

Public  Trustee
Every moment counts



Trust Administration

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What is a Trust?

A trust is a legal relationship between two parties, where one party or entity (the trustee) holds and manages assets for the benefit of another (the beneficiary).

A beneficiary is the person who 'owns' the asset held in trust. By Law the assets can only be spent in the best interest of the beneficiary.

HOW ARE TRUSTEES APPOINTED?

A trustee may be appointed in many ways including the following:

- by a trust established under a Will (testamentary trust);
- by a trust established under a deed (intervivos trust);
- by the Supreme Court of Tasmania – for example when a minor (a person under 18) or a person without legal capacity receives damages for personal injury in a court case; or
- by legislation – where Parliament has provided for the protection of minors and/or persons without legal capacity who have received sums arising from the operation of statute eg. *Victims of Crime Assistance Act 1976*, *Workers Rehabilitation and Compensation Act 1988* and *Motor Accidents (Liabilities and Compensation) Act 1973*.

WHAT ARE THE DUTIES OF A TRUSTEE?

A trustee is an individual or corporation which administers the trust for the benefit of the beneficiary, in accordance with the terms of the trust.

Some of the duties of a trustee are:

- knowing the terms of the trust and the assets;
- carry out the terms of the trust;
- acting impartially;
- exercising reasonable care;
- investing the trust fund as directed by the instrument or as the law provides;
- seeing that trust funds are paid to the right persons;
- acting honestly and in good faith for the benefit of the beneficiary;
- providing prompt accounts.

A trustee must not:

- delegate his or her duties or powers; or
- profit in any way from the trust property.

THE PUBLIC TRUSTEE CAN HELP

Being a trustee is an extremely demanding and complex task that requires a good understanding of legal, accounting, investment and taxation matters.

Because a trust is usually administered over a long period of time, it is wise to opt for a reliable and longstanding organisation such as the Public Trustee.

ACTING AS YOUR TRUSTEE

We will assign your trust to a client account manager. They will be there to liaise with beneficiaries as they need. Also backing your client account manager will be a team of specialist solicitors, accountants and taxation experts.

HOW DO YOU INVOLVE FAMILY MEMBERS AND CARERS?

We often consult with family members and carers to make decisions about expenditure, investments and other matters relating to the beneficiary's interests.

HOW CAN YOU ADVANCE FUNDS FROM YOUR TRUST?

We have criteria for advancing funds that have been formulated over many years of managing trusts.

Each request for an 'advance of funds' will be carefully considered to ensure the beneficiary's best financial interests are protected. This requires careful planning in conjunction with your family and carer.

It is important that you do not incur expenses before you talk to us about advancing funds.

The following steps are commonly followed to advance funds:

1. Contact the Public Trustee for approval of the purchase.
2. If required, obtain quotes and specific costs.
3. Advise us of the purchase and forward receipts.

(There are other methods to advance funds which we can discuss).

WHY DO TRUSTEES REQUIRE SUBSTANTIATION OF EXPENSES?

The Public Trustee requires written evidence (e.g. receipts) to justify financial transactions. This applies to all clients, their families and carers.

Unfortunately we can't just accept the word of family members and carers. We can consider your comments in good faith, but each decision must be fully documented to ensure that the beneficiary's interests are always protected. We ask that families and carers consider this and hope that they are not offended when asked to provide substantiation.

WHAT IF THE CARE OR CUSTODY OF THE BENEFICIARY CHANGES?

If any changes occur to your beneficiary's care or custody arrangements, we should be advised immediately. This can affect how we advance funds to your beneficiary.

WHAT ARE THE COSTS?

The fees depend on the nature of the trust and what we are required to do. There are fees for managing the assets and investments and fees for professional services such as legal work.

For more information on fees and charges please refer to our website: www.publictrustee.tas.gov.au

PLEASE KEEP US UP-TO-DATE

If you have any changes to your address or contact information, please let us know as soon as possible. This is so we can continue contact with important information regarding your trust.

If you still have any questions regarding trusts, please contact your nearest Public Trustee branch.

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CALL US ON 1800 068 784

VISIT US AT www.publictrustee.tas.gov.au

Email: tpt@publictrustee.tas.gov.au

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YOUR NEAREST PUBLIC TRUSTEE LOCATION:

HOBART

LAUNCESTON

DEVONPORT

June 2022

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