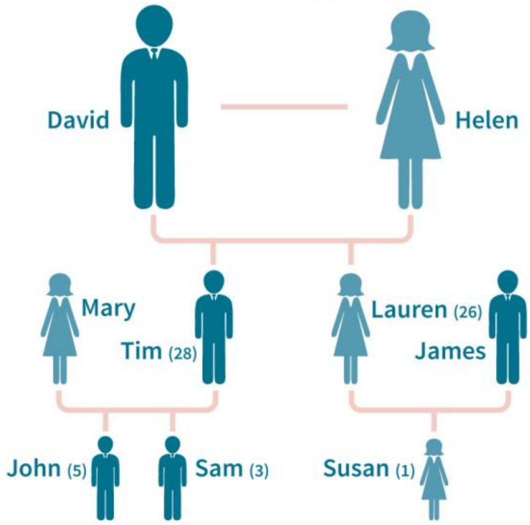
Blended and Grown Families
Information Guide

Case Study

David and Helen have two adult children, Tim (28) and Lauren (26). Tim is married to Mary and they have 2 young children John and Sam. Lauren and her partner James have a young daughter Susan. David and Helen's assets include the family home, an investment property, a small managed investment portfolio, and superannuation entitlements. They want to ensure that their estates pass to the survivor, and then down the line equally to Tim and Lauren (and their respective children).



Estate Planning Needs

David and Helen have worked hard to achieve their current financial position. Their family has grown and their children are beginning to start families of their own. David and Helen wish to ensure that their estate plan allows for their family to end up with control of their assets when they need it most.

Decisions to be made

- Who will manage their estate (Executors)? Typically in the first instance this will be the survivor. If both have died, then they appoint Tim and Lauren jointly.
- How their estates will be left: In the first instance, each leaves their estate to the survivor. On the survivor's death, half of the estate passes to a trust for Tim and his descendants, and half to a Trust for Lauren and her descendants.
- Who will benefit if none of the close family survives (spouse, children and grandchildren): they agree that their estates should be divided equally with a half share going to David's siblings and the other half going to Helen's siblings
- Who can manage their affairs whilst they are alive (Attorneys)? Typically in the first instance this will be the spouse. If the spouse cannot act, they appoint Tim and Lauren with either being able to act alone.

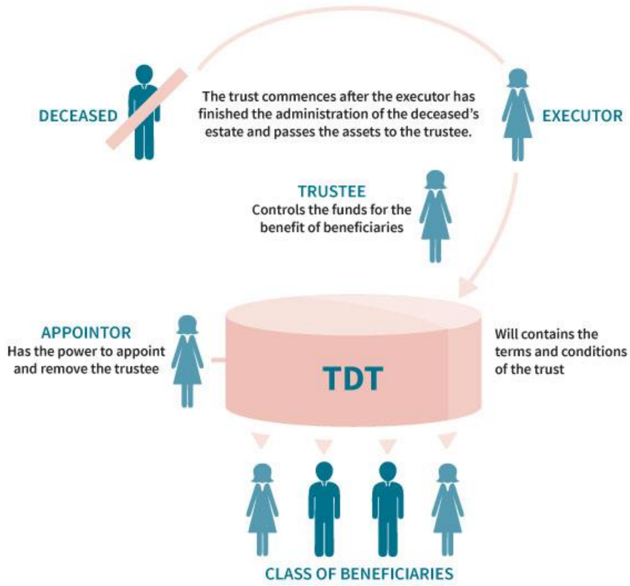
The Blended and Grown Family solution includes;

- a will per client with multiple testamentary discretionary trusts
- a set of documents per client to appoint attorneys for financial and personal/health matters
- letter of wishes
- detailed advice letter on all aspects of the documentation
- a virtual meeting with an estate planning lawyer to provide advice and explain the documentation
- storage of final documents

This information guide covers legal issues in a general way. It is not designed to express opinions on specific cases. It is intended for information purposes only and should not be regarded as legal advice. Further advice should be sought regarding your specific situation before taking any action.

What is a Testamentary Discretionary Trust (TDT)

A TDT is created by the Will. The Will contains all of the terms and conditions of the Trust. The TDT commences after the death of the Testator (the person who makes the Will) when the Executor completes the Estate of Administration and passes the Estate Assets to the nominated Trustee of the TDT.



Why use testamentary discretionary trusts for blended and grown families?

Asset Protection

Rather than all the deceased's assets being distributed by the executor upon death, some or all of the assets remain in multiple trusts, with each trust benefiting a specific group of beneficiaries.

The assets held in the trust are generally protected from the personal liabilities of a trust beneficiary. For example, if a beneficiary has a personal debt then assets of the trust cannot be accessed to pay that debt.

The inherited assets can be kept apart from the adult child's other assets which may be vulnerable to claims such as in bankruptcy.

The arrangement cannot provide a complete safeguard where a beneficiary is involved in Family Court proceedings, as the Family Court has extremely wide powers to make orders concerning assets (including trust assets).

Tax Planning

A TDT can provide tax savings because the trustee has discretion to distribute income to beneficiaries on lower tax rates, reducing the overall tax payable. Beneficiaries under 18 are taxed as if they were adults.

Opportunity to provide for beneficiaries with special needs

A beneficiary may not be capable of managing his or her inheritance because of special needs. For example, where a beneficiary has a disability, is a spendthrift or has a drug, gambling or other addiction.

The trustee can make distributions and manage the funds on the beneficiary's behalf.

Flexibility/Control

Over time the needs of the beneficiaries may change. The flexibility of the TDT allows the trustee to make distributions in a way that suits the circumstances prevailing at the time.

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