

# 'Equally to the kids' – is this as fair as it sounds?



*We see creating and looking after your wealth as a lifelong commitment. That's why we offer regular wealth advice and guidance throughout the different stages in your life. Together, we can build the financial wealth that lets you enjoy the truly important things in your life.*

Most people have standard wills in place that allow for their estates to be divided equally between their children. After all, what could be fairer than an equal split?

However, consider the following scenario. Parents Ted and Sandy die suddenly in a car accident. One of their three children, Michelle, was with them and suffered severe injuries leaving her in need of constant care. As Ted and Sandy had typical wills in place, everything was to be divided equally between their children.

Their executor, Roger, was left in an unenviable position. He knew that if Ted and Sandy had been alive, they would have provided Michelle with the financial support she needed – even if this meant disadvantaging their other children. However, like most wills, the will didn't give Roger this freedom.

Roger had a choice:

- Ignore the terms of the will and pass more funds to Michelle than the others. However, the other two children could sue him for breach of trust and, if they succeeded, he would have to make up any shortfall in their inheritance from his own funds.
- Encourage Michelle's guardian, Roger's sister, to challenge the will on Michelle's behalf and seek a larger share of the estate. This option would probably produce the 'fairest' result but would involve cost and delay.
- Follow the terms of the will and give Michelle an equal share.

None of these options are ideal.

## **A solution**

One solution is to leave the estate assets in a testamentary trust until the youngest reaches a nominated age. At that point, the funds are distributed as per the will.

## **What is wealth advice?**

Wealth advice is support and guidance on the best way to manage all your finances. Whether it's adjusting your debts to minimise repayments, saving for a home or a holiday, investing money, planning for your retirement, maximising pension entitlements or ensuring your family is protected if something happens to you, the right advice from the right people will help you achieve your goals faster and more effectively.

The downsides to this approach are that the eldest child will be older than the youngest when he/she receives the inheritance. Further, due to their own circumstances, the children may not want to receive their inheritance in their own name, preferring their share remain in trust.

### Another solution

Another solution is to establish a separate testamentary trust for each child plus an additional testamentary trust for the benefit of all the children.

In our case study, this approach would involve four trusts. Clients typically leave the assets equally to the trusts. As each child turns, say, 25, they can each take over their trust and decide themselves whether to wind it up or continue with it.

The fourth trust can be distributed at the trustee's discretion. In our case study, Michelle would have received the lot. However, if there were no significant differences in the children's needs, the assets would be distributed equally.

This option provides a balance between certainty and flexibility. It would only be appropriate if there are sufficient assets on the estate to warrant having multiple trusts.

### Flexibility

Given that life can be unpredictable, we need estate plans that allow for some flexibility to address potential imbalances. Your wealth adviser can help you tailor your estate plan to suit your circumstances.

*At Genesys, we want you to get the most out of life so you can take advantage of any opportunity and be prepared for any challenge – that's what wealth advice is all about.*

**Note:** Advice contained in this flyer is general in nature, and does not consider your particular situation or needs. Please do not act on this advice until its appropriateness has been determined by a qualified adviser.

For more information about estate planning or to arrange a no-cost, no-obligation first consultation, please contact:

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