Trusts - Personal Injury

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Personal injury claimants can often be on benefits due to disability and incapacity for work arising from the reason for the claim. If proper steps are not taken, a compensation award can count as capital and preclude claimants from receiving any further means tested support and care.

mfg Solicitors LLP believe that whatever the size of your claim, advice should be offered in all claims involving negligently caused or criminal injuries, resulting in physical and/or psychiatric/ psychological damage. Personal injury trusts are specifically provided for in law and enable claimants to benefit from their compensation award without loss of means tested entitlements.

Where a trust fund has been set up out of damages paid as a consequence of a personal injury (a personal injury trust), the value of the trust is ignored for the assessment of eligibility to most means tested benefits and/or local authority support.

Trusts created under such circumstances can sometimes be referred to as special needs trusts or trusts for disabled people. Regardless of the term used, it is the source of the trust fund that determines the trust's nature. Trusts of this type may include bare trusts, interest in possession trusts and discretionary trusts. Sometimes they are used in combination. It is important to ensure the correct type of trust is used. This will depend on your needs, family circumstances and the possible involvement of the court. The correct form of trust should enable you to retain your entitlement to most means tested state benefits and/ or local authority support, irrespective of the size of the award.

These trusts historically had to be set up as part of a court order, however with effect from 1st October 2006, a 52 week grace period came into effect. This commences from when you first receive a payment from your award, be that an interim, or final award payment. From that point, you then have one year to either set up a personal injury trust or to spend your award.

Benefits are not the only consideration to be made. One might consider settling your personal injury award into trust for tax or family planning reasons. These awards can often be of a not inconsiderable sum so careful thought must always be given to the eventual ends to which they will be put.

If after consulting with our trusts department you decide a personal injury trust is a viable option for you, we will then work with our personal injury colleagues to establish the trust in accordance with your wishes and requirements. This includes:

- Drafting of the trust deeds in accordance with your wishes ***(including the provision of professional trustees should you require them)***;
- Setting up the trust bank account;
- Informing the local benefits agency (if necessary) of the creation of the trust.

For more details, or to arrange an appointment, please contact mfg Solicitors LLP Trusts Department on 0845 55 55 321 or visit www.mfgsolicitors.com