




Securing the future for your loved ones

A guide to estate planning
and discretionary trusts



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Securing the future



Our vision

Our vision is for everyone affected by epilepsy to have the best opportunity for a full life – as free from seizures as possible.

Your generosity empowers us to make a meaningful difference in the lives of those affected by epilepsy, regardless of their background or the severity of their condition. With your support, we can continue our mission to bring optimism and change through groundbreaking research, advocacy, and dedicated support services.

Discover the impact of your contributions at
www.epilepsysociety.org.uk.

Thank you for being a crucial part of our journey.

**epilepsy
society**

Are you a family member with a relative living with epilepsy?

If you have a family member with epilepsy, careful planning of your estate can protect their future when you are no longer around.

It might seem like a complicated process but we have set out here a few suggestions of things to discuss with a solicitor or other legal advisor to ensure your loved ones are looked after. Making a Will is one of the most important things you ever do for your family's future. A Will sets out your wishes for dealing with everything you own after your death. It can also be incredibly important to establish a "discretionary trust" for your family member.

If this is not done and they receive benefit from your Will, then it is possible they will lose some, or all, of their statutory benefits. If you decide a discretionary trust is a good idea, you can also draft lasting powers of attorney. There are two lasting powers of attorney – one for property and financial affairs and another for health and welfare decisions. Again, it is important to take professional advice to make sure they are phrased to suit the needs of your whole family.

Discretionary trusts

A discretionary trust is a legal arrangement which allows you to set aside assets, such as property and money, for the benefit of people you choose as 'beneficiaries'. The trust is controlled by trustees whom you appoint. The trustees have a legal responsibility to use the trust fund to benefit the chosen beneficiaries – which can be family members (or other individuals) or a charity.

Why discretionary trusts are important If you are caring for someone with epilepsy who can't lead a fully independent life, you might be worried about how they are cared for after you die. By setting up a discretionary trust, the money from this will be used to care for your family member as your appointed trustees will act in their best interests. The discretionary trust gives the trustees flexibility to handle the money for the benefit of your family member in the best way possible. Leaving money directly to your family member in the form of a gift in your Will can affect any benefits they are entitled to from the State. A discretionary trust ensures that even if your family member is means tested, their benefits should not be affected as they do not have a defined share in the trust and cannot be said to own any part of it.

Depending on the type of trust you use, there may also be tax implications after your death. You should discuss this with your solicitor. **Choosing your trustees** Trustees can be professionals, such as solicitors or accountants who will charge for their services, or they could be friends or family members. It is advisable to have more than one trustee, but not more than four as trustees will need to meet and agree on all decisions. **Making a discretionary trust** A discretionary trust is a legal arrangement and you should ask your solicitor to produce it for you. The rates charged by different solicitors for this type of service may vary. The Law Society has a list of all solicitors in the UK and the areas they specialise in.

Which type of trust is right for me?

Another form of trust is a life interest trust under which the family member will be entitled to all the income from the trust. The income they receive will be treated as their resources for the purposes of means tested benefits. However, these trusts can sometimes qualify for tax preferential treatment as 'Vulnerable Beneficiary' Trusts if certain conditions apply. Your solicitor or legal adviser will be able to explain all types of trusts and to guide you to make the right choice for your circumstances and for those of your loved one. [Can I have a sole beneficiary of a discretionary trust?](#)

You need to have a group of beneficiaries for a discretionary trust but if your family member qualifies for a disabled person's trust they can be the sole beneficiary.

For your discretionary trust, you could include other family members, such as nieces or nephews, or your favourite charities such as the Epilepsy Society. This will make sure you have a large enough group of potential beneficiaries. You can leave instructions in your letter of wishes to state, for example, that during the lifetime of your family member, the trustees put his or her needs first and benefit the other beneficiaries later. [Can I include Epilepsy Society as one of the discretionary beneficiaries?](#) Yes, and we are always grateful to be considered in this way. We would not normally expect to receive any benefit until after the death of the beneficiary. [What happens to the trust after the death of the beneficiary?](#) You get to decide what happens. You can, for example, direct that your trustees split any money left over equally between the other beneficiaries that are still alive. Or you can give any balance to charity – it is completely up to you.

Lasting powers of attorney

You may wish to encourage your family member to make a lasting power of attorney to enable them to appoint a person or persons to make decisions on their behalf if need be.

There are two types:

1 Health and welfare lasting power of attorney
You can use this lasting power of attorney to give an attorney the power to make decisions about things like:

- your daily routine, for example washing, dressing, eating
- medical care
- moving into a care home
- life-sustaining treatment

It can only be used when you're unable to make your own decisions

2 Property and financial affairs lasting power of attorney
Use this lasting power of attorney to give an attorney the power to make decisions about money and property for you, for example:

- managing a bank or building society account
- paying bills
- collecting benefits or a pension
- selling your home

Contacts and Information

EpilepsySociety cannot provide legal advice.
We always recommend you seek the guidance of a solicitor or other legal adviser when you are making your Will and considering financial planning for the future - to ensure your intentions can be fully carried out.

Law Society You can use the Law Society's 'Find a solicitor' service by going to

solicitors.lawsociety.org.uk

Epilepsy Society

You can contact us by emailing

legacies@epilepsysociety.org.uk

or calling **0300 102 0026**

For support and information
about epilepsy email

helpline@epilepsysociety.org.uk

or call our helpline on **0300 102 0024**
all numbers are free to call

Official charity information:

Epilepsy Society
Chalfont Centre
Chesham Lane
Chalfont St Peter
Buckinghamshire
SL9 0RJ

Registered Charity
number 206186

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