

## **COMPENSATION PROTECTION SERVICE**

### **Why you might need 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 but only if you set up a special compensation protection trust to hold the monies.  
If you do not put a trust arrangement in place, you are only allowed to ask for the compensation monies to be ignored by the relevant benefits agencies for up to 52 weeks from and in relation to the first payment of compensation you receive. If you receive benefits you must inform the benefits agency of the change in your financial circumstances after you have received your compensation.
- 2) **If you do not currently receive any means tested benefits**  
Even if you do not receive any means tested benefits now, the compensation protection trust may become relevant to you and your family in the future (for example in relation to pension credit to top up your income in retirement and protecting your compensation from the cost of long term care fees when you get older).
- 3) **Protecting your compensation for you and your family**  
There are other advantages of putting your compensation into the compensation protection trust. Your compensation is meant to provide for you over and above your daily living expenses especially if you have any ongoing problems as a result of your injury. If that is the case it is important to keep and treat your compensation separate from other monies you have and for friends and wider family to recognise this as well. Even if one day you cannot look after yourself, you can rest assured that your compensation will be looked after properly for you and your loved ones.

### **How the compensation protection trust works**

The trust is created 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' and you can choose them. The trust deed also explains how the money is to be invested and otherwise looked after for your benefit.

The most appropriate form of trust to protect your compensation is usually a simple trust called a 'Bare Trust'. With this arrangement you are the only person legally entitled to enjoy the money (which is still treated as yours for tax purposes and as part of your estate if you die). However, the compensation money is physically held in the name of two Trustees rather than in your name personally. The Trust money can be held in a bank and/or invested in shares or property (and it will be important to take advice from an Independent Financial Adviser about this).

### **Enjoying your compensation held in trust for you**

It is important that the trust funds are kept separate from your other money. It is therefore a good idea for your chosen Trustees to make payments directly to 3rd party providers wherever possible (for example a travel agent in respect of a holiday you wish to book) rather than passing the money to you in the first instance. This keeps the trust funds separate and can help avoid a situation where you are holding money in your own personal bank account in excess of the relevant threshold for any means tested benefits you receive. .

Subject to the principles above the Trust funds can be accessible for any purpose you wish (though it makes sense to use any means tested benefits you receive to budget for the daily living expenses they are intended to cover and to use your compensation for 'extras').

If you are considering using some or all of your compensation to pay off your mortgage or improve your house or move to a bigger one then this can be done via your Trust. If your Trust owns a share in the new or improved property (or because the mortgage has been cleared from trust funds) then that share can be protected from means testing (for example in the future in connection with long term care).

### **Who should be your trustees?**

You need to pick two trustees to look after the compensation you put into the trust and to make decisions about payments from the trust. Your choice of trustees is very important.

#### **1) Family and friends**

Trusted friends or family members can act as your Trustees and the enclosed fact-sheet contains more information about this and the role of a trustee. You should bear in mind that family and friends are not neutral parties and this could give rise to a conflict between their interests and yours or general friction between you. We therefore suggest that you consider choosing a professional person as a trustee too. We can act as trustees if you wish.

#### **2) Professional Trustees**

For larger sums of compensation we suggest that you consider appointing professional trustees at least for the first 24 months after the Trust is set up. This is typically a time when you will be making lots of important decisions as to what you want to do with your compensation both immediately and in the longer term. At least initially, you may feel happier about liaising with us as professionals you have appointed rather than having to involve family and friends with your affairs in a formal way. Professional Trustees can also be a buffer between you and any one who might otherwise put pressure on you about how you spend your compensation.

As professional Trustees, we would work with you (and other professionals such as an Independent Financial Adviser) to ensure:-

- that the trust works effectively for you in terms of protecting any entitlement to benefits now or in the future;
- that with appropriate financial advice the trust funds are maximised to meet your short and long term needs and goals;
- that other important issues such as tax planning and any relevant tax returns are dealt with.

You would be able to consider appointing alternative Trustees at any time. You may well feel happy and confident to do so once the Trust has been up and running for a while and you have a first hand understanding of what is involved.

**Please let us know if you would like more information about appointing us as Professional Trustees and for a no obligation quote for the costs involved (based on us acting as professional trustees for the first two years and in view of your particular circumstances and the sums involved).**