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The Property Preservation Trust

This type of trust is designed to help protect one's property from an assessment to long term care fees and to ensure that our nearest and dearest inherit from us without our assets being lost to those loved ones forever. Such assets may be lost through the property having to be sold to pay for the long term care of the surviving partner because it's value was included in any long term care assessment or additionally or alternatively the surviving partner remarries or enters into another civil partnership after the first partners death.

Should one partner bequeath the estate to the surviving partner then the value of that estate and/or property will be combined with the assets of the surviving partner. This results in the whole of the property being included in any assessment for long term care contribution of the surviving spouse or partner.

How the property is owned also plays an important role in regard what happens to it after death of the first partner. If the property is owned as **Joint Tenants** this determines that, if there is no Will, or even in circumstances where the property is not left outright to the surviving spouse, it still automatically passes to the remaining partner and so still becomes part of any long term care assessment. This is because, under a joint tenancy, both parties own the whole of the property, not a quantified share and so when one of them dies, in terms of the ownership of the house, the right of survivorship applies. This means that the surviving person from the relationship inherits all of the property on their partner's death and so the person who dies is unable to leave that property, or their share of it, to anyone else other than their partner. It also means that the surviving spouse can leave the property to whoever they wish, including a new partner or spouse.

On the other hand, property can also be owned as **Tenants in Common**. As tenants in common, each partner owns a specified share of the property. The proportion of the property that each owns can be fixed from the outset, for example, the proportionate split may be a 70%-30% or 60%-40% split of the purchase price to reflect what each of them invested at the time, but it can also be amended over time to properly reflect ongoing contributions. Buying a property as tenants in common also allows them to leave their share of the property to beneficiaries other than their partner when they die. It is this scenario that can be utilised to create a Property Preservation Trust.

A Property Preservation Trust is therefore especially suitable for couples who are concerned that one of them may require long term care sometime in the future. Instead of leaving the testator's share of the property to the surviving spouse/partner Wills are written to include a Property Preservation Trust, leaving the share of the property 'in Trust' for the eventual beneficiaries. The Trust also allows the surviving partner to live in the property until death or can include a clause until they remarry. Should the survivor need long term care the local authority cannot include the share of the property held in trust in their assessment as it is owned by the trustees of the trust. On the death of the survivor the share owned by the trust is then passed to the beneficiaries.

Critically, this type of trust is tax neutral meaning it is not suitable for inheritance tax mitigation. Also, if the property is currently owned as **Joint Tenants** then the ownership must be changed to **Tenants in Common** to give effect to the intended trust. Ownership details can be checked here.