

## KEY FEATURES AND BENEFITS 102

## Death Planning Solution for:

- ✓ MARRIED COUPLES/CIVIL PARTNERS
- ✓ ESTATE VALUED **MORE THAN 2 X NIL RATE BANDS (NRB)**

If you do not have a valid Will when you die, your assets will be distributed in accordance with the Intestacy Rules, laid down in the Administration of Estates Act 1925 and the Inheritance & Trustees' Powers Act 2014. The people that you would want to inherit your assets may not and your estate's tax position could also be affected.

## TYPICAL EXISTING PLANNING

## CLIENT 1

**Basic Mirror Will**

Leaves everything to spouse/partner on first death, then on to next line of beneficiaries on second death.



Savings and other assets

## CLIENT 2

**Basic Mirror Will**

Leaves everything to spouse/partner on first death, then on to next line of beneficiaries on second death.

## IF YOU DIE WITHOUT A VALID WILL, OR YOU HAVE A BASIC MIRROR WILL IN PLACE, YOUR ASSETS COULD BE EXPOSED TO THE BELOW RISKS AFTER FIRST DEATH:

## ! Marriage After Death (MAD)

Following first death all of your combined assets are then solely owned by your surviving spouse or partner. What if your surviving spouse or partner remarries? The entire combined estate could be lost to the new spouse, potentially disinheriting your children and grandchildren.

## ! Creditors or Bankruptcy

If your surviving spouse or partner were to be subject to creditor claims or bankruptcy, then the entire combined estate is fully at risk.

## ! Care Costs

Should your surviving spouse or partner need care, your entire combined estate including the family home could be assessed to pay for the cost of that care.

## FOLLOWING SECOND DEATH THERE ARE FURTHER RISKS TO YOUR ASSETS THAT YOU WANTED YOUR LOVED ONES TO BENEFIT FROM:

## ! Inheritance Tax (IHT)

Inheritance Tax would be payable on any amount in **excess of the couple's Nil Rate Bands (NRB)**.

## ! Divorce

If your children or other chosen beneficiaries are subject to divorce proceedings, part of what you intended them to receive is at risk from a divorce settlement.

## ! Creditors or Bankruptcy

If any of your children or other chosen beneficiaries are subject to creditor claims/bankruptcy, the inherited assets are fully at risk.

## ! Generational IHT

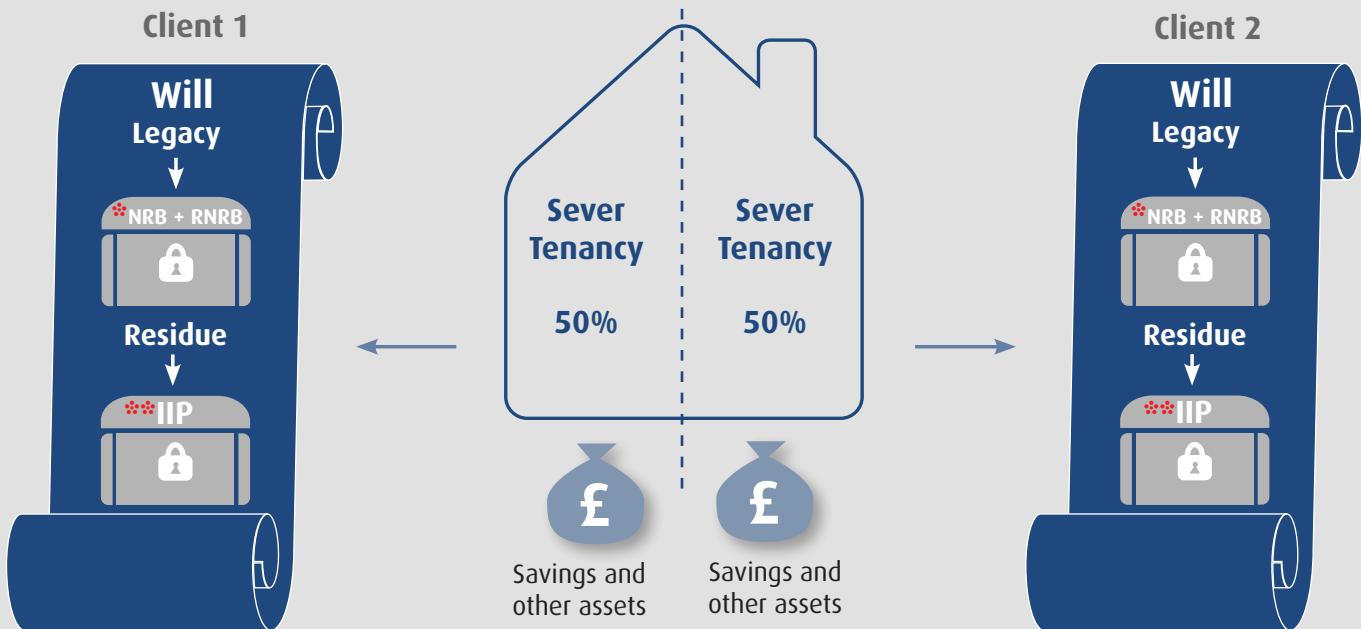
Following second death your remaining assets are likely to be directed by the Will (or via intestacy) to your children or other beneficiaries. This then adds on to the beneficiaries' estates and could impact on their own IHT. (See key Features and Benefits Sheet 6: Generational IHT)

## ! Their own future Care Costs

If the inheritance has been passed to your children or other chosen beneficiaries, these assets could later be assessed for their own care costs.

## OUR SOLUTION

### SEVER THE TENANCY ON THE FAMILY HOME TO BE HELD AS 'TENANTS IN COMMON'.



\* Nil Rate Band and Residence Nil Rate Band (NRB and RNRB).

\*\* Interest in Possession (IIP).

Following first death, the deceased's share of the family home and other assets are directed into their NRB/RNRB Discretionary Trust and Interest in Possession Trust (IIP) via their Will. The surviving spouse continues to live in the family home and is still able to move house if they choose to do so. In the event that the survivor enters care, the survivor's assets only include a half share of the family home. There is no Inheritance Tax (IHT) between married couples and civil partners. This is known as the spousal exemption. If you leave assets above the tax free estate to an IIP on death, there is also no IHT on 1st death, as it is also treated as a gift between spouses.

### YOUR BENEFICIARIES HAVE ACCESS TO THE FLEXIBLE FAMILY TRUST FUNDS BUT THE TRUSTEES CAN ENSURE THAT THESE ASSETS DO NOT ENTER THEIR OWN ESTATES AND THEREFORE ARE MORE PROTECTED FROM THE FOLLOWING:

#### **Divorce**

Assets entering the trust on death can ensure that if your children/chosen beneficiaries were subject to divorce proceedings, what you intend them to receive could be more protected from any divorce settlements.

#### **Creditors or Bankruptcy**

Similarly, if any of your beneficiaries are subject to creditor claims/bankruptcy then their inheritance could be protected from such claims.

#### **Residence Nil Rate Band (RNRB)**

The Trust ensures that if there are lineal descendants as beneficiaries, the RNRB can still be claimed. See further information on Key Features and Benefits Sheet 25.

#### **Marriage After Death (MAD)**

Placing half of the family home and other assets into a Trust on first death can ensure that should your surviving spouse/partner marry in the future, those assets have a much greater level of protection should they subsequently divorce and can remove the threat of your own children being disinherited. The survivor is still able to have use of the trust assets.

#### **Further or Generational IHT**

Holding the assets in the Trust can ensure that they do not add to the Beneficiaries' estates and impact on their own IHT.

#### **Care**

If assets are held in the Trust, they could also be protected against the beneficiaries' own care costs.

**In some cases it may be beneficial to use multiple trusts. Multiple trusts can increase flexibility and autonomy, as it enables each beneficiary to have and be 'in control' of their 'own Trust'. There are also various options open to trustees following death to try and reduce the impact of future tax charges in some cases. See also Key Features and Benefits Sheets 122 and 122a.**

This sheet contains only general guidance and is not to be construed as advice for any personal planning. Any planning should be based on bespoke advice tailored to your specific circumstances.

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