



Summer 2025

# Entitlement

**What is the difference between a Personal Injury Trust and a Disabled Person's Trust?**

***Plus:***

- **How to deal with missing beneficiaries in estate administration**
- **Pitfalls of overseas assets and how you can avoid them**
- **Intestacy cases: How genealogists identify the right beneficiaries**



# Entitlement

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# Welcome to the summer 2025 edition of Entitlement

Now that we're well on our way into the second half of the year, with temperatures rising and the good weather persisting, we're happy to welcome you to the summer edition of Entitlement, our industry magazine for Solicitors and legal practitioners.

In this quarter's edition, we're pleased to feature a lead article from guest author **Holly Miéville-Hawkins, Partner at Anthony Gold Solicitors**. Holly offers a clear and authoritative guide to navigating the world of Trusts for individuals living with a disability, or recovering from a serious injury. Drawing on detailed legislation and extensive professional experience, Holly explains the eligibility criteria, tax treatment, and practical considerations for both Disabled Person's Trusts and Personal Injury Trusts. She highlights how for such individuals, the financial arrangements made on their behalf can be as critical as any medical or therapeutic support they receive. With clarity and precision, Holly sheds light on a complex area of law, and reinforces how proper planning can make a profound difference to the lives of those most in need of protection.

Our second article is the first of two featured in this edition from a series by our very own **Simon Barber, Technical Manager at Title Research**, focusing on one of the more delicate (and potentially disruptive) challenges in estate administration; missing beneficiaries. He explains when and why beneficiaries go missing and outlines the effective genealogical techniques that can be employed to locate them swiftly and reliably. Simon also offers clear advice on what happens when beneficiaries remain untraceable. From obtaining Missing Beneficiary Indemnity Insurance, to understanding the legal frameworks that allow estates to be finalised safely, his recommendations are both practical and grounded in legal precedent.

Our third article shines a vital light on the intricacies of administering an estate containing overseas assets. In an increasingly globalised world, this has become the norm, rather than the exception. Yet, the complexities involved, ranging from foreign probate procedures and local tax obligations, to currency issues and communication barriers, pose real challenges for Executors, Solicitors, and Personal Representatives alike. Whether you're handling US stock, European property, or global bank accounts, this article equips you with essential guidance to navigate the process efficiently and confidently.

We conclude this edition with the second article from **Simon Barber's** series. In the intricate world of estate administration, few areas are as challenging (or as crucial) as identifying the rightful beneficiaries of an intestate estate. When no valid Will exists, tracing heirs can quickly become a complex task involving historical records, legal frameworks, and often, international connections. It is in this space that expert genealogical research becomes not just helpful, but indispensable. Simon offers an insider's perspective on how probate genealogists approach intestacy cases. With years of experience supporting legal professionals in estate administration, Simon brings both technical expertise and real-world insight to the topic.

As always, if you would like to contribute to a future edition of Entitlement, we'd be delighted to hear from you. We hope you enjoy reading!



**Anthony Allsopp,**  
**Head of Business**  
Title Research

# What is the difference between a Personal Injury Trust and a Disabled Person's Trust?

By **Holly Miéville-Hawkins**  
Partner, Anthony Gold Solicitors



**Holly Miéville-Hawkins,**  
**Partner**  
Anthony Gold Solicitors

Holly, a Partner in the Court of Protection team at Anthony Gold Solicitors, has nearly 15 years' experience in complex COP matters. Nationally recognised, she specialises in finance, property, and welfare issues for vulnerable individuals. A qualified STEP practitioner, speaker, and writer, she's committed to preventing financial abuse and advancing best practices through training, publications, and professional leadership roles.

When a person has disabilities or injuries, it is often the case that all or part of their funds are held in a form of Trust. However, there can be confusion about what form of Trust may be most suitable. This article explores the similarities and differences between the two main forms of Trust for disabled or injured beneficiaries.



## Trusts for disabled persons

The Inheritance Tax Act 1984 (IHTA 1984) established a special form of Trust, known as a Disabled Person's Trust, or s.89 Trust, by which disabled people can be provided for in a tax and means assessment efficient matter.

### Which beneficiaries qualify?

To qualify for a s.89 Trust, the primary beneficiary must be 'disabled', which is defined as the following (s.216 Finance Act 2013):

- A person by reason of mental disorder, within the meaning of the Mental Health Act 1983, is incapable of administering their own property or managing their own affairs, or;
- Is in receipt of or qualifies for Attendance Allowance (under S64 of the Social Security Contributions & Benefits Act 1992), or;
- Is in receipt of or qualifies for higher or middle rate Disability Living Allowance for Care, or;
- Is in receipt of or qualifies for Personal Independence Payments.



It is important to note that the person doesn't actually have to be in receipt of the benefit, ie. the person can be in hospital and not actually receiving the benefit, provided that they qualify for it. The key date for qualification is the date that funds were placed into the Trust. The beneficiary can cease to be a disabled person during the lifetime of the Trust and it will not affect the definition of the Trust for Inheritance Tax (IHT) and Capital Gains Tax (CGT) purposes. There do need to be potential other beneficiaries in addition to the disabled person, either during their lifetime if it is a Discretionary Trust, or after their death if it is an Interest in Possession (IIP) Trust, as explored below.

The Trustees tend to be the settlor, alongside 1-3 trusted friends or Advisers. It is possible for the disabled person to be a Trustee if they have sufficient mental capacity to take on this role.



## Which types of Trust can be created by whom?

There are two types of Trust that can be created by someone other than the disabled person:

1

### S.89B(1)(a)

Discretionary Trust settled by someone other than the disabled person

#### Conditions

- a.** There must be no IIP by the disabled person. However, for tax purposes, it is treated as if there is an IIP.
- b.** There can be other beneficiaries to the Trust other than the disabled person, but see 'c' below regarding risks associated with this.
- c.** A maximum of 3% of the fund, or 3%, whichever is lower, can be settled for the benefit of someone other than the disabled person.

2

### S.89B(1)(c)

An Interest In Possession Trust (IIP) to which a disabled person is beneficially entitled

#### Conditions

- a.** There is an actual IIP in favour of the disabled person.
- b.** There cannot be any lifetime beneficiaries other than the disabled person.



The tax treatment of such Trusts is very important, and is summarised below.



### Inheritance Tax

- Creation of the Trust is a Potentially Exempt Transfer (PETs) for the settlor.
- No entry or 10 year charges.
- The Trust property is taxed as if it were the disabled person's on their death.
- Distributions out of the Trust to the disabled person in person are not taxable to the Trust, as there is no transfer of value.
- For Discretionary Trusts, distributions to another beneficiary, or to another disabled person's Trust during the disabled person's lifetime are PETs.



### Income Tax

- Provided that the above rules are complied with, and a 'Vulnerable Person's Election' is made annually at HMRC using form VPE1, the Trust will be taxed at the disabled person's own personal rate of tax, with equivalent allowances, rather than the more punitive Trust rate of tax.

There are also Capital Gains Tax benefits to these types of Trust, which are beyond the scope of this article.

The regime also permits people who have or have a condition that could reasonably be expected to lead to their becoming disabled to settle for themselves either a Discretionary Trust (s.89B(1)(b)) or a Life Interest Trust (s.89B(1)(d)). In that case, the creation of the Trusts is a nil event from an IHT perspective, and the wider tax treatment is broadly similar to s.89 Trusts that are settled by third parties.



### Means assessment

The funds in a Discretionary Trust settled by someone other than the disabled person will be exempt for the purposes of means assessment, provided it is not distributed in a way that would impact the person's benefits. By way of contrast, the income from an IIP Trust settled by someone other than the disabled person will be taken into account for the purposes of means assessment as a matter of course, but the capital will not.

Any funds in a self settled Trust will be available for the purposes of means assessment.





## Personal Injury Trusts

Personal Injury Trusts operate under a different statutory regime to s.89 Trusts. A Personal Injury Trust (PIT) must be self settled, or settled with Court authority. There is no requirement for the settlor to be classified as disabled either on settling or at a later date. However, the funds must exist as a result of a personal injury. As a general rule, they are set up as bare Trusts, and this article proceeds on the basis that they are bare Trusts. It is possible to set up discretionary or IIP forms of PIT, but this could have adverse tax consequences unless the beneficiary is classified as a disabled person and can take advantage of the s.89 regime above, and specific advice is needed.

When a person is injured, there are many reasons that they may want to place their funds into a Trust; specifically they may not want to have the responsibility of managing large sums of money, and may want to protect the funds from people that may want to access it. However, the primary reason people tend to place funds into a PIT is that funds held this way are exempt for means assessment. However, it is important to note that as a PIT tends to be a bare Trust, if the settlor retains capacity to do so, they can bring the Trust to an end whenever they want to. The funds are also vulnerable in the event of bankruptcy, separation, or divorce. Additionally, it is essential that great care is taken to appoint Trustees that are able to act in line with their fiduciary duties, and consider the beneficiary's best interests when managing the funds and making decisions to appoint funds out. It is possible for one Trustee to be the settlor, but there should also be at least one Trustee that is not the settlor.



## Tax treatment

As the funds are held in a bare Trust, they are taxed as if they belong to the injured person. No additional paperwork is required. They also form part of the settlor's estate when they die, and follow their testamentary wishes.



## Means assessment

Following receipt of a payment as a result of personal injury, this payment will be ignored for the purposes of means assessment for 52 weeks (paragraph 12 of schedule 10 to the Income Support (General) Regulations 1987). After this period, the funds will only be ignored for the purposes of means assessed benefits if they are in a Trust, or held by a Deputy (paragraph 44 schedule 10 Income Support (General) Regulations 1987).

Therefore, provided funds are placed in a Personal Injury Trust within 52 weeks of the receipt of any funds deriving from the injury, they will be exempt for the purposes of means assessment. It is important that a Personal Injury Trust is set up as soon as possible after any funds are received as a result of the injury, to prevent any mixing of non Trust funds with personal injury funds.

Whilst the capital award will be exempt for the purposes of means assessment if the funds are placed in a Trust, income by way of periodical payment specifically earmarked for care may be able to be taken into account by the local authority.





## Summary table

	Disabled Person's Trust	Personal Injury Trust
<b>Who can benefit</b>	People defined as 'disabled'	The injured person
<b>Who is the settler</b>	A third party if not self settled, the disabled person if self settled.	The injured person
<b>Type of Trust</b>	Life Interest or Discretionary	Usually bare
<b>Tax during lifetime</b>	Treated as a PET on settlement and preferential lifetime taxation if form VPE1 is completed.	Establishing Trust is a nil event from a tax perspective, and funds are taxed as if it was the settlor's own personal funds.
<b>Means assessment</b>	Exempt if not self settled and in a Discretionary form. If a Life Interest, the income is available for means assessment.	Exempt provided all funds derive from personal injury and have not mixed with non-personal injury funds.
<b>Tax on death</b>	Taxed as if it were the disabled person's own funds	Taxed as if it were the disabled person's own funds
<b>What happens to assets on death of main beneficiary</b>	Trust continues as per the terms of the Trust	Assets revert to the settlor's estate



## Conclusion

The type of Trust that best meets the needs of a disabled or injured person very much depends on the situation at hand, and the type of assets within the Trust. However, with careful planning and attention to detail, both types of Trust can provide significant protection and reassurance for injured and disabled people, and their loved ones.



# How to deal with missing beneficiaries in estate administration

By **Simon Barber**

**Technical Manager, Title Research**



**Simon Barber,**  
**Technical Manager**  
Title Research

Anyone involved in the administration of estates will undoubtedly encounter a beneficiary who appears to be missing at some stage in their career. Fortunately, it is not a common occurrence for most practitioners. However, as professional genealogists for the legal sector, our expert team deals with these situations daily.



## Why do missing beneficiaries become an issue?

How does the problem arise in the first place? Most frequently, it's because the Will is fairly old, and the beneficiary in question no longer lives at the address the Testator gave for them. Sometimes, there's no address given for a beneficiary in the Will at all. Instead, merely their name and relationship to the deceased are listed. For example, "my nephew Joe Bloggs" or, "my god-daughter Jane Doe".

However it occurs, the Executor has a legal obligation to follow the terms of the Will and ensure that each beneficiary receives the share of the estate due to them.



## Tracing missing beneficiaries with confidence

Having been involved in tracing missing beneficiaries for more than 20 years, I can confidently say that the process has become less speculative and more accurate, thanks to improvements in technology and the resources now available.

This means I can say, with some certainty, that most beneficiaries who appear to be missing in the UK can now be successfully traced – and fairly swiftly. A professional genealogist will have many resources available to them, which, when interrogated by a suitably trained and experienced researcher, should allow them to locate the missing person on behalf of the Executor, and enable payment of their legacy or share of the estate.

Often, it takes less than two hours of research time to finalise the matter, including establishing contact with the individual and verifying that they are indeed the correct person. A fixed fee can normally be offered for this service, which is invariably less costly to the beneficiary or the estate than the percentage-based fees favoured by heir hunting companies.





## What happens if a missing beneficiary can't be traced?

Of course, there will always be a minority of missing beneficiaries who cannot be located. In this scenario, Executors should seek a missing beneficiary indemnity policy.

Insurers will always expect to be provided with a full and detailed report from a reputable probate genealogist before considering the risk. Many genealogists are regulated by the Financial Conduct Authority (FCA), which enables them to liaise with insurers to obtain quotations. As part of your due diligence, it is always worthwhile checking this point before confirming instructions.

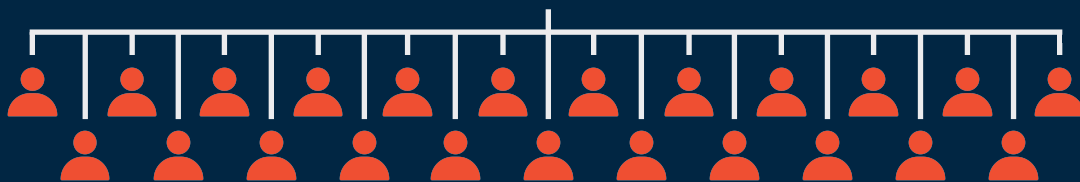
Missing beneficiary policies are an acceptable expense for the estate to bear (see Evans v Westcombe, 1999) and offer protection for both the Executor and the known beneficiaries from any future claim. Once the policy is in place, the missing beneficiary's share can fall into residue as if they had predeceased without issue.



## Case study: Securing insurance

On an intestacy that fell to the class of whole blood uncles and aunts, a Solicitor instructed a firm of genealogists to identify all the beneficiaries. This firm claimed to have finished their research and the Solicitor approached insurers for a Missing Beneficiary Insurance quote. The insurers rejected the work carried out by the original genealogy firm.

We were subsequently instructed and conducted research to verify the family tree. We uncovered an additional **23 potential heirs** not previously identified, and obtained Missing Beneficiary Insurance for our client.



## In summary

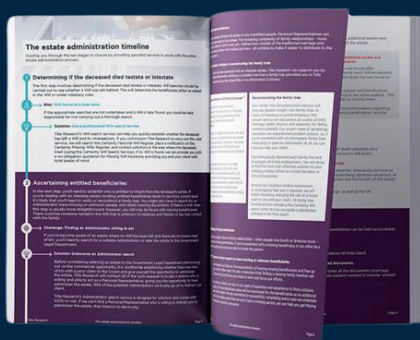
Missing beneficiaries believed to be in the UK should not cause a practitioner any long-term challenges. A well-resourced and experienced genealogist should be able to work with you to put a cost-effective solution in place, ensuring the estate can be distributed in full, the Executor is protected from potential future personal liability, and your file can be closed permanently.

Title Research provides fast, fixed-fee access to genealogical research, making us the safe choice for the resolution of complex estate administration cases. If you want to find out more, get in touch with our Client Services Team by calling 0345 87 27 600 or emailing [info@titleresearch.com](mailto:info@titleresearch.com).

# Useful guides

We regularly share our specialist industry knowledge through informative literature. They are an excellent resource to stay up to date with the latest industry insights.

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## The estate administration timeline

This guide explores what is involved in the key stages of the estate administration timeline, the risks that may present themselves, and what tasks can be outsourced to a specialist to make administering the estate easier.

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## Eliminating risk on intestacy

Intestacy always makes the estate administration process more complicated but there are steps you can take to eliminate the risk to you and your client. Therefore, we have created this handy guide to highlight how you can protect the estate from misdistribution.

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## Dealing with overseas assets in estate administration

Dealing with overseas assets can be complex as each country has different rules, forms and processes to navigate. The guide shares how you can overcome the pitfalls and challenges.

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# Pitfalls of overseas assets and how you can avoid them

Title Research



Dealing with foreign assets can be complex, especially when it comes to overseas share dealing. A question we're frequently asked is: Does a UK Will cover foreign assets? With more UK companies being acquired by US entities, understanding how to deal with overseas shares is increasingly important. This article explores the challenges of foreign assets, focusing on how to navigate overseas share dealing effectively and ensure foreign assets are properly managed.

To put this into perspective, there were 73 acquisitions of UK companies by foreign entities for a total value of £91 billion in 2024, up 55% from 2023. Whilst not all of these acquisitions involved companies with shareholders, each had the potential to create millions of foreign shareholders in the UK. With so many affected by overseas share dealing, understanding how to deal with overseas shares and the broader implications of dealing with foreign assets is essential.

At Title Research, we frequently encounter cases where individuals have died without realising they owned US stock, highlighting the importance of dealing with foreign assets during estate administration. Executors and Solicitors are often unaware of the complexities involved in overseas share dealing and may not know how to deal with overseas shares effectively. Title Research are experts in repatriating assets, and we use our extensive experience and global network of local professionals to deal with overseas assets quickly and seamlessly. In this article, we're sharing our expertise of dealing with US assets and how you can avoid the pitfalls.

[Click here to learn more about administering US and Canadian shares](#)



## The same language does not mean the same service

Dealing with the same company and speaking the same language doesn't necessarily mean you'll receive the same service. Administering assets in the UK is completely different from dealing with foreign assets such as US shares. Even though many US Share Registrars have UK counterparts, the process of overseas share dealing can be complex and time-consuming. Executors and Solicitors often find that knowing how to deal with overseas shares is crucial, especially when foreign assets fall under an estate.



## UK

In the UK, Share Registrars will typically provide the date of death and present-day share balances. Additionally, they will accept a court-sealed Grant of Probate at any time. They can also reissue any uncashed cheques to the estate or a Solicitor.



## US

However, most US Share Registrars will not release any information without a Grant, which can cause complications if you're dealing with a large UK estate and gathering evidence to prepare the IHT400 paperwork.



Additionally, in order for US Share Registrars to accept a Grant, it must be sealed and dated within the last 60 days.



Furthermore, due to the U.S. Securities and Exchange Commission's (SEC) reporting rules, cheques can only be reissued to the original payee. If you have cheques on an estate for a US asset that are made payable to the deceased and held in US dollars, it's unlikely that a bank will cash the cheques.



Dividends received on US assets are subject to a 30% Foreign Withholding Tax. There are steps you can take to reduce this tax down to 15%, but generally, you have to take into account that dividends owed to the estate will be worth 30% less than expected. However, under the US-UK tax treaty, this rate is reduced to 15% for UK residents who complete a W-8BEN form, certifying their non-US status.



Fractional shares are common with US shareholdings and will continue to accrue during the estate administration. It can be a complicated process to work out what shares were held in the estate at the date of death and what shares have since been accrued.



## Instructing an asset repatriation specialist

If you're dealing with an overseas asset, we highly recommend instructing an asset repatriation specialist who understands the pitfalls and paperwork required to navigate the red tape of the country. We commonly receive instructions from Solicitors who are dealing with estates where UK stock became foreign stock after death. Title Research can assist Solicitors in liaising with US Share Registrars; verifying and valuing US stock; transferring or selling US stock; and dealing with tax issues to mitigate costs to the estate and exclude the estate from paying US Inheritance Tax.

Here are a few examples of ways in which we've stepped in to administer US shares and accelerate the estate administration process.



## Case study: Dealing with Mrs Davies' US shares

We were approached to help deal with shares held by the late Mrs Valerie Davies in the US company Marsh & McLennan Plc. As part of the requirements, the client was asked to provide proof of the asset.

Many months later, after the initial enquiry, the client advised Title Research that they had been in touch with the Share Registrar in the USA on multiple occasions, and found it impossible to obtain a recent statement as proof of the asset.

The client was unimpressed with the service they had received in the USA, commenting that they had easily been able to obtain statements from UK Share Registrars regarding the UK assets.

Title Research agreed to obtain a statement on behalf of the estate, and upon investigations, discovered that the asset was actually registered to the Deceased's former work address, from 24 years previously.

Using this information, Title Research was able to liaise with the Share Registrar and obtain proof of the asset.



## Case study: Mr Hill's shares in Dr Pepper Snapple Group inc.

Title Research was instructed to transfer over 5,000 shares in Dr Pepper Snapple Group Inc. for Mr Richard Hill, who had died some considerable time before in 2003.

Upon review of the file, a senior member of the overseas assets team pointed out to the client that Dr Pepper Snapple Group Inc. did not exist in 2003, and the only way these shares would have existed is if the Deceased actually had shares in Cadbury as of his date of death.

The client confirmed that this was the case, following which Title Research investigated further and identified that as a result of the former Cadbury shareholding, Mr Hill would also have shares in Mondelez Inc. and The Kraft Heinz Company. Furthermore, if he had over 5,000 shares in Dr Pepper, the share balances in the additional holdings could likely increase his US estate to over \$800,000.

# Intestacy cases: How genealogists identify the right beneficiaries

By Simon Barber

Technical Manager, Title Research



**Simon Barber,**  
Technical Manager  
Title Research



## Intestacy and the challenge of identifying the right beneficiaries

Unlike cases involving a Will, intestacies often mean the beneficiaries are completely unknown at the outset. The first step in these cases is building a family tree with the deceased at the centre, branching out until the living next of kin are identified.

We are often asked how much information is required to begin this process. In most cases, a name and date of birth are sufficient. With this, we can obtain the birth certificate, which records the parents' names. From there, we search for their marriage certificate, which typically names both fathers, e.g. the deceased's grandfathers. We then continue working back and across the family line.



## Proving entitlement: The importance of negative evidence

One of the most important aspects of genealogical research on an intestacy is proving negative events, for example, confirming that the deceased's brother never married or that the deceased's sister had no children with her spouse.

To do this effectively, we've developed a set of standard searches that act as the minimum baseline for proving entitlement on a family tree. These include:



Searching for marriages from age 16 to 60



Searching for children of a marriage from the date of marriage to the woman's age of 60

Of course, we recognise that marriages and births can occur outside of these age ranges. Therefore, we build up a body of evidence to support or eliminate possibilities, documenting every relevant event - births, adoptions, marriages, and deaths.

Marriage certificates are checked to ensure neither party has been previously married. Death certificates are reviewed to verify the identity of the informant and their relationship to the deceased. We also examine Wills and Grants of anyone on the family tree who has died, which can often reveal additional family members previously unknown to us.



### Gathering first-hand information from potential heirs

Another vital step is speaking directly with potential heirs. Unlike some heir hunters who may withhold information to secure a signed contract, we approach heirs with transparency - explaining who has died, how they're related, and why we're making contact. However, we do not disclose the name of our client or the value of the estate.

These interviews often reveal valuable insights that cannot be uncovered through public records alone. For instance, we may learn about a child born in Scotland (where records are maintained separately from England and Wales), or an adopted family member who may otherwise go unnoticed.



### Ensuring accuracy and mitigating risk

All these steps help ensure that only those entitled under the laws of intestacy benefit from the estate, while others are correctly excluded. This thorough research also supports the procurement of missing beneficiary insurance, which offers protection to the Personal Representative against future claims.

As a business regulated by the Financial Conduct Authority (FCA), Title Research is permitted to liaise directly with insurers, something many genealogy firms are not authorised to do. This makes the process faster, simpler, and more secure for legal professionals.

It is this depth of research that distinguishes a professional probate genealogist from an amateur family historian. The rigour applied in proving entitlement is essential in reducing the risk of misdistribution.



### Other legal applications of genealogical research

While intestacies are a major focus, genealogical expertise has broader applications in legal practice. For example, Title Research can:



Identify next of kin for Court of Protection matters (e.g. when proving a Statutory Will)



Verify the extent of a class gift in a testate estate



Trace the current owners of land where there has been no change in registration for decades

Intestacies present a unique set of challenges, but with the right expertise, these cases can be handled efficiently and accurately.



## Would you like to be featured in the next edition of Entitlement?

We would love to hear your idea for a guest article on  
your area of expertise.

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