

# duties of trustees

The duties of Trustees are many and varied and consideration should be given to the nature of the task before the appointment is accepted.

The duties can be briefly summarised as follows and some can be altered by specific provision in the Trusts Deed.:-

- Before accepting an appointment as a Trustee, the Trustee should ensure that there is no conflict of interest between the Trustee and the beneficiary.
  - A new Trustee should ensure that he reads and understands the Trust document and if necessary, legal advice should be sought. The Trustee should also find out about the beneficiaries and the Trust property.
  - A new Trustee should ensure that the Trust property is vested in the Trustees.
  - A person appointed to an existing Trust should check to ensure that there has not been any breach of Trust.
  - Trustees should check to ensure that the beneficial interests have not been charged or assigned.
  - Trustees must ensure that all the beneficiaries are fairly treated.
  - Trustees must comply with the terms of the Trust and with the law relating to Trusts.
  - Trustees must provide information and accounts.
  - A Trustee is under a duty to provide beneficiaries on request with information about the Trust and investments and a copy of the accounts. Trustees must also produce the title deeds and other documents applying to the Trust.
  - Trustees must take reasonable care.
  - Trustees must act jointly and must be unanimous in the action they take. In practice, it may be that one Trustee assumes a more involved role, but nevertheless all the Trustees must agree on a particular course of action.
  - Trustees are not entitled to any reward. Trustees may however reimburse themselves for all expenses incurred in the execution of the Trust or powers and it would be usual for solicitors to insert a charging clause in a Will or a settlement so as to permit a Trustee who is a solicitor or other professional person to make his usual charges.
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- Trustees must not make any profit from the Trust.
- Trustees are not entitled to purchase the Trust property.
- Trustees must ensure that the assets of the Trust are distributed or the income paid to the correct beneficiaries.
- Trustees have a power to insure Trust assets. Whilst this is a power, not a duty, it is generally considered that Trustees who fail to insure Trust property against all normal risks and for their full replacement value, where an ordinary prudent businessman would have done so, may well be liable for any resultant loss. It is therefore sensible for the Trustees to check insurance arrangements on all insurable property on commencement of Trusteeship, to ensure that policies have been taken out or transferred into their names, and that the cover is sufficient and kept under review.
- Investment – one of the first duties of the Trustee will be to review the existing assets, sell any he is obliged to sell and invest any liquid funds appropriately, having regard to his overall duty to provide a balanced portfolio to meet the respective needs of the income and capital beneficiaries.

### get in touch

To find out more about what we can do for you please contact:

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