

Compensation Protection Service

Getting on with life after you get your compensation. When you get your compensation you will probably just want to get on with your life. As a part of getting on with things you should consider the Compensation Protection Service:

1. **Your compensation need not cut your means-tested benefits.** You can have your compensation and retain your means-tested benefits entitlements indefinitely. This is perfectly legal and acceptable to both the Department of Work and Pensions and Local Authorities. The Regulations treat compensation protection trusts in a special way so that you can retain entitlement as long as necessary. But the special rules only apply if you decide to 'opt in'.
2. **Your compensation can be protected from the cost of long-term care fees when you get older.** Even if you do not get means-tested benefits now this can be of great value to you and your loved ones in the future.
3. **Your care at home.** Care in your own home, as opposed to in a care home, supplied by a Local Authority is subject to Local Authority discretions as to what they base charges upon but they should, in our view, also disregard your award if it is put in a compensation protection trust under the 'Fairer Charges Guidance'. They can choose to take income from the award into account, however. This is a developing and complex area of the law.
4. **Your compensation can be protected for you and your family.** Even if some day you cannot look after it yourself you can rest assured your compensation will be looked after properly for you and your loved ones.

How does the Compensation Protection Service work?

1. **Specialist advice.** You need specialist advice to get the best deal for you and your loved ones. Your compensation lawyers are specialists in personal injury work. We specialise in the period after you receive your award.
2. **Financial matters.** We can work with you and your compensation lawyers to help you to secure the best possible financial security after you get your compensation. We call our work in getting the best deal for people who receive compensation the Compensation Protection Service.

What do you need to do when you have your compensation? If you put your compensation into the Compensation Protection Trust you can decide how much you need to spend and upon what. The money you want to save can be invested in the trust for you. We can also provide you with new wills and other protection for you and the family as part of a package deal if you want them.

Quick. Simple. Money Saving. Inexpensive. Peace of Mind.

Compensation Protection Trusts: Things for You to Think About

What is a Compensation Protection Trust?

The trust is created by you when you sign a special document called a 'trust deed'. It states who must look after your compensation upon your behalf. The people who look after it are your 'trustees'. You can choose them. The trust deed also explains how the money is to be invested and otherwise looked after for your benefit.

Why should you bother?

1. If you receive compensation, even an interim payment, it will tend to cut your means-tested benefits. That is certainly after the 12 months 'period of grace' ends and sometimes sooner. The period of grace is based upon complex legal provisions and our advice is that you should not rely upon it. That is especially if like most people you want to retain some of your award for a 'rainy day'.
2. Remember that your compensation may cost you more than you think if you do not put a trust in place. It may cut your present entitlements and also your ability to claim in the future. Not having entitlement to means-tested benefits can also stop you being able to obtain other valuable services such as free prescriptions and school dinners for children.
3. Even if you do not get means-tested benefits right now you might want to protect your compensation from the growing cost of long-term care. This is a big concern for many people. Why miss out when the rules allow you to retain your entitlements if you found a trust?

What can you do with the money in the Compensation Protection Trust?

1. Your normal expenses of daily living are supposed to be met by means-tested benefits. That is things such as gas, water, electricity, food, mortgage interest, council tax, most rents and payments for any residential care. These should usually continue to be met by your benefits (so far as possible) because that will help you budget properly. But if there is a shortfall these bills can be met by the trust (e.g. if you get an unexpectedly large heating bill).
2. Other things which are not supposed to be met by benefits such as your phone bill, TV costs and the cost of extra care should be met from the trust. The trust can also pay for a place to live, a new car, petrol, a holiday and much more. It is really up to you. The money you do not need can be invested by the trustees for the longer term.

Who should you choose to be your trustees?

1. You need to pick a couple of trustees to look after the compensation you put into the trust and make decisions about payments from the trust. It will often be most appropriate to have yourself and a family member.
2. Your choice of trustees is very important. Payments are subject to your consent. Trustees must take proper investment advice. You will have the power to get rid of and appoint new trustees. It may in some cases be appropriate to have a professional trustee is a good idea, and we can act in this capacity if you require (although work carried out in acting as trustee will be charged on an hourly basis after the initial set up costs have been paid in putting the trust in place). The trust can be wound up if necessary although that may trigger loss of benefits.

How much will setting up a Compensation Protection Trust cost?

Our fixed costs are £400 plus VAT. Your compensation solicitor may be able to obtain the costs from the defendant in your personal injury matter, however if this is not possible you will be liable to pay the costs. The bill can be settled once you have received the compensation from the defendant i.e. there would be no up front costs.

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Other Parts of the Package Deal

Wills

1. **Important.** Everyone knows they need a will but it is important in the case of people with a Compensation Protection Trust that the wills of other family or other people who might leave something to the compensated person are also worded correctly. That is to avoid accidental loss of means-tested benefits.
2. **Bring your will up to date to look after your loved ones.** These can be arranged at the same time as drawing up the trust to protect any money/value you have which is not inside the Compensation Protection Trust. Your old will may need revising.

Lasting Power of Attorney

1. **Avoid problems before they start.** These can be arranged at the same time as drawing up the trust. They are documents where you can appoint someone to look after your property/finances which are not inside a Compensation Protection Trust.
2. **A Lasting Power of Attorney is vital if you become mentally or physically incapable.** Even though you may be married a spouse may still need a Court Order to enable them to sign on your behalf if you do not have a Lasting Power of Attorney.

Independent Financial Advice

1. **We do not provide financial advice.** The Compensation Protection Service is a special unit within Malcolm C Foy & Co Solicitors. We do not provide financial services advice. We accept no commission from financial services providers in Compensation Protection Trust cases.
2. **We can introduce you to an independent financial adviser or assist your existing one.** It is important you get high quality independent financial advice. Any introduction to such advice which may be arranged, at your request, by Malcolm C Foy & Co Solicitors is by way of a referral to an 'authorised person' in accordance with the appropriate regulations.

Important Notes: The Compensation Protection Service

- 1. Responsibility for legal and financial advice.** Legal advice and assistance given in respect of Compensation Protection Trusts by the Compensation Protection Service is the responsibility of Malcolm C Foy & Co Solicitors so far as it is provided by them. Independent financial advice given by an authorised person is the sole responsibility of the independent financial adviser. Malcolm C Foy & Co do not provide such advice.
- 2. The schedule of foundation fees payable to Malcolm C Foy & Co Solicitors.** The above fees schedule includes an amount for preliminary advice, taking instructions, trust drafting, finalisation of the trust documentation and trust registration. The Compensation Protection Service unit does not provide any legally aided/publicly funded services. Your compensation solicitor may possibly have been able to obtain an amount to cover our costs, however this cannot be guaranteed. We are not acting for you in the litigation and cannot assist in that. If you wish to examine the availability of legally aided/publicly funded assistance in respect of a personal injury trust you must revert to your litigating solicitors. We do not think that a personal injury trust can be founded under the legal aid/public funding scheme.
- 3. Work discontinued by the client.** Work discontinued by the client before finalisation is charged for at the hourly rate of £175 per hour + VAT. That is only up to the maximum of £400 plus VAT, unless otherwise agreed.
- 4. Work after foundation of the Compensation Protection Trust.** The fixed fee of £400 plus VAT does not cover the cost of any ongoing work after execution of the trust except basic trust registration. Ongoing work for distributions and other advice and assistance is charged for at the hourly rate of £175 per hour + VAT. If funds held in the Compensation Protection Trust are just to be invested then post execution work is minimal or nil. Although some trusts have an annual trust tax return the manner of investment may allow a 'waiver' of this to be obtained. If Malcolm C Foy & Co act as trustees we charge the hourly rate for all work done. There is no annual minimum fee or value based fee.
- 5. Please note it is important that you are aware that we do charge for all time spent even if the trust fund is small.** If you want to set a 'time-cost ceiling' you can do so. It must be set in advance and agreed in writing. When reached we stop work, revert to you with a progress report and ask for further instructions.
- 6. Changes in the hourly rate for work.** Where the hourly rate applies it should be noted that it may change although not so as to increase fixed fees beyond the relevant fee stated above (£400 plus VAT) unless otherwise agreed. This is in accordance with the standard Terms of Engagement of Malcolm C Foy & Co Solicitors issued under the Solicitors Regulatory Authority (SRA) a copy of which will be sent to you should you wish to proceed with this matter.
- 7. Charges in special cases.** Clients will be advised in advance if special circumstances apply which render the fixed fee level inadequate. This is rare. It may occur if, for example, significant travelling time is involved. Normally over a ten-mile radius outside Doncaster or Rotherham. Many matters are dealt with by post and telephone.
- 8. Financial services commission.** Malcolm C Foy & Co Solicitors do not accept financial services commission from any independent financial adviser the client chooses to invest through in Compensation Protection Trust cases.
- 9. Freedom of choice.** Clients are free to decide which independent financial advisers to use.
- 10. Trusts for mentally incapacitated persons.** Trusts for mentally incapacitated persons are dealt with upon a different scale as complex work with the Court of Protection is involved.
- 11. The law. Benefits law and guidance changes.** That is beyond our control. No legal matter can be 'guaranteed'. This applies to Compensation Protection Service work as with any other. We make every endeavour to carry out this work in a legally effective manner given our understanding of the law and guidance as it stands but we can never absolutely guarantee the desired benefits advantages will always be obtained or continue. We can however guarantee that the client who does not act in accordance with our advice will not even have a chance of gaining anything.