

# Knowledge Hub Q&A

## Trusts for Minors



**Does a Child Trust Fund protect a Minor/Protected Party from losing their benefits?**

The Minor's benefits are protected, and this continues should the Minor Trust be converted to a Personal Injury Trust at the age of majority.

**What have you found is the prospect of the Child Claimant's recovering the costs and FT fees from the Defendant for advising on investment preferences prior to the Settlement Approval hearing? If not recoverable, who bears the cost?**

The cost of an Expert Financial Approval report can be claimed as part of the claim and then any subsequent Trust set up fees will need to be paid from the Claimant's settlement. The cost of setting up the Trust is one of the considerations in the Expert report when assessing whether a Minor Trust is the most appropriate option to take.

**Can the terms of the Trust provide for the money to be held in Trust until the child is older e.g. to age 21 or 25?**

No the Minor Trust will allow the child to access the money at 18 if they have capacity, so we would recommend that the child is involved in any reviews of their funds/investments as a Teenager, so they are fully informed as to the benefits of continuing with the Trust beyond this point. If they wish they can also become a Trustee from the age of 18, but they still have support in making any financial decisions.

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**Can the damages of a child dependant in a fatal claim be taken out of court and placed in a private Trust or does it have to be damages due to the child's own injury?**

The damages can be held in Private Trust however they will not then have the option of converting the Trust to a Personal Injury Trust at 18.

**Has the attitude of the courts changed away from Trusts more towards Deputyships?**

This very much depends on a case-by-case basis, with the biggest factor being whether or not the Child will have capacity at age 18 and who the Judge is on the day!

**Are there any options for trusts/ other investment options that protect funds from impacting a client's benefits when the claim does not arise from an injury, but from another cause of action (i.e. discrimination/human rights claim?)**

We have recently assessed this for the Post Office Scandal cases and reached the conclusion that we cannot set up a Trust in these circumstances. Junior ISA's etc will protect the child from having access until age 18. We would always recommend an IFA assessing the options on a case-by-case basis as it may be that an investment could be an alternative solution so that any growth may go towards recouping lost means-tested benefits.

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### Can there be a trust with PPO?

Yes, and then the PPO payments will be transferred directly to the Trust Account each year, or on whatever basis the order states they are to be made.

### How easy is it to turn a Minor Trust into a PI Trust at 18- what sort of costs are involved and is further IFA advice required?

A new Trust Deed needs to be drafted confirming any change in Trustees. The process is fairly straightforward. As to cost this will vary from firm to firm, and if the Trustees are satisfied with their existing IFA, then all will continue as is.

### Which Counsel are other firms using to satisfy Craven?

This varies from firm to firm depending on who they have a good relationship with. If you need a recommendation, we are happy to help.

### Can't you just set it up as a Personal Injury Trust while the child is a minor and they can change trustees in due course?

It does need to be a Minor Trust that is approved by the Court rather than a standard Personal Injury Trust.

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So it might be possible to get PI trust for HRA claim article 8 affecting family private life resulting in psychological injury?

Unfortunately no, the damages would not be as a result of a personal injury claim but a breach of human rights.

Is this training session APIL accredited for CPD?

Yes, the session is accredited for 1 hour of APIL CPD. Please contact [contactus@frenkeltopping.co.uk](mailto:contactus@frenkeltopping.co.uk) to request your accreditation.

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