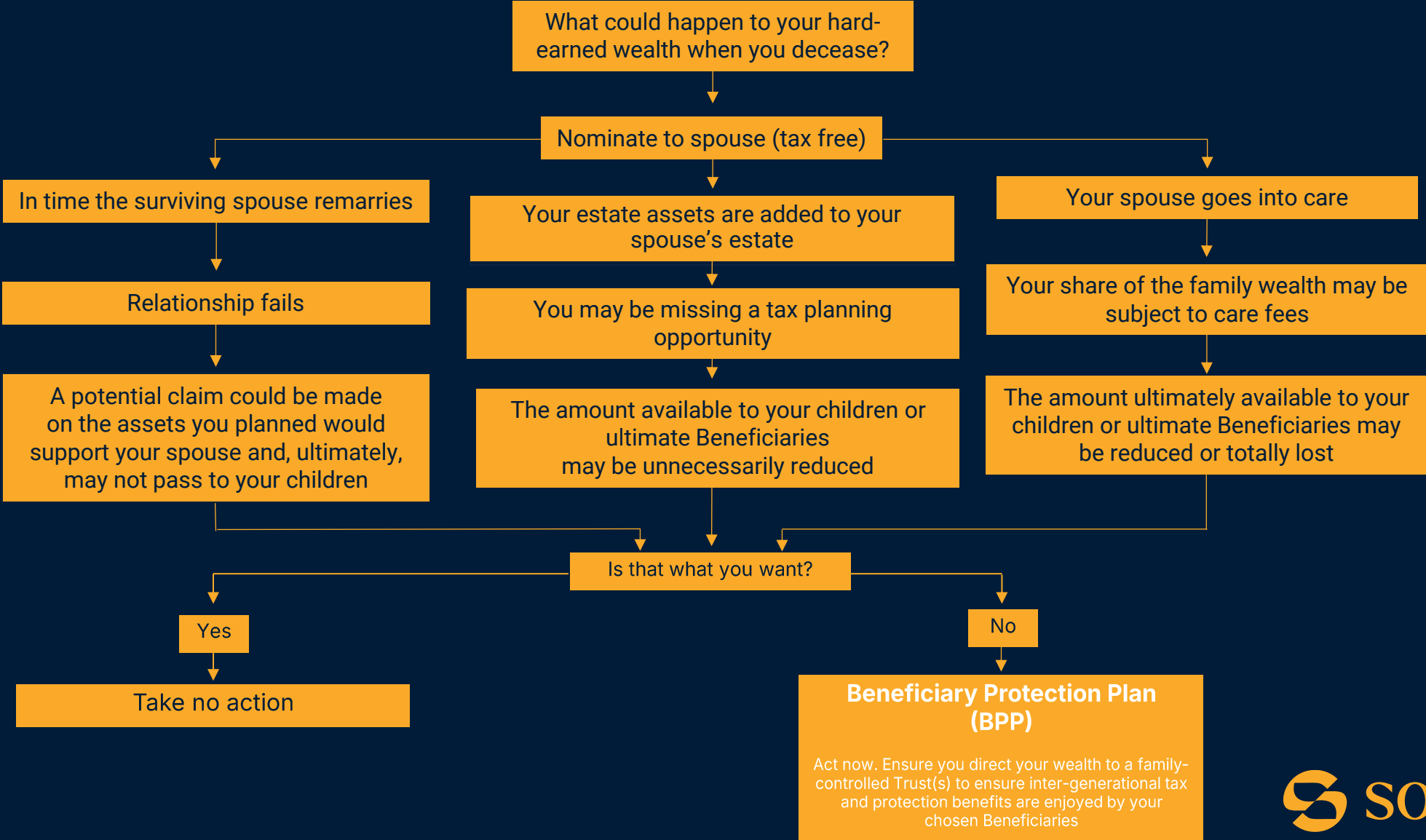
- If your spouse enters into a new relationship after you die, your share of the estate will be protected for your spouse and ultimately guaranteed for your chosen Beneficiaries.
- If your spouse is in poor health or requires care fees in the future, your share of the estate can be ring-fenced following your death. It should avoid a claim being made by a local authority. This is more robust and less intrusive than some of the care fee avoidance schemes that are marketed.
- If you have an estate that may creep into the realms of IHT when the second of you deceases, a Beneficiary Protection Plan may help to reduce the tax burden for your primary Beneficiaries.

- As hard as it is to accept, if you have two children, statistically, one of them may be unfortunate enough to experience a relationship failure. Without protection, a risk to their inheritance exists and may mean their children inherit less.
- If your chosen Beneficiaries are independently wealthy your generous legacy could be caught unnecessarily by inter-generational taxation.

If you look ahead, you will see the potential threats that may arise in the future and consider more robust and tax efficient planning.

Many of the protection and tax issues can be effectively addressed with enhanced planning and advice using a Beneficiary Protection Plan from Solidus.

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The Beneficiary Protection Plan (BPP) Only from Solidus



On first death your estate passes into a bespoke Trust framework on your death



Trustees receive guidance from your "Letter of Wishes"



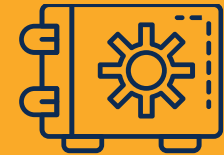
Trustees can engage Solidus through their estate planner for advice



Assets are invested to provide income or loaned to the surviving spouse



Any loans are repaid on second death and are available for the next generation tax free



The BPT offers potential protection for your children or Beneficiaries and inter-generational tax efficiency



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- Instead of nominating your spouse to receive all of your share of the family estate you can direct some or all of it on your death in a protective and tax efficient manner into a suitable framework to achieve your desired objectives, whilst still supporting your spouse.
- This will not require any lifetime transfers or change your control of assets.
- On the death of your spouse the assets which you have protected can pass into one or more BPTs for the benefit of your children or ultimate Beneficiaries.
- Your spouse's estate will pass into one or more Beneficiary Protection Trusts for your children or ultimate Beneficiaries. There may be IHT to pay depending on the estate value and assets.
- The Trustees can invest the sum to provide a regular income or alternatively, Trustees have powers to make loans to your children or chosen Beneficiaries, which means such advances can potentially be protected from a third party (e.g. their spouse).
- The Trustees will take advice from your estate planner, or from Solidus on claiming any available RNRB tax allowance, maintaining the benefits for the surviving partner and will ensure protection is delivered in a tax efficient manner.
- The Trust assets are outside the Beneficiary's estate for IHT purposes and will not be subject to inter-generational taxation.
- The framework can be set up and controlled by the family and can be maintained in a relatively low-cost efficient manner.

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Case study

Raj and Sarah are married and have two children. Their daughter is married and financially independent in her own right. Their son is divorced and has a new spouse who Sarah and Raj are less than fond of. Sarah and Raj do not want to pay unnecessary tax and their estate is on the margin of becoming liable for IHT in the future. Their priorities are to support each other and to maximise the inter-generational wealth transfer to their children. They have established an advanced Beneficiary Protection Plan structure with their adviser to address their estate planning concerns.

As all estate assets are directed to Trust on death, they have chosen their Trustees carefully and, with the assistance of their adviser, have briefed the Trustees on how their residual estate assets are to be used.

Sarah predeceases Raj. Raj continues to benefit from all of Sarah's assets as if he had inherited them but in a protective manner. He is also able to downsize from their property. Thankfully, Raj never remarries and does not go into care, so these potential risks do not materialise.

When Raj dies, their planning helps to keep their estate IHT free, and the children now have access to the funds from the Trusts their parents established.

Their daughter receives her share of the Trust Fund by means of a loan, as her marriage is stable. The daughter is a Trustee, and she understands that this approach will give her access to the funds to invest but will not add to her own family wealth for IHT purposes. Ultimately, her own children will inherit the sum free of IHT as part of the inter-generational tax planning benefits.

Their son receives some capital, but the bulk of his inheritance is invested within the Trust structure in order to provide an annual income. He continues to have an uncertain relationship and he wants to ensure the capital will potentially be protected for his children.

Similar protective Trusts have been put in place for the DIS, pension and life cover.

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Frequently Asked Questions

- **Can all our property and investments be directed into a BPP when we die?** The majority of personally owned assets can go into a BPP apart from specific assets like ISAs which may be transferred to a spouse or cashed in.
- **Is a BPP expensive to set up?** No, as a proportion of the value of the estate you want to protect is fractional.
- **Is a BPP expensive to run?** No, apart from some minor admin costs until the first spouse deceases, there are no other costs. There are some costs when each of you decease. After both of you have passed away, we encourage continued family involvement where costs are kept low by paying for advice and services only when required. There may be an occasional cost, e.g. for changing a Trustee.
- **Who should our Trustees be?** We encourage you to consider each other and adult family members, or trusted friends. Speak to your adviser for guidance.
- **What happens if we want to change our estate distribution?** No problem, often your new Wills do not need changing and your wishes can be accommodated with new instructions to your chosen Trustees by means of a Letter of Wishes.
- **How long does our BPT last for?** 125 years in England and Wales and 80 years in Northern Ireland. Most families use them for at least one further generation.
- **Will our BPT be taxed?** There is no tax on funds going into your BPP framework. After that a Trust is like a person and has its own tax allowances for Income Tax, Capital Gains Tax and Inheritance Tax. Your Trustees can take advice in the future.
- **Can our executors claim the RNRB if our residual estate passes into a BPT?** Yes, at probate your Trustees can elect to appoint out any required value within two years of your death. Unlike simple Wills which may impact RNRB allowances the BPP planning should maximise available allowances.
- **Can a BPP be contested?** Trusts can face claims from third parties but without a BPP there is no protection.

Contact your estate planner in order to progress your Beneficiary Protection Plan application

Disclaimer – The contents of this e-brochure should not construe as advice, and you should consult your estate planner. The provision of Trusts is a regulated activity administered by the Solicitors Regulation Authority and not the Financial Conduct Authority.

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