

What are trustee responsibilities? A guide to key duties and best practices

Trustees' responsibilities encompass a wide range of duties when overseeing a trust estate under their care.

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What is a trustee?

A trustee is a person or a firm that holds and administers property or assets held in a trust for the benefit of a third party. Trusts can be created for a variety of purposes. For example, trusts can be established in bankruptcy situations, in certain types of retirement plans, or to manage assets for a minor or someone lacking capacity. Alternatively, you can establish a trust to hold assets with income and capital to be distributed to beneficiaries over time.

Trustees have a fiduciary responsibility to the trust's beneficiaries, which means the trustee must act in the best interests of the beneficiaries when managing the trust's assets.

Key trustee responsibilities

A Trustee's duties are many and varied, and we set out some of the duties you can expect to undertake:

Making Decisions

Trustees must make all decisions regarding the trust. They must decide on the acquisition, application, and disposal of the assets. They also need to implement the purposes of the trust for the benefit of the beneficiaries. They must also make decisions within the trust rules and have a duty to exercise reasonable care, skill, and diligence when making decisions and managing the trust's assets.

[The Trustee Act 2000](#) extended the power of investment trustees whilst protecting the beneficiaries' interests against abuse of these powers.

Unless otherwise provided for in the trust document, trustees' decisions must be unanimous.

Managing assets

Trustees are responsible for managing the assets in a trust, be they money, financial instruments, property, or other asset types (for example, cryptocurrency). The assets must be managed for the benefit of the trust's beneficiaries.

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If the trust is a discretionary trust, the trustees will have more freedom to make decisions, provided those decisions benefit the beneficiaries.

The 2000 Act empowered trustees to acquire freehold or leasehold land in the UK.

Trustees can instruct professionals to act on behalf of the trust to assist in acquiring and disposing of assets.

Act in the best interests of the beneficiaries

The trustees must always act in the best interests of the beneficiaries. They must be impartial to ensure no single beneficiary benefits over others. They must also avoid any conflicts of interest concerning themselves, their affairs, and the trust estate under their charge.

Follow the rules of the trust

The trust deed establishing the trust will set out the trustees' powers and rules designed to benefit the beneficiaries. Trustees cannot ignore those rules when making decisions and must always follow them, even if a beneficiary disagrees with them.

If the trust is a discretionary trust, the extent of the discretion will be specified in the trust deed. Again, trustees should ensure they do not exceed the powers or breach the rules set down in the trust document.

Keeping accounts and paying taxes

The trustees will be responsible for accounting to HMRC for any taxes due by the trust. These might include Inheritance Tax, Capital Gains Tax, and Income Tax. The Trustees will prepare accounts each year and submit returns to HMRC to account for any tax due. Trustees can instruct accountants to prepare accounts and advise on taxation matters.

Complying with the common law duty of care

All trustees must comply with the common law duty of care. That means they must take the precautions that an ordinary prudent person of business would take in managing similar affairs of their own.

Think carefully before accepting a trustee appointment

The duties and responsibilities of trustees are onerous and can take up a great deal of time. They may bring you into conflict with the trust's beneficiaries, which can be challenging, especially when they are family members.

Before accepting the position, take professional advice about the duties and responsibilities and familiarise yourself with the rules under which you are being asked to act as a trustee.

Contact [James McMullan](#), Partner and Head of Private Client at RIAA Barker Gillette, for expert advice on navigating trustee responsibilities and protecting beneficiaries' interests.

Note: This article is not legal advice; it provides information of general interest about current legal issues.