

Duties of Trustees

Being a Trustee carries a high level of responsibility



When you agree to become a Trustee you must be aware of the duties which are imposed on such a role and the powers available.

DUTIES are obligations imposed on Trustees instructing them to do certain things.

POWERS are permissions, allowing the Trustees to do certain things.

It is essential to consult the Trust Deed (or Will) itself to see what the powers and duties of a particular trust will be. A high standard of care must be applied so appointed Trustees should obtain proper advice to understand the duties imposed on them and the powers available.

General Trustee duties

Please note that this is not an exhaustive list.

You **must first understand the terms of the trust.**
That is, why it was created.

You **must comply with its terms and the laws which attach to its administration.**

You **must act with reasonable care and skill taking account of any special knowledge or experience you possess.** A higher standard of care will be required of a professional.

You **must take reasonable care when dealing with investments** and **take appropriate advice.**

You **must seek to review and diversify the Trust portfolio.**

You will be **personally liable for any breach of trust** and may have no recourse, unless the terms of the Trust provide you with indemnity.

You **must act fairly between all beneficiaries** (unless the terms of the Trust provides otherwise).

You **must keep accurate records of the Trust** to ensure the trust is being managed properly.

The **Trust Accounts** should be made available to the beneficiaries if requested by them.

The Trustees will generally be required to make **unanimous decisions.**

A Trustee is not paid (unless they are a professional).

A Trustee must remain impartial – they must **not profit** from the Trust.

A Trustee must complete the necessary **tax affairs of the Trust.** As a result of the Trust Registration Service rules in 2020, almost all Trusts now need to be registered with HMRC. Substantial penalties can be given if they are not registered where required.

Unless stated otherwise in the Trust Deed, the Trustee should **insure any trust property**, ensure the **title is in order** and **inspect the property** from time to time.

A Trustee must **consider legal proceedings** to recover any assets or funds; or **defend any action** brought against him in his capacity as Trustee.

A Trustee must **seek professional advice** on matters in which he is not competent.

The information in this guide has been prepared to give the reader a brief outline of the area of law to which it relates.

Tallents do not accept any responsibility for any loss that you may incur if you make decisions based on this guide without seeking the detailed advice of a solicitor. The law referred to is correct at the time of going to press but the law is always changing and affects each person differently.

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