



**DEEP DIVE**  
ESTATE PLANNING



**PRACTICAL PLANNING  
WITH TRUSTS**

Deep Dive Estate Planning is here to help our clients combine trusts and trust funds with other legal deeds and financial strategies to protect and preserve the wealth of our client families over generations.

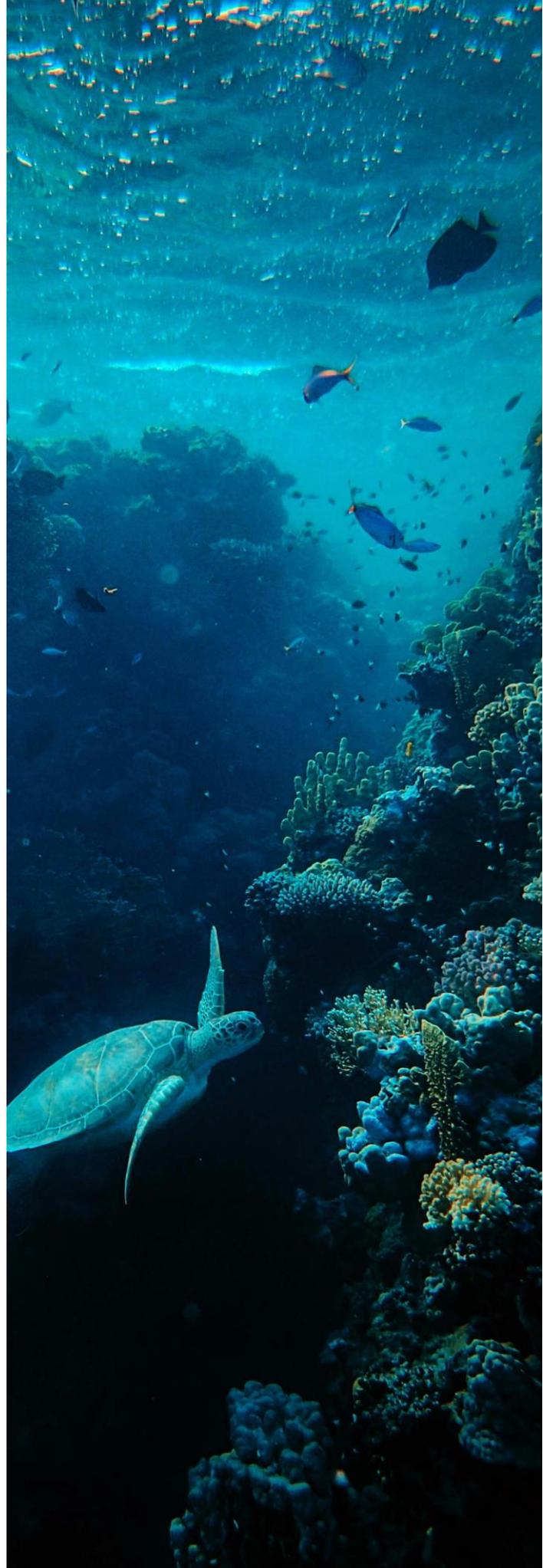
You might have heard the term “trust fund” used on TV and other media, and many people associate it with the sort of fabulous wealth illustrated in families such as those in Dallas, Succession or Downton Abbey.

It’s true to say that the use of trusts has been a strategy of wealthy families in Britain since the crusades and that over the centuries these legal structures have allowed the wealth of the privileged to pass to their descendants today.

However, times change, and these days you don’t have to be super rich to be worried about the damage that Inheritance Tax (IHT) and other threats could do to the wealth that you wish to be used to maintain and improve the wellbeing of your family.

At Deep Dive Estate Planning, we’re on a mission to make advanced trust planning accessible, affordable and practical to modern families who are concerned about protecting their money for their loved ones for generations to come. We aim to simplify a complex subject to give you peace of mind that your family wealth is secure for your loved ones.

In this guide, we’ll start by exploring some of the issues that might affect our client families, and then we’ll illustrate how the efficient use of trusts might help. If you wish to take expert advice for your own family, please visit [www.deep-dive-trusts.co.uk](http://www.deep-dive-trusts.co.uk) where you can find out more and request a free 20-minute call with an adviser to discuss how we can help.

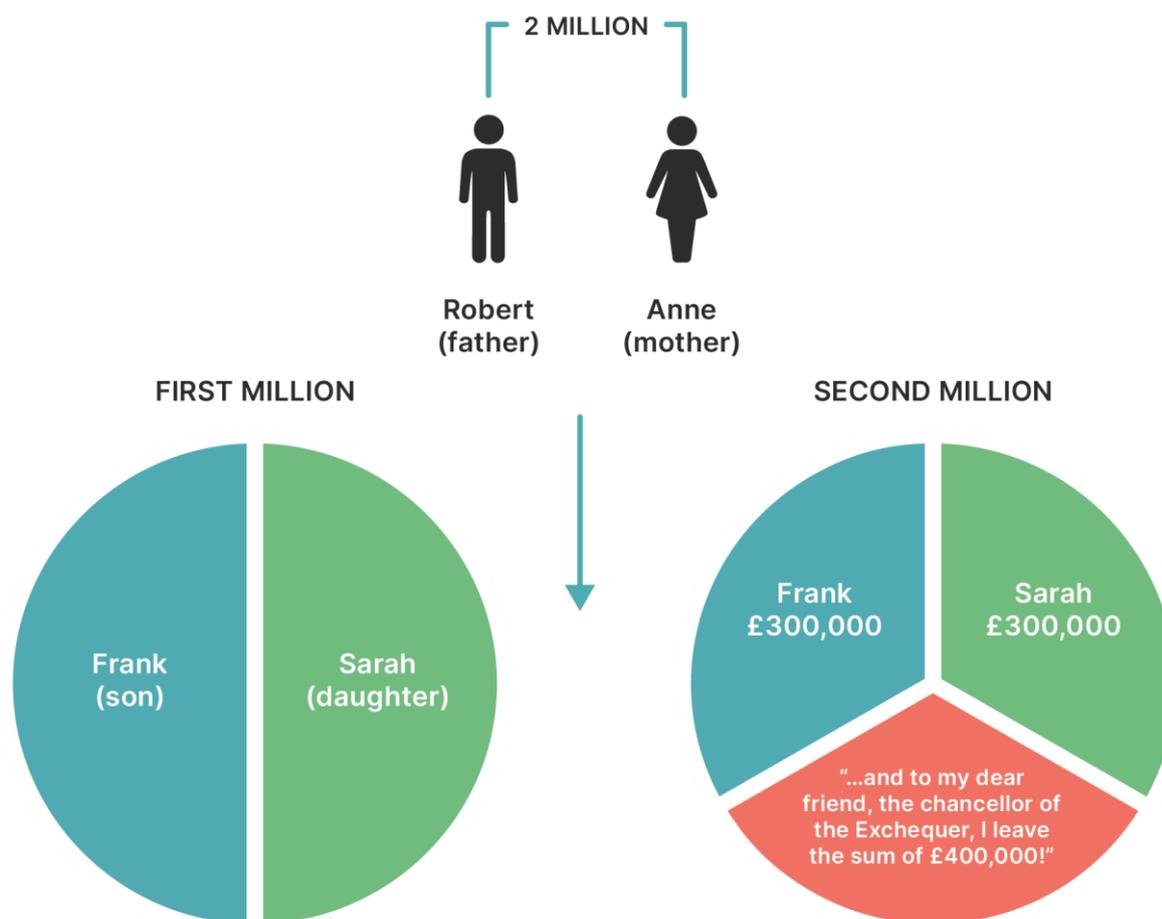


# THE THREATS TO FAMILY WEALTH

## Inheritance Tax (IHT) and Generational Inheritance Tax (GIHT)

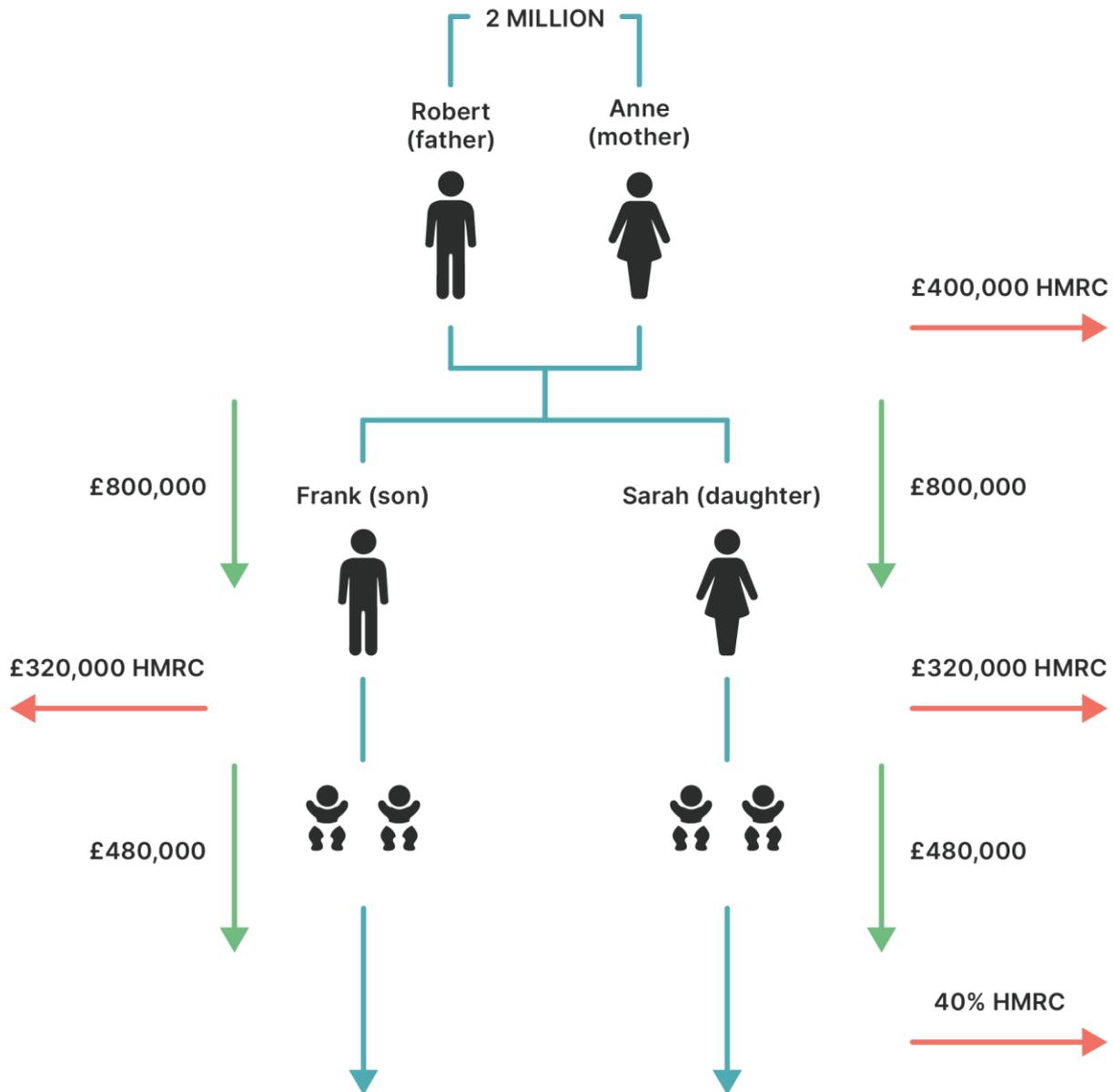
Let's look at an example family. We'll take Robert and Anne, a married couple with two children, Frank and Sarah. They are not wildly wealthy but having benefitted from long-term appreciation in the value of their home and some sensible investment planning, they have a taxable estate of £2m. They ask their adviser how Inheritance Tax might affect the family and he shows them the following calculations:

Diagram 1: A £2 million estate



The problem worsens as the family grows. Let's say Robert and Anne's son Frank receives his £800,000 share of inheritance and already has a house worth £500,000. This leaves him with a £320,000 tax liability on money passing to his children, the grandchildren of Robert and Anne. If their daughter, Sarah, is in a similar position, the same thing could happen twice.

Diagram 2: Generational IHT



As you can see, the threats of Inheritance tax (IHT) and Generational IHT (GIHT) can cause a substantial reduction in family wealth as money passes between generations.

As sad as it is that the death tax (which was brought in to affect only the very wealthiest estates) now affects so many more of us, the good news is that we now can use the long-established strategies of the wealthy while making them accessible, affordable and practical for today's world.

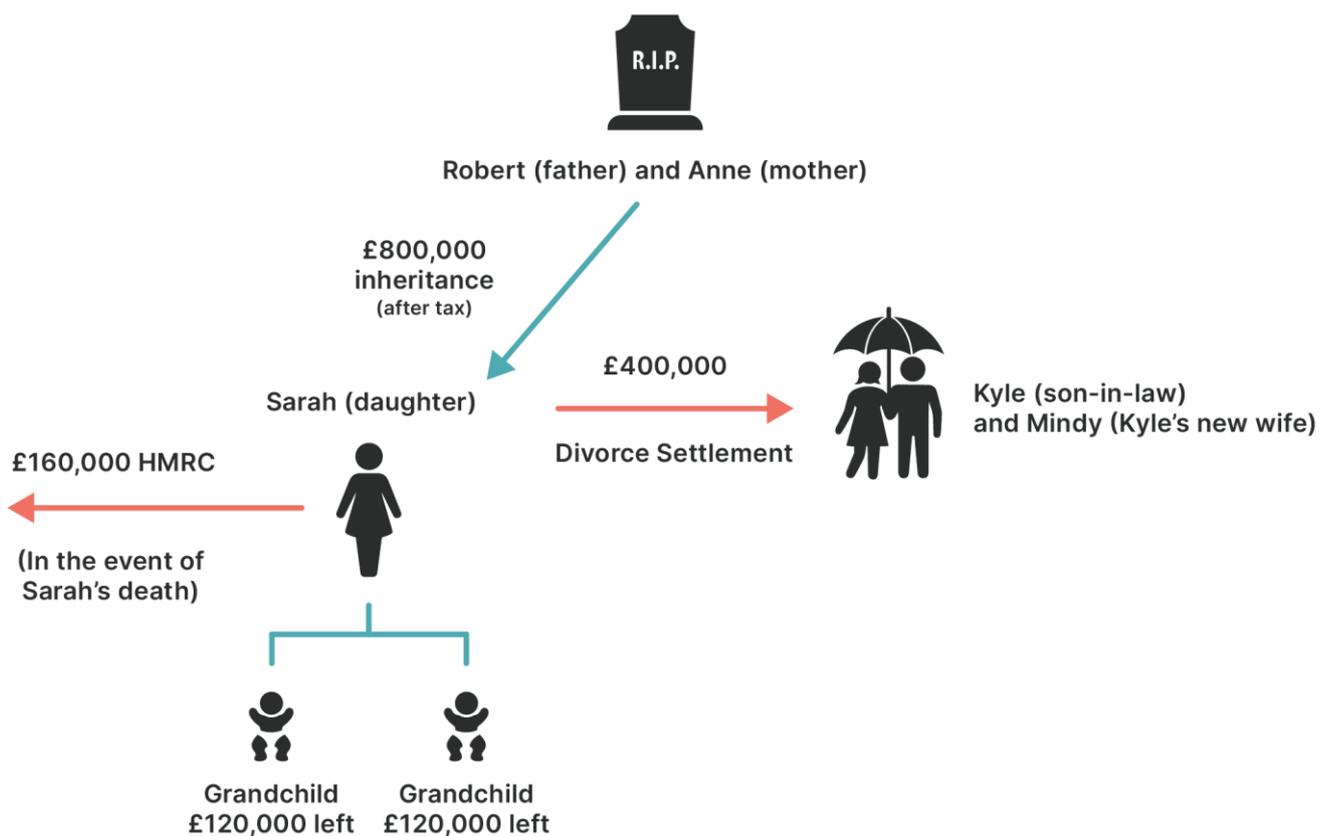
## Divorce

It isn't just Inheritance Tax that can threaten the wealth of a family. Almost all of us will know someone unfortunate enough to experience the emotional and financial pain of a divorce. The statistics show that the probability of a divorce increases sharply in the years following a windfall such as an inheritance.

In such circumstances, one wonders how the late parents who left the inheritance would have felt if they had lived to learn that half of the money they left to their children might have been lost to their bloodline in a divorce settlement. Money received during the time of marriage typically counts as "marital property" for a financial settlement on divorce, and while there is no concrete rule about how financial settlements are determined, a 50/50 split is a typical outcome.

Fortunately for our families, the same trust frameworks we use to protect wealth from IHT and GIHT may also be used to offer protection from divorce. We'll explore those together soon.

**Diagram 3: Divorce**



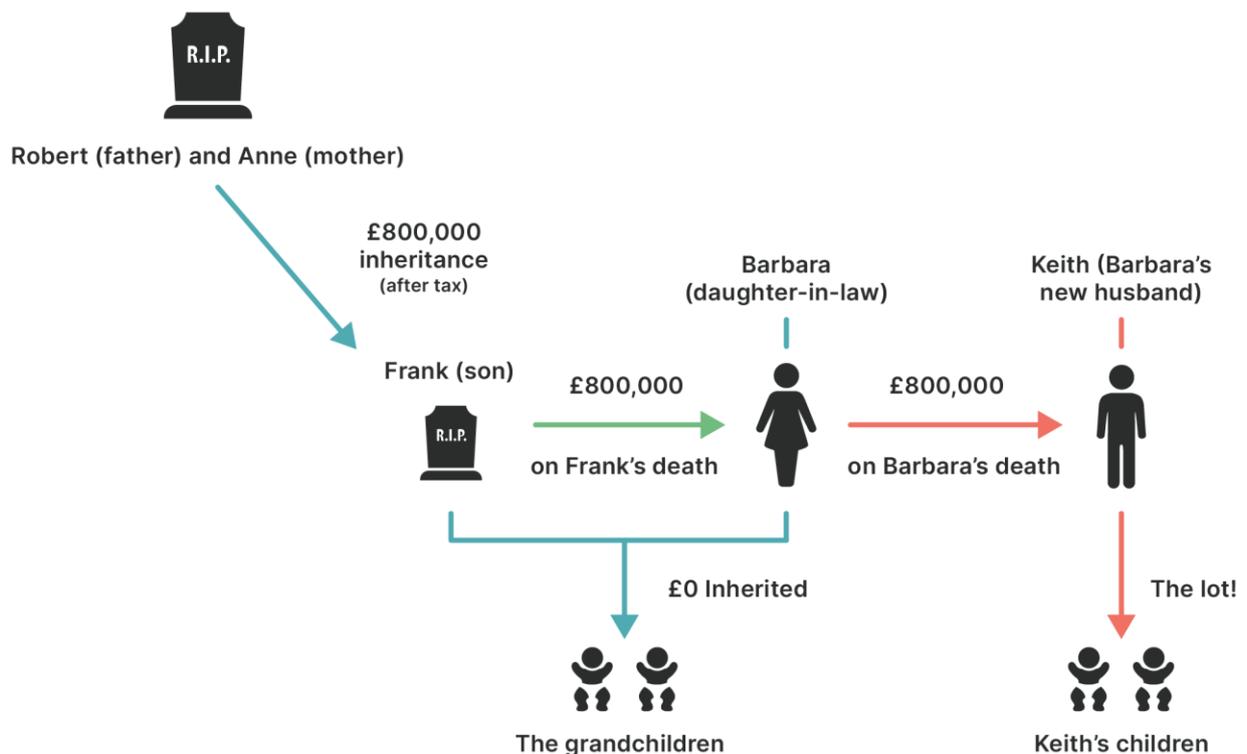
## Until death do us part

It's another sad fact that marriages that don't end in divorce will instead end in the death of a spouse. One would assume that the intention for most families is for the wealth to pass from parents to children, then from children to grandchildren, but there are situations which may cause our family to lose 100% of the family wealth if the wrong circumstances transpire.

Let's take our example family again. Robert and Anne die, leaving £800,000 after tax to each of their children. Their son, Frank, remains married to his wife (and mother of his children) Barbara, until his death. Some time later, she finds love again and marries her new flame, Keith, who has two children of his own from a previous relationship. Shortly after marrying, Keith and Barbara write new wills stating that whoever dies first receives the estate of the other and they agree on a sensible distribution of the residual estate on their second death.

However, after Barbara dies, Keith's children are delighted to hear that he has now rewritten his will, leaving all his money – including all of Barbara's and therefore everything left to Frank by his parents – to his own natural children. After Barbara's death, there was no legal obligation on him to maintain the agreed split from the wills they wrote together. In this way, the poor grandchildren of our Robert and Anne, the natural children of Frank and Barbara, could lose the whole of their inheritances.

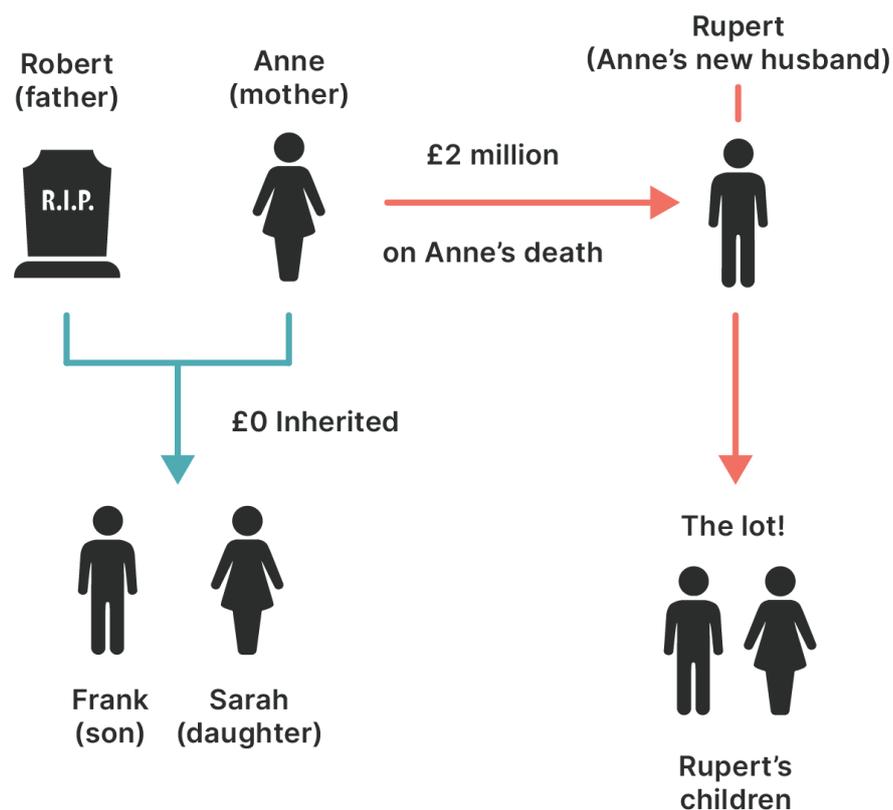
Diagram 4: Remarriage example A



The same threat might also apply if Robert or Anne were to remarry after their first death. As a married couple, we might look at them as each owning half of their combined wealth.

If Robert dies first, his half passes to Anne, and when she then remarries her new partner Rupert and dies before him, the whole joint estate might go to his children when he rewrites his will to cut out Frank and Sarah.

**Diagram 5: Remarriage example B**



Fortunately for our families, the same trust frameworks we use to protect wealth from IHT and GIHT and to offer protection from divorce can also allow the money we intend for our children to be ringfenced for our grandchildren in the event of the remarriage of our sons- and daughters-in-law, or of our widows and widowers.

## SOLUTIONS: WILLS AND TRUSTS

The previous examples assumed that the wills of the family members were “normal” ones. In most cases where we meet a married couple who have not yet undertaken trust planning, the wills say something like “I wish to leave my estate to my spouse on the first death, or if I die second the estate should be shared between our children.”

We will use some legal terms from here, please refer to the glossary at the end of this document for definitions.

A will is a legal document which gives instructions to distribute the estate and sometimes gives other instructions to be carried out on death. **At the point of death, a will is executed and then ceases to hold any power. As a result, a beneficiary will usually receive the assets into their own estate, at which time they become vulnerable to all the threats we looked at earlier in this guide.**

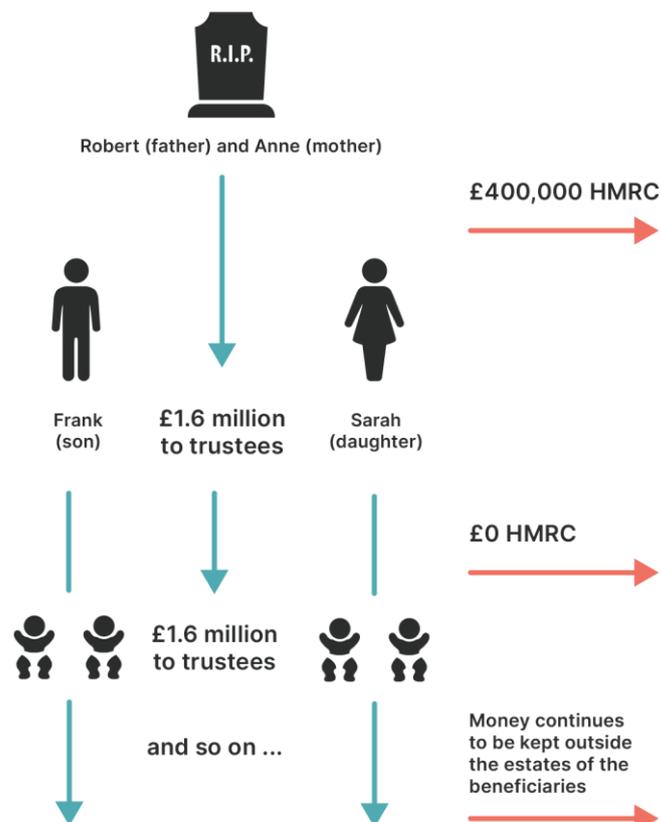
We therefore tend to look at another legal instrument, a trust, which may continue to be useful after our death and for up to the legal maximum of 125 years. When we create a Trust, we give ongoing instructions that indicate how we wish for decisions relating to our wealth to be taken by the trustees.

### Using discretionary trusts to receive money on death

In this example, we'll look at a plan where Robert and Anne both wish to ensure that the inheritances of their children and grandchildren are protected from the threats described in part A. They decide that, when the second one of them dies, they want the family wealth to pass into a discretionary trust for future generations. They each write a will, and together they write a Trust Deed, along with a letter of wishes giving guidance to the trustees on how they wish the trustees to make decisions after they have died. They structure the plan so the estate passes into a discretionary trust on the second death. The money does not pass into the trust until they have died, so this plan does not stop their estate from paying Inheritance Tax on their second death (other plans are available for this purpose). It has some powerful protective characteristics.

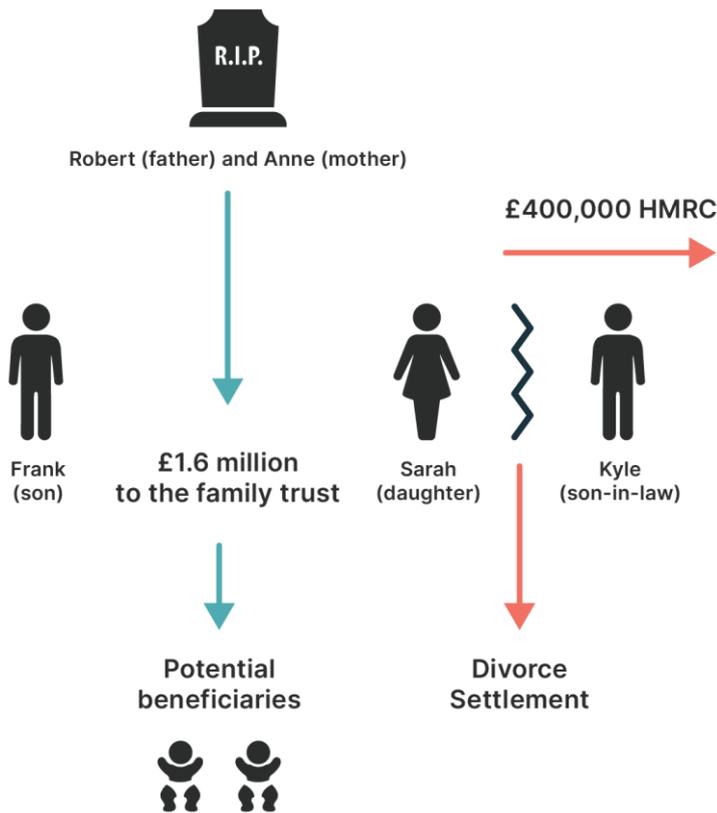
In the example here, mitigating generational IHT means Frank and Sarah pay nothing when their wealth passes to the grandchildren, saving up to £640,000.

Diagram 6: Mitigating Generational IHT



In the example below, Sarah gets divorced after her parents die, but the money in trust is not yet hers. She is merely a “potential beneficiary” rather than a certain legal owner. Sarah and her husband negotiate the divorce settlement, and the wealth in the family trust is not automatically marital property.

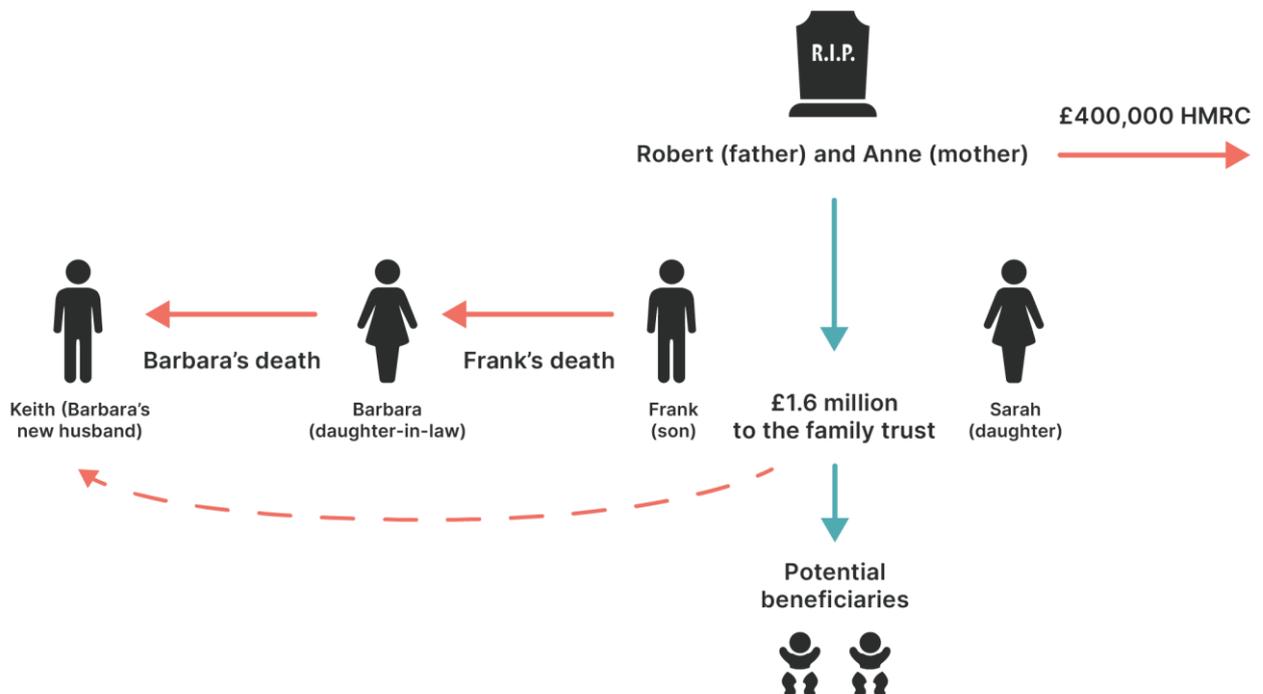
Diagram 7: Potential beneficiaries





In the example below, Robert and Anne have left their wealth to a discretionary trust. Frank dies some time later with a “normal” will leaving everything to Barbara. She remarries and then dies leaving everything to her second husband, including everything Frank left her. However, the wealth within the discretionary trust left by Robert and Anne is protected for the family.

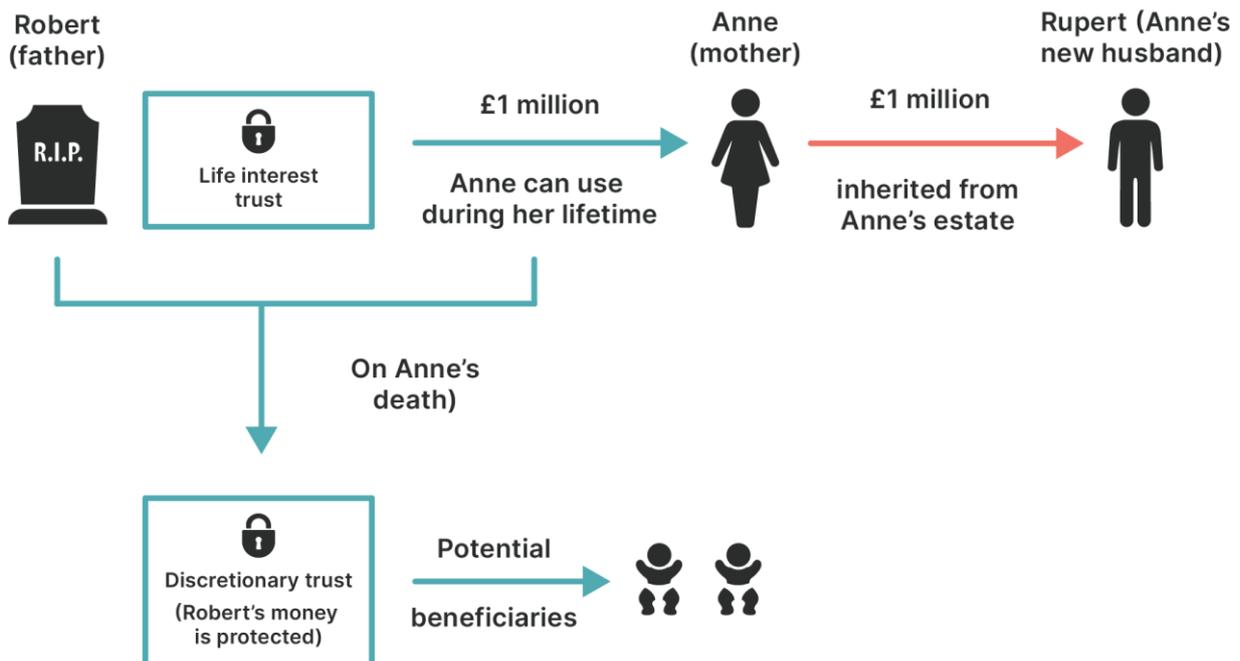
### Diagram 8: Discretionary trusts



## Further planning for protecting assets on the first death

We now introduce a new type of trust to the plan. We create a life interest trust which states that on Robert's death, his wealth goes into a life interest trust to be used to provide for Anne, for the rest of her life. It also states that the remainder on her second death must then pass into the discretionary trust for their children and further issue. We create a similar life interest trust for Robert, to contain Anne's wealth if she dies first.

Diagram 9: Life interest trusts



In the above example, Robert dies first, leaving his £1m to a life interest trust for Anne. She remarries and predeceases Rupert who inherits her estate, but the £1m Robert left to the life interest trust is protected for Frank and Sarah.

## Lifetime gifts into trust

Let's now turn our attention to Robert and Anne's desire to reduce the tax liability on their own estate. They are aware that the second million in their estate is only going to be worth £600,000 to their children after £400,000 of IHT is paid (see pie chart on page 3). They decide to place £500,000 of their assets into a discretionary trust, to reduce the size of their estate which in turn reduces their IHT liability.

In this scenario, we have the following parties:

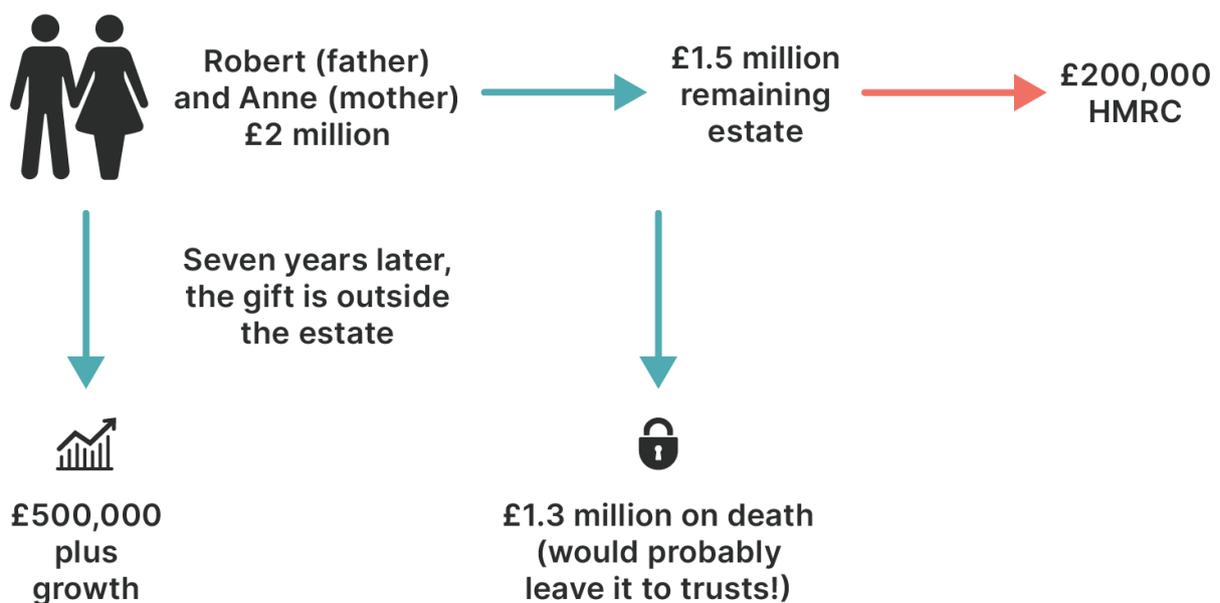
**Donors:** Robert and Anne

**Trustees:** Robert, Anne, Frank, Sarah. For lifetime planning, Robert and Anne may continue to be involved in decision-making after the assets have been transferred to the trust.

**Classes of beneficiary:** Robert and Anne's children and further issue. After giving money to the trust, the donors may not use the trust property for their own benefit.

This type of planning is a common way for people to reduce the IHT liability on their estate. If a transfer into trust occurs more than seven years before the death of the donor, it is not counted as part of their estate. If they both survive for seven years after this transfer, the IHT on their entire estate will have fallen from £400,000 to £200,000. Whether they live for seven years or not, they have protected the trust property from generational IHT, as well as social impacts such as divorce or remarriage. Any growth in value of the assets in trust is outside their estate from day 1.

Diagram 10: Lifetime gifts into trust



In addition to the tax benefits, many people find the arguments in favour of lifetime gifting to be compelling. In the UK, we can typically expect to live until around 90, and if we assume approximately 30 years are separating the generations one would expect to receive their inheritance while in retirement.

If the recipient is already financially secure at this point, the impact that the money can have on their life is often limited, and in many cases, they simply add it to their portfolio. Thirty years later, when they die and pass the money to their children, the process is repeated. While the taxman benefits from repeated windfalls of inheritance tax, the wealth has not made a difference to the family that it might have done earlier in their lives.

By making gifts during their lifetime, our donors can influence the trajectory of the financial success of their family members, as well as provide guidance on how they wish the money to be used. They have the satisfaction of seeing the impact on the wellbeing of their loved ones, improving their quality of living, or their education, or for the purpose they feel is most appropriate. They need to be comfortable that the money placed in the trust would not be needed for their own benefit. One way to do this is to consult a Chartered Financial Planner for a cashflow modelling session.

The statistics show that the younger generations today have an increasingly challenging task to become financially successful. If we take property ownership as an example of a very common financial goal, we see that younger generations will have a tough time without the involvement of the Bank of Mum and Dad.

The average 70-year-old is 74% better off than they were 40 years ago, while the average person under 40 is 24% worse off. Meanwhile, house prices are up 12x in 40 years, but earnings are up only 6x.





## SUMMARY

We hope you have found this guide to be a useful introduction to the use of discretionary trusts to protect your family wealth as it passes to future generations:

- Protection from IHT
- Protection from generational IHT
- Protection from the divorce of a beneficiary
- Protection from the remarriage of a family member
- Protection for beneficiaries with impaired decision-making

This guide is intended to give a useful introduction to planning strategies involving discretionary trust frameworks and is not intended as personal advice or as a comprehensive guide to the subject. If you choose to instruct Deep Dive Estate Planning to assist you with bespoke advice on the use of trusts for your own family, we will take care to ensure you are fully briefed on all relevant factors and costs as we take you through the planning process.

You can find out more by visiting [www.deep-dive-trusts.co.uk](http://www.deep-dive-trusts.co.uk) or by calling us on 020 3882 4569 for a free 20-minute initial briefing.



## FAQS

### What happens to the money once it goes into a discretionary trust?

That is up to the trustees. A properly drafted trust framework will be able to contain almost any legal asset. Trustees may choose to invest in assets such as:

- Cash on deposit
- Direct investments (e.g., shareholdings)
- Collective investments (e.g., funds)
- Onshore and offshore investment bonds
- Shareholdings in unquoted companies (e.g., shares in the family business)
- Investment properties in the UK without mortgages
- Loan agreements to beneficiaries (see next question)

Some financial products such as life insurance may be accompanied by off-the-shelf trust documentation for that plan at no additional cost. Clients who use a financial adviser to set these plans up should also be given a recommendation regarding the use of free provider trust deeds. Sadly, it is often the case that people using non-advised comparison sites for their life insurance purchases omit this important part of their planning.

### How can the beneficiaries use the money?

The trustees can withdraw from the trust to distribute money to beneficiaries. They may make an outright distribution, meaning the money belongs to the beneficiary thereafter.

In the case of large distributions, they may also decide to structure the payment as a lifetime loan, which is usually interest-free and repayable on the death of the beneficiary. From a practical perspective, the beneficiary has the unimpeded use of the money for the rest of their life. On their death, the debt is repaid from their estate, which means it is not counted in their IHT calculation. The existence of the loan agreement (owned by the trust) also provides protection from social impacts.

### What if their estate can't repay the loan on death?

If the value of the estate is less than the loan agreement, the executors would send the beneficiary's estate to the trust to repay the debt as much as possible, and the remainder of the debt would need to be written off.

## What work needs to be done after all the trusts are set up?

That depends on the type of trust. Many trusts take effect on death only, and until that time they require almost no maintenance. The only ongoing requirement is for the deeds to be stored safely and kept in good condition.

Some assets will require ongoing assistance from a professional. Some investments are regulated by the Financial Conduct Authority and for these, you should seek the assistance of a Chartered Financial Planner. Other investments, such as buy-to-let property, are unregulated but may involve the need for other professionals, such as an accountant or a solicitor.

If you book a Discovery Meeting with us at Deep Dive we will talk you through all your options and any associated requirements.



## GLOSSARY

**Beneficiary:** A person who receives the money or assets from the estate specified in the will.

**Donor:** The person placing money into trust. This can be done on death (which means they are also the testator as above; the will sends their estate into the trust) or someone may choose to give money to a trust during their lifetime.

**Discretionary trust:** The most commonly recommended type of trust, which gives the trustees the ability to use their discretion to decide the best course of action.

**Estate:** All the assets belonging to the testator at the point of their death. This includes their properties, investments, cash, and any other assets such as art, vehicles, jewellery, etc. There may be other assets held separately from the estate “in trust” such as pension death benefits or life insurance.

**Executor:** A person or people nominated by the testator to carry out their wishes on their death. An executor may also be a beneficiary.

**Life interest trust:** Typically used between spouses on the first death, a life interest trust provides for the trust property to be used to provide for the widow or widower for the rest of their life while directing for the remaining trust fund to go to specified beneficiaries on the second death.

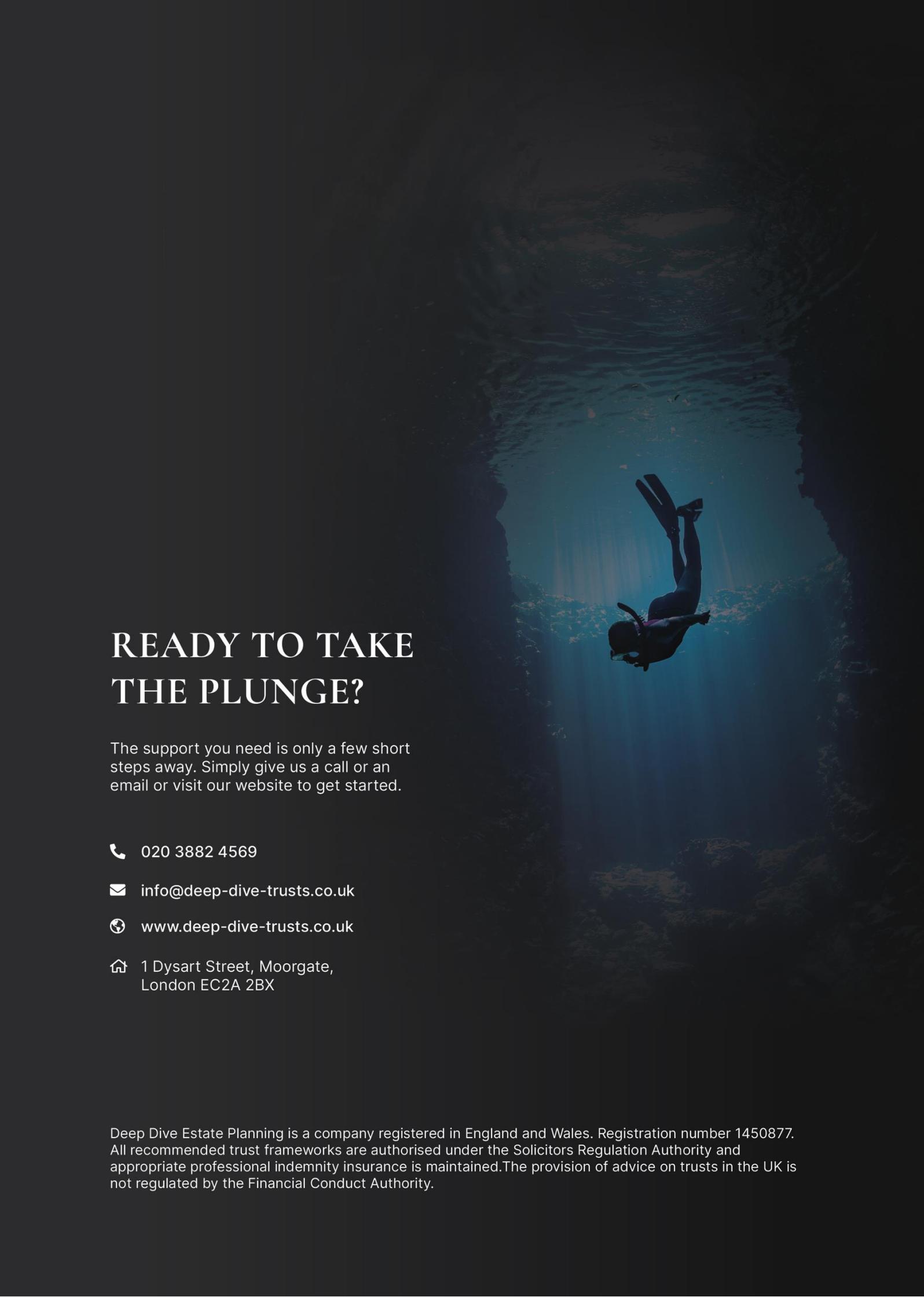
**Potential beneficiaries:** With a discretionary trust, it is common for the deed to describe “classes of beneficiary” rather than stating a specific beneficiary. This is useful because we know that family circumstances may change (births, marriages, divorces or deaths being inevitable over 125 years) so the trustees can use the trust property for the benefit of anyone in the class. For example, the deed might simply state that the beneficiaries are “my children and further issue.”

**Testator:** The person making the will. A will is always written by a single person; joint wills do not exist.

**Trustees:** The people nominated to look after the trust property. These people are responsible for carrying out the wishes described in the trust deed.

**Trust property/trust fund:** The property or assets held within the trust, looked after by the trustees for the benefit of the beneficiaries.

**Witnesses:** The two people who sign the original will to indicate that they were also physically present for the signing of the document. A witness may not be a beneficiary.



# READY TO TAKE THE PLUNGE?

The support you need is only a few short steps away. Simply give us a call or an email or visit our website to get started.

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