

Guidelines for trustees

A trust is a legal device that allows one or more people (trustees) to hold assets for the benefit of someone else (the beneficiary). The trustees are the ones who have legal control of those assets and decide who receives them, in accordance with the terms of the trust.

You have been named by someone to act as their trustee. These notes give a brief idea of what is expected of you in your role as trustee and how we can help.

Why me as a trustee?

You have been asked because you are considered to have the necessary personal qualities, including integrity and competence for the role.

What do I have to do?

On becoming a trustee - you must familiarise yourself with the property in the trust and ensure that it passes into your name (and the names of any co-trustees) so that you assume legal ownership. You should look at the terms of the trust (which may be in a will or a trust document) to ensure that you know what the trust is about.

While I am a trustee - at all times you must ensure that the trust assets are protected and enhanced as appropriate. You must ensure that appropriate advice is taken on investments and act on that advice and you must review the trust, its assets and investments and its terms and the needs of the beneficiary at regular intervals and as required.

At the end of the trust - when the trust comes to an end you must ensure that the assets are distributed in accordance with its terms.

What guidance can I expect?

The trust document itself is the starting point for any guidance. Where there are investments, trustees must ensure that they invest appropriately and are strongly advised to seek and follow professional investment advice. An investment policy is important.

How do I stop?

You can retire as a trustee as long as you ensure that a suitable and competent replacement trustee takes your place.

Could I be personally liable for what I do?

You can be liable if you exceed the powers given to you by the trust, or you act negligently or recklessly.

How we can help

Being a trustee is a demanding and responsible job.

We can help by guiding you through any areas where you are not clear as to your role and responsibility.

We can prepare accounts or, if the matter is particularly complex, instruct accountants to do so and complete a trust tax return where there is income.

Expertise

Partner Jenifer Gillman is a member of the Society of Trust and Estate Practitioners. STEP members are trained and qualified experts who are, by definition, the most experienced and senior practitioners in the field of trusts and estates.

Contact

Please contact the lead partner in our wills, probate and trusts team.

Jenifer Gillman jenifer.gillman@willans.co.uk

Willans LLP | solicitors
28 Imperial Square, Cheltenham
Gloucestershire GL50 1RH

01242 514000
www.willans.co.uk

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