

Trustees Duties and Responsibilities



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The extent of a trustee's duties and responsibilities depends on the type of trust established.

Before appointing or accepting the role of a trustee careful consideration should be given to what the position involves. No-one should become a trustee without fully understanding the role.

Duties

The main duties are:

To act in accordance with the trust document and the general law:

- To read and understand the document.
- To comply with the terms of the trust.

Duty of care to the beneficiaries:

- To act fairly between the beneficiaries.
- To consider the interests and needs of all of the beneficiaries.
- To ensure that they do not put themselves in a position where their interests conflict with those of the beneficiaries. For example, a trustee should not buy any trust property if it was for sale.
- To provide information and accounts to the beneficiaries upon request.

To take reasonable care in making investments:

- To exercise such care and skill as is reasonable in the circumstances.
- To consider the suitability of any investment and the need to diversify.
- To obtain proper advice is advisable.

Not to profit from the trust:

- The general rule is that a trustee is only entitled to claim out of pocket expenses unless they are a professional trustee, then they may charge for their time.
- Not to supply goods or services to the trust through the trustees' own business.

To protect trust assets:

- To identify all trust assets.
- To invest carefully and take appropriate investment advice.
- To insure where necessary.

To keep accounts.

To act unanimously.

- Unless trust documents state otherwise.

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Responsibilities

Trustees must declare and account for any tax arising on trust assets and where necessary the payment of inheritance tax.

- If there is more than one trustee, the trustees need to decide which one of them will deal with HM Revenue & Customs (“HMRC”). This trustee is known as the “principal acting trustee”.
- All of the trustees are jointly liable for any tax due.
- The actions of the principal acting trustee are treated as the actions of all trustees.
- Trustees are responsible for declaring all income and capital gains tax and for its payment.
- Notify HMRC, using the Trust Registration Service, if a new trust is established which generates income or capital gains, or if an old trust which previously did not receive income or make capital gains starts to do so.
- Keep records of the trust’s income and expenses.
- Complete and return any tax return issued.
- Supply trust income form to beneficiaries if applicable.
- Responsible for letting HMRC know if an inheritance tax charge becomes payable.
- Ensuring compliance with Automatic Exchange of Information (AEOI) including FATCA (Foreign Tax Compliance Act) and CRS (Common Reporting Standard)

Trustees can be held personally liable for breaches of duty or responsibility.

How can Greenwoods GRM help?

The Private Client team at Greenwoods GRM can advise you if you are appointed as a trustee or need advice on who to appoint as trustee

Contact +44 (0)1733 887665 and ask to speak to a member of our Private Client Team.

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Whilst Greenwoods GRM LLP stands by the views and advice given in this document, the fact that two situations are rarely the same means that you should seek legal advice before relying on its contents.