

hyphen⁺⁺law

WWW.HYPHENLAW.CO.UK



Personal Injury Trusts – What You Need To Know

What is a Personal Injury Trust?

A Personal Injury Trust is somewhere to hold your compensation award. The Trust legally owns the money placed into it and you can access the money to help you with your rehabilitation, recovery and to meet your day-to-day needs.

Do I need a Personal Injury Trust?

This will depend on your circumstances. A Personal Injury Trust is sometimes referred to as a 'compensation protection trust.' It can be used to protect your entitlement to means-tested benefits and local authority funded care following a personal injury compensation award. The benefits of a Personal Injury Trust can often be overlooked because they don't seem to fit an individual's circumstances at the time the compensation award is made. This can cause significant problems if you or your partner's circumstances change.

When should a Personal Injury Trust be considered?

A Personal Injury Trust should be considered whenever someone receives compensation for an injury. This is irrespective of whether the harm caused was physical or mental.

A Personal Injury Trust is a good idea if you already receive means-tested benefits and / or local authority funded care. Your circumstances will inevitably change over time and while you may not need or be eligible for means-tested benefits or local Authority funded care at the time you receive your compensation award, this could change at some point in the future.

What type of awards can be placed into a Personal Injury Trust?

A Personal Injury Trust, can be used to protect funds awarded in a variety of situations such as :

- Accidental injuries
- Criminal injuries
- Injuries inflicted due to medical negligence
- Compensation given for disease
- Employment protection insurance
- Critical illness payments

Is it too late to create a Personal Injury Trust if I've already received a compensation payment?

Not necessarily. Once a compensating payment has been made, in whatever form, you have a duty to notify the Department for Work & Pensions (and the local authority if you receive help and support from them) of the change in your financial circumstances.

However, provided you place your compensation award into a Personal Injury Trust within 52 weeks of receiving the first compensation payment, you will remain entitled to means-tested benefits and local authority funded care.

Even if your means-tested benefits and local authority funded care were stopped many years ago as the result of a compensation award, you may still be able to create a Personal Injury Trust and arrange for your benefits and local authority funded care to be reinstated. The only difficulty is that the more time that passes after an award has been made, the more difficult it will be to prove the funds you want to place in the Trust originate from your compensation award. What this means is that unless your compensation award has been held in a separate bank account, it is likely to have been

'contaminated' by your other funds which are not eligible for a Personal Injury Trust so this may present challenges.

In an ideal world you should set up your Personal Injury Trust before your compensation is paid.