HEWITSONS
TRUSTEES DUTIES

Trustees look after money and other assets on behalf of other people (the beneficiaries). The Trustees are trusted to make sure that the money they are looking after is used in the way intended by the person who gave it to them. The trust document sets out what they can and cannot do with the money and how they can use it to help the beneficiaries. The general law (legislation and case law) also controls what Trustees can and cannot do.

The Trustees must act in accordance with the trust document and the general law.

The people to whom the Trustees can pay money from a trust are called beneficiaries. The Trustees must always act in the best interests of all the beneficiaries. Often each beneficiary has different needs and different rights under the trust. It is up to the Trustees to ensure that all the beneficiaries are treated fairly.

For example one sort of trust provides that the income from a sum of money is to be paid to a particular person during their life. After their death the capital which produced the income passes to other beneficiaries.

In this situation the trustees must ensure that they are fair to both groups of beneficiary. For example, it would be unfair for the trustees to invest in investments which produce no income at all. It would also be unfair to invest in investments which only produce income and do not increase in capital value to keep pace with inflation.
Trustees must identify all the trust money and assets which come under their control and take necessary steps for their protection and investment. Trustees invest all the capital trust money which they receive. The investments must be made having regard to the suitability of the investment and the need to diversify investments. Trustees have to obtain and consider proper advice on investments.

The Trustees must put the beneficiaries' interests above their own. The Trustees must not put themselves in a position where their personal interests conflict with those of the beneficiaries. For example, they should not buy assets from the trust or sell assets to the trust.

The Trustees must carry out the terms of the trust with reasonable diligence and conduct its affairs as would an ordinary prudent businessperson in conducting their own affairs.

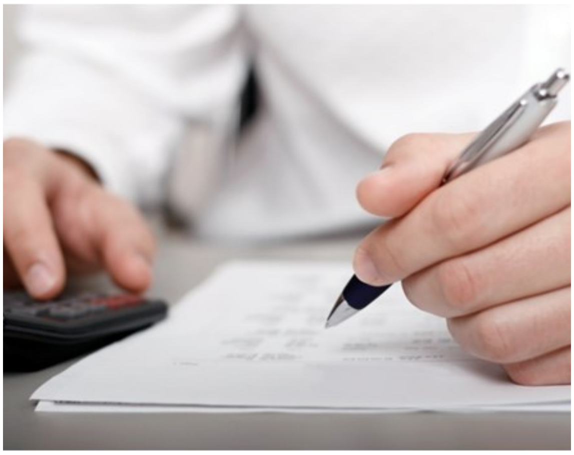
Unless otherwise provided, trustees must act unanimously in carrying out the terms of the trust.

Trustees are personally responsible for administering the trust. For example, if the trust must pay some income tax but does not, the Inland Revenue could recover the tax from all the Trustees or just one of them. If the Trustees pay money to someone who is not a beneficiary the Trustees must personally make up the money lost.

The Trustees are entitled to recover expenses properly incurred on behalf of the trust from the trust money. But they are not entitled to be paid for acting as trustees unless they are professional or business people and the trust document says that they can be paid.

Depending on the precise terms of the trust, the Trustees decide who may receive money from the trust and when and how they should receive it.

Trustees have to keep accounts and must supply copies to beneficiaries if requested.



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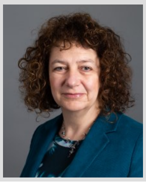

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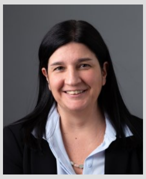

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This document is written as an outline guide only and any action should not be based solely on the information given here. Appropriate professional advice should always be taken in specific instances.

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