

Welcome to ProTrust
Trust Management

What are Trusts?

Trusts are protection vehicles most commonly used alongside Wills. They can be visualised as a 'box' into which assets and estate is passed for the benefit of others (Beneficiaries). People look after the running of the Trust (Trustees) and they also take decisions in accordance with the requirements of the Trust and the wishes of the person who created it (the 'Settlor' for lifetime trusts or the 'Testator' where the trust is set up in a Will).

They are commonly created alongside Wills as part of an estate planning process. Trusts are popular with people looking to provide flexibility for their families in managing estate in a way that optimises the benefits for those receiving them. Trusts are relatively well known and understood by professional advisors and by UK HMRC.

There are different types of trust. The most common is a 'discretionary trust' where the trustees have the discretion as to how to benefit the intended beneficiaries. This provides flexibility in protecting the wishes of the creator of the Trust and can help pass assets in a more effective way, such as through the use of lifetime loans or other arrangements.

Are Trusts beneficial – what are the tax implications?

Trusts are taxed above certain thresholds and in certain ways. The primary trust tax is a 6% charge every 10 years for trust value exceeding £325,000. The tax is not seen as a punishing tax but more as a payment for the privilege of allowing the protection structure. There are also usual taxes for income and gains generated on Trust assets and at different rates to individuals. However, for most people, trusts are seen currently as fairly taxed and not subject to undue administration requirements. There is a relatively recent requirement for registration with the Trust Registration Services and there are some other common-sense due diligence processes but it is generally the view that overall, the benefits of Trust protection continues to outweigh the cost and tax.

Trusts for Everyone?

Trusts are not just for the privileged and wealthy. No matter your background and wealth, it can be just as important to protect the estate that you (and your parents/relations) have built over the years and to pass this on to your chosen beneficiaries in the most effective way free from outside attack. Trusts with Wills can be important for people of all circumstances;

We act for

- Parents with children of the marriage;
- Parents with step children;
- Families of wealth who have Inheritance tax concerns;
- Those with businesses;
- People with very little in terms of assets but wish to ensure their assets are protected;
- Individuals who are divorced or with children from other relationships;
- People whose beneficiaries have disabilities, or who are struggling financially or going through possible divorce or insolvency.
- People wishing to benefit charities;

How does Trust Management Vary?

The administration requirements for Trusts vary according to:

- The scale and nature of Trust assets;
- The circumstances of those who can benefit (usually family members);
- The taxation and legal reporting requirements.

Effective Trust Management

Administering Trusts is an important task and responsibility. It is often a matter delegated to an experienced, trusted advisor who can provide stable, independent, expert attention to the best way to ensure the wishes are fully protected.

Trustees

In nearly all cases of a Trust, there will be two Trustees needing to be acting as that is the legal requirement for dealing with property assets.

Administration Tasks and Duties

Trustees take their duties from any specific terms within the Will or trusts drafted. They also take duties under the terms of the Trustee Act 2000 or other relevant legislation. Trustees can be held personally responsible for some breaches of Trust and therefore the duties and responsibilities are serious.

The primary duties of care are twofold:

- to act in accordance with the purpose of the Trust as set out by the creator of the Trust (the Will-maker or the Settlor) and to respect any wishes and act in accordance with them; and
- to act with all care for the benefit of the Beneficiaries of the Trust. To act responsibly in the management of the functions.

The overall duties are:

- To take care over the management of the Trust.
- To assist in the best management of the assets of the Trust in terms of maximising capital and income for the benefit of the beneficiaries. In this regard, with assets held in the control or management of Trustees, to take independent financial advice on the management of those assets as part of the compliance under the Trustee Act 2000.
- To consult with beneficiaries on an objective and fair basis.
- To act in accordance with the guidance of the Will-maker or Settlor as set out in the guidance documents (Memorandum of Wishes)
- To understand the options available for the transfer of assets to beneficiaries (ie gift options, loan options, life interest options)

- To understand the need to be aware of taxation issues or personal issues that might affect or alter the decision making and to adjust to fluctuations in circumstance in an appropriate way and to seek counsel or advice.
- To keep updated with legislative requirements;
- To meet with key beneficiaries at suitable or regular intervals.
- To meet with co-Trustees at suitable or regular intervals.
- To act with independence and in the best interests of the Trust objectives.

We are here to guide Trustees and Beneficiaries with all aspects of administration, including the following:

Full Trust Management Service

This can include advising on strategy for the Trust, the provision of funds for beneficiaries, the approach to investment of funds to producing income for a life tenant or to preserve and grow capital for discretionary beneficiaries. Receiving instruction from Trustees on any aspect of the management of Trust operations and then acting for trustees to discharge their duties whether as an ongoing basis or in one or more specific areas of requirement.

Advice to Trustees

This can include assisting Trustees in managing expectations of discretionary beneficiaries, advice on specific issues. Acting in the removal or retirement of Trustees, advising as to Trustee Act 2000 duties and protecting Trust assets. Advising as to the advantages/disadvantages of using loaning options for beneficiaries, advice as to structuring trust investments and setting up Trust bank accounts;

Registration at the Trust Registration Service (TRS)

This process usually includes a meeting/call with the Trustees (or beneficiaries) to explain the TRS requirements for your Trust, dealing with all TRS requirements for the Trustees; advising as to the details and information needed; advising as to the input of detail as to classes of beneficiaries and named beneficiaries.

We are dedicated to serving our clients, working with and alongside your other advisors in providing the best overall service.

How can we assist?

Correct and proper administration of Trusts varies considerably according to the experience and expertise of those advising Trustees and beneficiaries. Indeed, one Trustee may view their role differently to another Trustee.

One of the primary issues we have seen is that there is often a lack of knowledge and education on the part of trustees, beneficiaries and professionals advising them. That lack of knowledge and understanding extends to failing to properly understand:

- The original purposes of the trust protection and what it currently provides;
- Understanding all options (including gifting and lending) in advancement of funds to beneficiaries;

- Trustee duties to beneficiaries for a Discretionary Trust, an Interest-in-Possession Trust and other trusts;
- How income, capital gains and distributions are taxed;
- Due diligence and registration requirements;
- How to administer the Trust over the longer term.

Our specialism is education and organisation in this area, and it arises out of years of hard earned experience in the role. There is a genuine need for this expertise at a time where there are a great many of routine family Trusts. There is a duty to register most trusts with the TRS and this will then encourage a review and refresher of the understanding of the Trust, which is beneficial and helpful to all concerned so they can take appropriate decisions.

We hope this leaflet gives a little insight on what is involved and please see our website for further information as to various aspects of Trust Administration. We hope it helps you. If there is anything that you would like to discuss, any questions to ask, please do not hesitate to contact us.

Our focus is on three areas:

1. To cherish traditional values of care and service
2. To use a modern approach to ensure speed and cost-effectiveness
3. Above all, to provide solutions to your needs and wishes.

About ProTrust Consulting

We have over 25 years of practical experience in advising trustees and families. We always aim to offer the highest standards of service and care and to go above and beyond the expectations of our clients

Why is experience key?

To provide good advice and assistance to families, trustees and beneficiaries requires not a significant amount of personal life experience and understanding. This is in addition to expected skillsets. Continuity of service over the longer term will provide a depth to the understanding and needs of the family. Refreshing memories as to the purpose and objectives is very important.

How do we work alongside your other professional advisers?

Good administration of Trusts will often involve other assistance, such as:

- Financial Advisors (advising as to fund investment and management)
- Accountants (taxation of trusts and filing tax returns)
- Solicitors (property work or other requirements)
- Trust Bank Account (to hold the working funds for the Trust)

It takes experience to understand and get to know the best professional advisers. Those can be lawyers (including property solicitors, barristers, family lawyers, or other specialisations and facets of mainstream practice) as well as accountants, financial advisors, surveyors, insurers, and estate agents. Our knowledge

and experience as to how those other advisors operate can be just as useful to you as the work that we are ourselves doing for you. For example, it can be helpful to you us knowing the following:

- how the advisor charges;
- their capacity to act swiftly or efficiently at a given time;
- their approach and ethos;
- how they take instructions and hold meetings;
- the extent to which their services are best suited to you;
- and primarily, the extent to which they could bring you extra value through providing their services.

Understanding these elements is an important by-product of our role of your Trust Administration advisors.

Our Brief

The overall brief is to attend to the proper and reasonable administration of the trusts and to provide such advice and assistance to you as you so require. It is also to discharge the legal duties to the trust and its beneficiaries. It would usually involve making recommendations, acting on requests for advice, making decisions as to appropriate release of monies to beneficiaries, reviewing financial advice and taking appropriate actions. It could also include being responsible (with co-trustees) for ensuring appropriate taxation and registration of trusts.

Locations and Client Meetings

Although our main offices are London-based we also have a local office in the Chilterns. However, we most often visit our clients at their home for ease of convenience for them. For meetings, we have all up to date methods to adapt to your requirements. During Covid lockdown periods, Zoom (or video-call) meetings have been a useful way of meeting the challenges. This ensures face-to-face communication whilst being able to share documents efficiently. Nevertheless, we look forward to the time when full normality is resumed.

Contact Us

We are dedicated to serving you, our clients and working with and alongside your other advisors in providing the best overall service.

Please contact us for an initial no-charge, no-obligation face to face meeting or zoom call/discussion on:

Email: info@protrustconsulting.co.uk

Telephone: 0207 123 6189