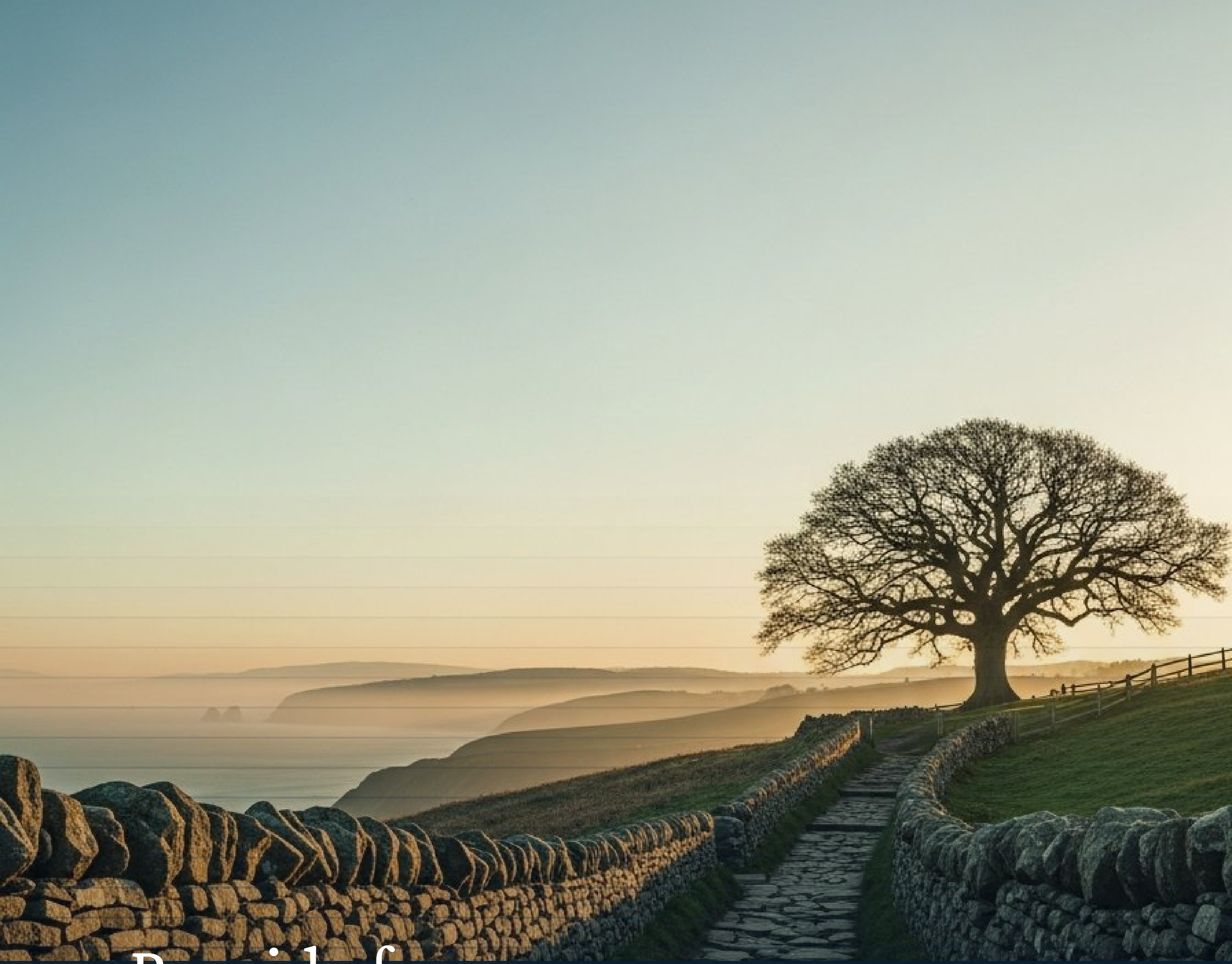
SAFE HARBOUR LEGAL

A solicitor’s guide



Provide for your spouse. Protect your inheritance.

The Flexible Life Interest Will Trust.

A solicitor’s plain-English guide — how it works, who it suits, what it protects, and what it costs.

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Safe Harbour Legal · 14 pages · 15-minute read

SAFE HARBOUR · 2026

ABOUT THIS GUIDE

For the homeowner at the kitchen table.

Under the law of England & Wales you have *testamentary freedom* — the right to decide who ultimately inherits your estate. A Will Trust is one of several tools you can use to give that decision lasting effect even when life moves on in ways no one plans for. This guide explains the Will Trust we set up most often for couples with assets to protect: the Flexible Life Interest Will Trust.

It is written by Aaron Johnson, a UK solicitor (SRA 598793) and Trust & Estate Practitioner (TEP), drawing on the questions clients of Safe Harbour Legal ask most often. It is not a sales pitch — it is what we'd explain if you rang the office on a Tuesday morning and asked, plainly: *"what is this thing, and is it for me?"*

You can read it in fifteen minutes. By the end you will know how a Flexible Life Interest Will Trust works, the five overlapping reasons families set them up (blended families, care-fee planning, remarriage, vulnerable beneficiaries, family disputes), where they can't help, what they cost, and the five questions to ask any solicitor before instructing one. There is a free thirty-minute discovery call at the back if you want to walk through your circumstances — no follow-up unless you ask.

IMPORTANT — GENERAL INFORMATION, NOT LEGAL ADVICE

This guide contains general information about the law of England & Wales as at May 2026. It does not constitute legal advice and must not be relied on as a substitute for tailored advice for your own circumstances. Outcomes for any individual depend on their family, their assets, the way those assets are owned and on decisions taken by HMRC, the local authority and the courts after death. Trust, inheritance-tax and care-fee assessment law change frequently — verify any specific point before acting on it. Safe Harbour Legal is a trading name of Legal Studio Solicitors (MDLS Solicitors Limited, Company No. 08599445), regulated by the Solicitors Regulation Authority (SRA ID 598793). Our complaints procedure is at safeharbour.legal/complaints-procedure.

WHY THIS GUIDE EXISTS

Three families.
One question.

The Hartleys are in their late sixties. Second marriage for both. Each has two children from their first marriage. They've worked out their pensions, but the family home — worth more than half a million pounds — is the thing they argue about most quietly. If one of them dies and the other later needs nursing care, will the children of the first to die be left with nothing?

The Bartons have been married forty years. Three children, four grandchildren. They've started having the same conversation older couples increasingly have at this end of the East Riding: what happens if one of them needs care, and the family home is the only big asset left? They've heard horror stories about people losing the house to fees and want to know if there's a legal way to protect it.

The Walkers are direct. They've already started gifting parts of their estate to their children. They want a structure that works alongside that — something that protects the family home from being eaten by care assessments without trying to game the system in a way the local authority can challenge.

Different families. Different worries. The same Will Trust structure answers all three — the Flexible Life Interest Will Trust.

The next chapters explain what it is, how it actually works, and where it cannot help.

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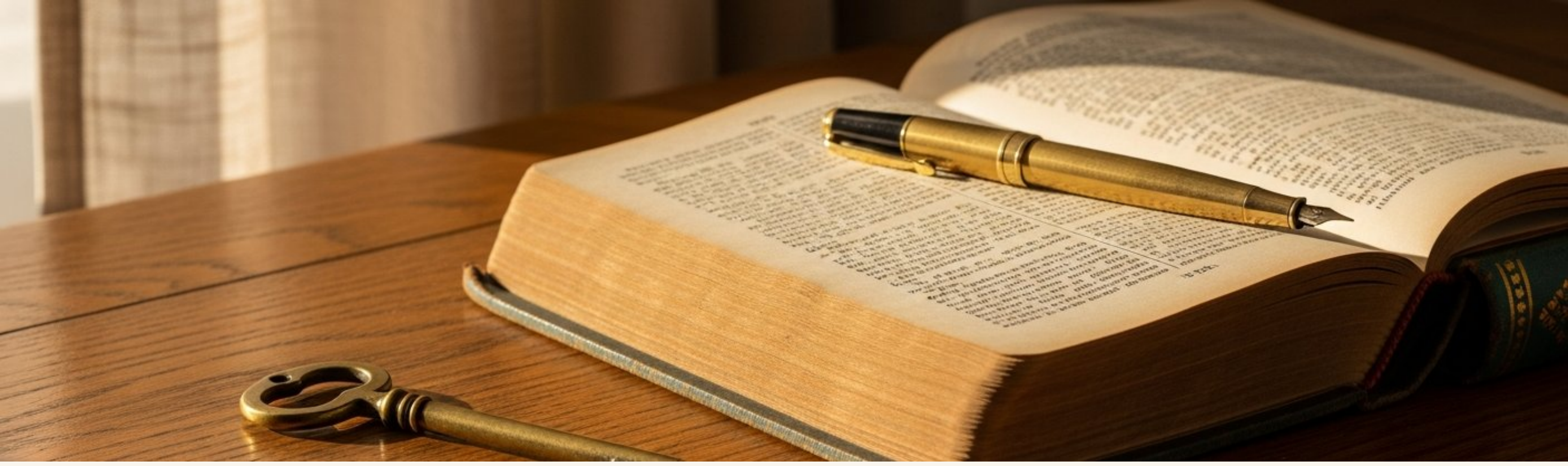
A properly drafted Will Trust is one of the quiet ways an estate can be made to honour every promise behind it.



CHAPTER ONE

What a Flexible Life Interest Will Trust actually is.

A Flexible Life Interest Will Trust is a trust set up inside your Will. It does not exist while you're alive. It comes into being the moment you die, and not before.

When it activates, the assets you have chosen to place inside it — commonly your share of the family home, often savings or investments too — pass into the trust rather than outright to your spouse or partner. The trust holds the legal title; your spouse has the right to benefit from those assets for the rest of their life.

There are three roles in every Flexible Life Interest Will Trust, plus one important power. Understanding them in order is the whole of the mechanism.

TRUSTEES

Usually your spouse plus one or two trusted adults (often your children). They hold legal title and make decisions about trust assets, under terms you set in the Will.

LIFE TENANT

Almost always your surviving spouse or partner. Has the right to live in the property for the rest of their life, and to receive any income the trust generates.

REMAINDERMEN

The people you nominate in your Will — usually your children, sometimes grandchildren or another chosen branch of the family. They inherit when the life tenant dies.

THE FLEXIBLE POWER

The "Flexible" in the name is a discretionary power for the trustees to advance capital to a wider class of beneficiaries where you give them that power in the Will. It lets the trust respond to changes no one can forecast without losing the underlying protections.

The mechanism is simple. The reasons families use it are overlapping — the next chapters walk through them.

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CHAPTER TWO

How it works — in three straightforward steps.

The mechanism is genuinely simple. People are sometimes surprised when they realise that what looks, in marketing terms, like a piece of sophisticated planning is actually a small number of paragraphs in a properly-drafted Will.

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STEP 1

When the first spouse dies.

The assets you have placed in the trust — your share of the home, savings or investments you have chosen to include — pass into the trust automatically. The Will controls this; there is no separate paperwork for the family. The surviving spouse is not left homeless and is not left without support from what was left behind.

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STEP 2

The surviving spouse becomes the life tenant.

They have the right to live in the home for the rest of their life. If they need to downsize, the trustees can sell the property and either buy a smaller one or invest the proceeds and pay the income to the surviving spouse. The Flexible power lets the trustees advance capital where the Will gives them that discretion — always for the surviving spouse's benefit, never redirected elsewhere without your authority.

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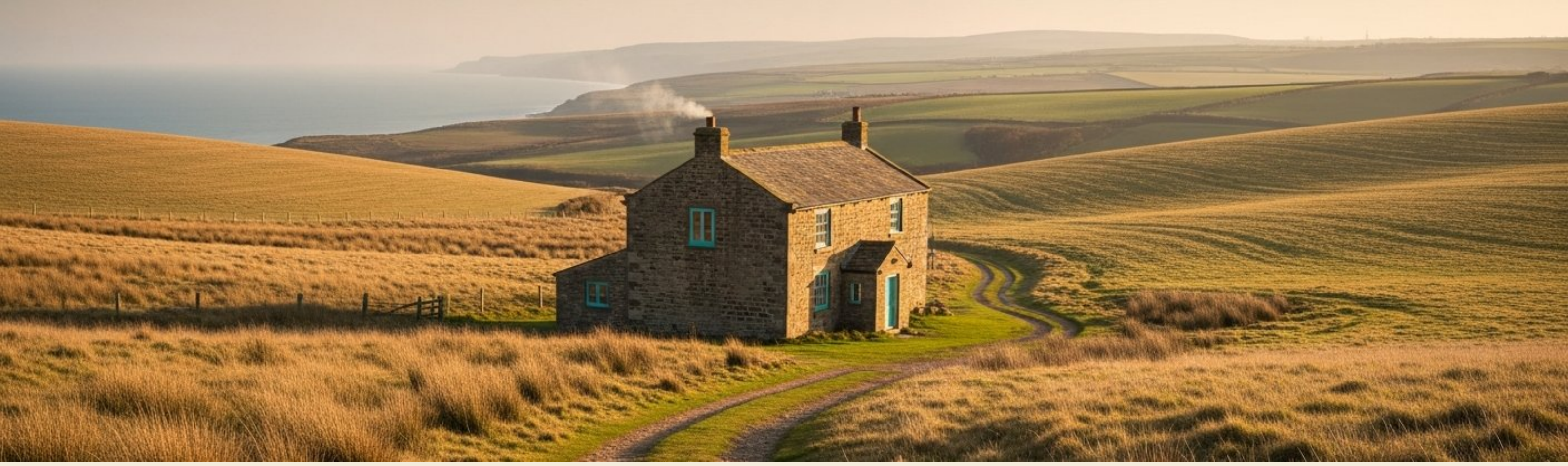
STEP 3

When the surviving spouse dies.

The trust ends. The assets pass to the beneficiaries you chose (the remaindermen) according to the terms of the Will. The effect is that the people you intended to inherit are the people who do — your testamentary freedom honoured even where circumstances have changed in the intervening years.



CHAPTER THREE

A worked example.
The Hartleys.

Mr and Mrs Hartley. Late sixties. Their home is worth £500,000, owned as tenants in common — each owns a 50% share. They also hold £100,000 in joint savings. Both were married before. Each has two children from those first marriages. They love each other; they do not have the same children.

Mr Hartley dies first. What ultimately happens depends on one paragraph in his Will.

WITHOUT A WILL TRUST

No certainty for his children.

His share of the home and his half of the savings pass outright to Mrs Hartley. She is free to leave them to whoever she chooses in a new Will.

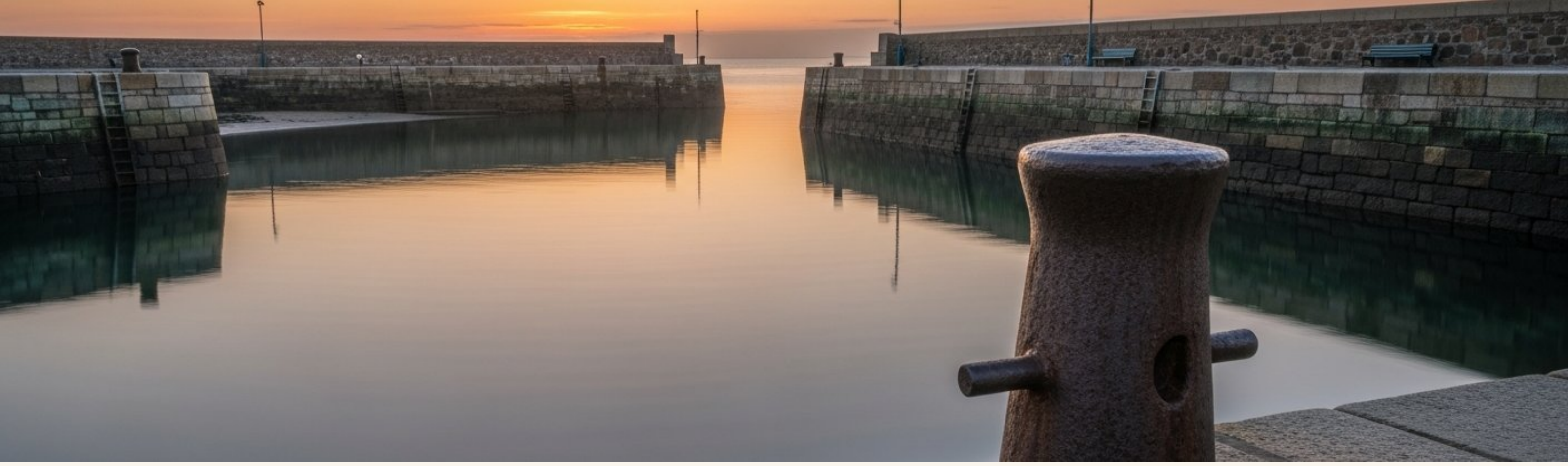
If she later remarries, her existing Will is revoked. If she later needs care, the local authority assesses what she owns — including what was originally his.

WITH A FLEXIBLE LIFE INTEREST TRUST

His wishes are honoured.

His share of the home and his half of the savings pass into the trust. Mrs Hartley becomes the life tenant: she lives in the home and receives the income from the savings for the rest of her life.

The difference is one paragraph in the Will.
The difference for his children is certainty.



CHAPTER FOUR

Care fees: part of the planning.

Care fees are often the question that prompts the first conversation about a Will Trust. They sit naturally alongside the other reasons families set one up — not above them. The point of the planning is to provide for your spouse, honour your testamentary wishes, and pass what you leave behind to the people you choose. Care-fee protection is one consequence of doing that properly, not a separate end in itself.

How a Will Trust differs from lifetime planning. Under the law of England & Wales, you have testamentary freedom: the right to decide who ultimately inherits your estate. A Will Trust simply directs that, on your death, your share of certain assets passes into trust rather than outright to your spouse. The transfer is testamentary — it happens by operation of your Will, not by gift or transfer in your lifetime.

Because the surviving spouse never owned the trust assets, those assets are generally not the spouse's for the purposes of a later care-fee means assessment. The local authority is assessing what they own; the trust assets are not theirs to be assessed. This is the structural reason Will Trusts are widely recommended in considered estate planning.

WILL TRUSTS VS LIFETIME TRUSTS — AN IMPORTANT DISTINCTION

The *deliberate deprivation of assets* rules that sometimes get raised in care-fee conversations apply to lifetime transfers — gifts and trusts you put in place while you are alive. They do not generally apply to a Will Trust, which takes effect on death by the exercise of testamentary freedom that the law itself protects. If you have heard worrying things about "putting the house into trust" — that is usually about lifetime trusts, which are a different conversation.

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CHAPTER FIVE

What else this can protect.

Care fees are *one* consideration. Most clients we sit down with come to us with two or three of the following running in parallel — which is exactly what makes a Flexible Life Interest Will Trust an efficient single answer. A short tour of the other reasons families set them up:

BLENDED FAMILIES

You want your spouse cared for, but you also want certainty that your share of the estate ultimately reaches your children — not your spouse's new family or anyone else's children if circumstances later change.

REMARRIAGE

A new marriage automatically revokes an existing Will under the law of England & Wales. Without a trust, your share could pass to a new spouse rather than the people you chose. The trust holds your share for your nominated beneficiaries from day one.

IF YOUR SPOUSE FACES FINANCIAL TROUBLE

Bankruptcy, creditors, a court judgment, or a business that turned out badly. Because the trust assets do not belong to your surviving spouse personally — the trust holds them — they cannot generally be taken to satisfy claims against your spouse.

FAMILY DISPUTES & RELATIONSHIPS THAT FRAY

Where relationships between a surviving spouse and stepchildren are fragile, the trust locks in your testamentary decision so it cannot be quietly rewritten years later by a new Will, a remarriage, or a fallout.

ONE STRUCTURE — PROPERTY, SAVINGS, AND IHT

A Flexible Life Interest Will Trust isn't only for the family home — chosen savings and investments can sit inside the same trust. The same paragraphs in your Will can also help both spouses' nil-rate bands and residence nil-rate bands be used efficiently across two estates. The specific maths depends on your circumstances; we walk through it in the discovery call.

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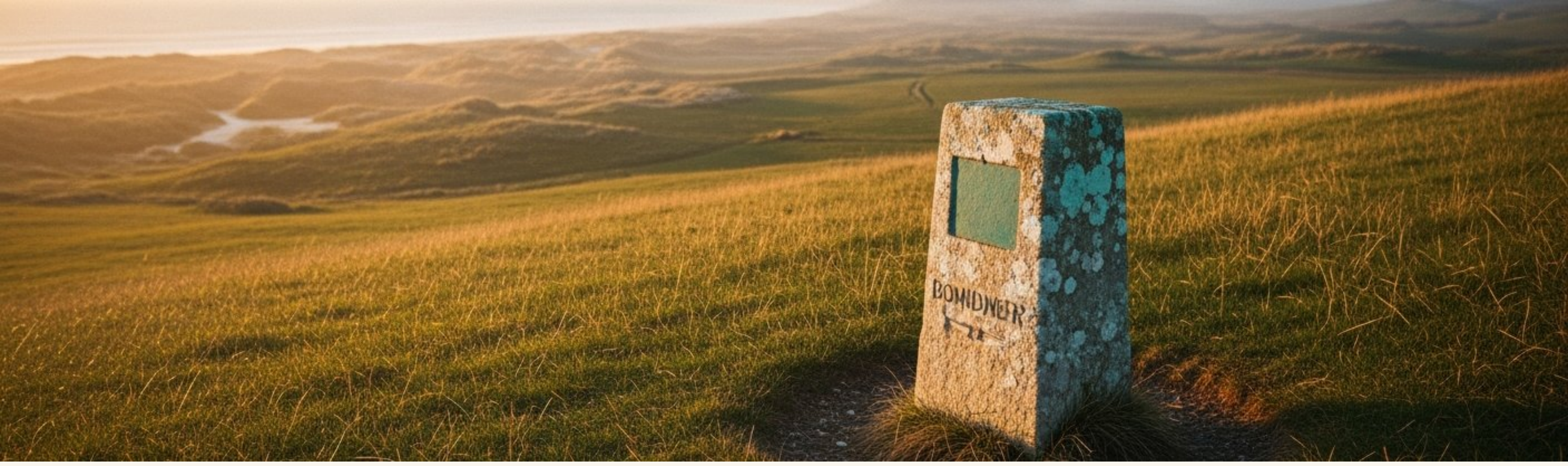
CHAPTER SIX

Flexible Life Interest vs Discretionary Will Trust.

These two Will Trust structures are often confused. They are not the same thing and they answer different questions. The table below sets the contrast out plainly. A solicitor doing this work well should be happy to walk you through which suits your family, and why.

What it does	Flexible Life Interest Trust	Discretionary Will Trust
Who benefits	One named life tenant (usually the surviving spouse), with a wider class who can benefit via the trustees' discretionary power.	Trustees choose, from a class of potential beneficiaries.
Certainty for the life tenant	Right to live in the home and receive any income; never displaced.	No fixed right — trustees can refuse a distribution.
Flexibility for the trustees	The flexible power lets trustees advance capital where the Will permits.	High. Trustees can respond to changing circumstances.
IHT entry charge	None when set up via a Will.	None when funded from the nil-rate band; possible above that.
Where the surviving spouse lives	Held for them for life by design.	No guaranteed right — trustees decide.
Best suited to	Couples wanting to provide for a spouse *and* protect their share of the estate for chosen beneficiaries.	Multiple potential beneficiaries with changing needs over time, or no surviving spouse.



CHAPTER SEVEN

Where a Will Trust won't help.

A trust is a tool, not a guarantee. Outcomes for any individual depend on their specific circumstances, what is in their Will, how their assets are owned, and decisions taken by the law, the local authority and HMRC after they die. We are direct about where this structure cannot help — because finding out later is the worst kind of expensive lesson.

Where lifetime planning is what you actually need

A Will Trust is testamentary — it takes effect on death. Where your situation calls for lifetime gifting, lifetime trusts or business reliefs, those are a different conversation, and we'll point that out honestly.

If you are single, divorced or widowed

A Life Interest Trust depends on a surviving life tenant — usually a spouse or civil partner. For people without a partner, a Discretionary Will Trust or carefully drafted Will is almost always more appropriate.

Where the spouse needs full autonomy over the home

Trustees hold legal title. The spouse cannot unilaterally sell and keep the proceeds. For many couples that is precisely the point; for others it is friction not worth introducing — a conversation worth having before the Will is drafted.

As a substitute for advice on your situation

Nothing in this guide is legal advice. The right structure depends on your family, your assets and your wishes — we recommend speaking to a regulated solicitor before instructing any Will Trust.

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CHAPTER EIGHT

What it costs at Safe Harbour Legal.

Safe Harbour Legal draws up Wills containing a Flexible Life Interest Will Trust on a fixed fee. Every quote is given in writing before any work starts. There are no hourly clocks and no surprises.

The exact fee depends on the complexity of your estate — whether you have one home or several, whether the trust holds investments and savings as well as property, the number of trustees, and whether the family structure introduces any unusual provisions — but it is always quoted and agreed in advance.

The fee covers the initial consultation, drafting tailored to your family, signing, witnessing and secure storage of the original Will, and a year of free Will updates so small changes of circumstance in the first twelve months can be reflected without additional cost.

Discovery call	Draft tailored to your family	Review meeting	Signing, witnessing, storage
1	2	3	4
30 mins, free	*Within 7 working days*	*In person or video*	*Same week*

You leave the first call with an honest read on whether a Will Trust suits your circumstances, and a written quote for the work if you decide to proceed.

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CHAPTER NINE

Five questions to ask any solicitor.

If you take nothing else from this guide, take this short checklist. Ask any solicitor — us included — these five questions before you instruct them. A confident, specific answer to each is the simplest test of whether the person across the table has done this work many times before.

01 How long have you been drafting Flexible Life Interest Will Trusts specifically? Can you tell me about the last few you've done?

You are looking for a specific, recent answer — not "we cover trusts generally."

02 Will my Will remain amendable if my circumstances change before I die?

Testamentary freedom matters. Your Will should not lock you in to a structure that no longer fits your family.

03 Who will my trustees be, and what happens if they predecease me or refuse to act?

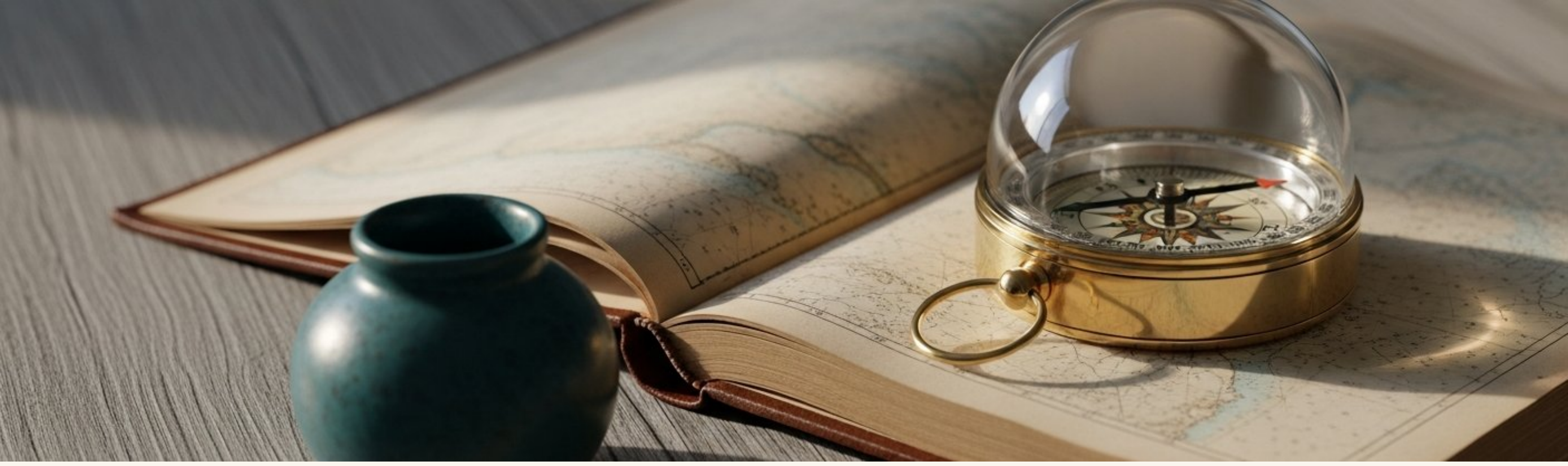
Trustees can decline. The Will should set out the chain of succession explicitly — not leave it for the family to work out under pressure.

04 How do I make sure my surviving spouse can actually move house or downsize if they need to?

The trust should permit sale and reinvestment for the spouse's benefit. If the answer involves a court application, that is the wrong drafting.

05 What is your fixed fee for this work, and what exactly does it cover?

Look for a single, written number that covers consultation, drafting, signing, witnessing and storage. Quotes that hedge on hourly rates often run higher than the headline suggests.



CHAPTER TEN

What happens next.

If by this point you suspect a Flexible Life Interest Will Trust — or another Will Trust structure — would suit your family, the next step is a thirty-minute discovery call. It is free. There is no follow-up unless you ask. The aim is to walk through your specific circumstances and give you an honest read on whether a Will Trust is the right tool — and if it isn't, to tell you which one is.

Bring three things to the call:

- A rough sense of the value of your home and savings, and how they are held — *(joint tenants? tenants in common? sole name?)*
- Whether you have children from previous relationships or other family complexity — *and whether your current Will reflects that.*
- Any concerns about a beneficiary's circumstances or future care needs — *(bankruptcy, divorce, vulnerability, care planning) that you'd like to plan around.*

BOOK A FREE DISCOVERY CALL

safeharbour.legal/contact · 01262 310 850

aaron@safeharbour.legal · 30 minutes · no follow-up unless you ask

A safer harbour for what matters most.

Wills · Probate · LPAs · Trusts

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