

TRUSTEE INVESTMENTS

We act as advisers (and occasionally trustees) for a large number of trusts. The following notes are designed to help trustees understand the financial planning processes which we feel are pertinent for our trust clients. It should be noted that we are normally advising using the Trustee Act 2000 as a guideline. Some charitable trusts (and trusts which exclude the Act) will require different consideration.

Traditionally, many trusts have used stockbrokers to undertake their investment process. Unfortunately, post 2000 stockbrokers cannot be an acceptable provider of the complete investment process. This is a specialist field which Chartered Financial Planners are trained in. We will always work with a trust's existing stockbroker, however, we view them as UK (ideally discretionary) equity fund managers not financial advisers.

The process of advising a trust is much the same as for an individual or family, except that there may be some added complications relating to the tax treatment of funds and restrictions imposed on investment by the trust deed. The introduction of the "Duty of Care" provisions within the Act has worried many lay and professional trustees, but we are equipped to handle the investment requirements.

The following is our basic process:

1. WHAT INVESTMENTS HAS THE TRUST NOW?

Before we can advise the trustees we have to know what investments the trust has, together with the terms and conditions of any investments and, of course, tax information such as when was the investment bought and how much did it cost?

2. WHO ARE THE BENEFICIARIES?

With many discretionary trusts the potential beneficiaries are legion. Just about every trust we have dealt with, however, has clearly defined (by the settlor and / or other trustees) individuals or family units who are to benefit from the trust funds.

We need to have a full background on the beneficiaries to understand in what ways the trust can help them and their families. We need to understand each beneficiary's tax position and long term prospects so we know when and how best to provide benefits for them.

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We need to know the trustees' priorities, i.e. who the trustees believe should be favoured (if the deed allows) and helped the greatest.

If sanctioned, we are prepared to get this information from the professional and lay trustees rather than the beneficiaries direct.

3. WHAT ARE THE TRUST OBJECTIVES?

This can be the most difficult area to pin down. Trusts should be considered a transient vehicle. They are there to protect and to benefit individuals and organisations that need help. From a financial planning perspective, however, it is better in the longer term to pass monies out of a trust rather than leave cash within same. We have far more tax efficient investments available to individuals than trusts (non charitable trusts that is!) and whilst the protection of beneficiaries may be of prime concern, this has to be balanced with the same beneficiaries' long term returns.

By way of example, we can distribute cash from a discretionary trust to fund pension contributions of up to 100% of a beneficiary's earned income. Once outside the trust the beneficiary could lose half this investment should they get divorced, or all the benefit should they become bankrupt. However, the investment returns and tax breaks of a pension plan are so much better that that of a trust, so the aforementioned risks are acceptable to most trustees.

Having assessed the trust assets and fully understood the position of the beneficiaries, we need to understand and set down the objectives of the trust and the timescale the trustees believe is required to complete the trust objectives and ultimately wind up the trust.

4. WHAT ARE THE TRUST INVESTMENT LIMITATIONS?

The Trustee Act 2000 provided a much wider range of acceptable investments for trusts (which do not specify investment limitations). However, it is essential we know whether the trust deed carries any restrictions which the settlor felt were appropriate.

Likewise, even after the 2006 Finance Act different types of trust carry different tax treatments and if we are to make best use of the trusts allowances we have to fully understand whether the trust is a discretionary, accumulation and maintenance, income in possession or other trust.

5. WHAT ARE THE TRUSTEES' RISK TOLERANCE LEVELS?

We use sophisticated techniques to assess the trustees' risk tolerance in order to judge the asset mix best suited to a trust. In some cases the trustees may prefer we assess the risk tolerance of the beneficiaries if they are competent to take the tests and provide this information. We use stochastic modelling to match asset allocation to the risk tolerance and objectives of each trust.

6. THE REVIEW REPORT

Having understood all the above we can provide the trustees with a detailed report which outlines whether or not the current investments will meet the objectives of the trust. If we believe the investments can be improved and / or the objectives need to be amended we will confirm same and provide our professional advice as to the way forward.

7. WHAT ARE THE BEST WRAPPERS FOR TRUSTEE INVESTMENTS?

With the advent of the 45% tax band great care needs to be taken to match investments to the best wrappers available to mitigate the trust's tax as much as possible. This can be done by matching income pools, the use of insurance company bond wrappers and seeking investments which generate their growth as gains.

8. IMPLEMENTATION

Having agreed any changes we will (if required) advise on specific new investments and purchase same on behalf of the trust. Under the new MiFID II rules all trusts must have a Legal Entity Identifier (LEI). If required, we will obtain this for the trust.

9. ONGOING MANAGEMENT

Depending upon the trustees' wishes, we will review the investments and provide the trustees and their advisers with regular investment valuations and updates.

Once a year (or more frequently if required) we will review the investments and undertake a trustee meeting to ensure that the trust continues to be invested in areas best suited to the needs of the trust and the risk tolerance of the trustees / beneficiaries.

10. PAPERWORK

In these litigious days it is infuriating but necessary for the i's to be dotted and the t's crossed! The following documents and statements of principal should be completed where appropriate:

- Trust & Chartered Financial Planner Terms of Business Agreement
- Agreement and instructions as to the areas of advice from the Chartered Financial Planner
- An investment delegation statement appointing an investment adviser to the trust
- An investment policy statement
- Agreement and instructions for stockbrokers (discretionary / advisory)
- Agreement and instructions for the solicitors
- Agreement and instructions for the auditors and bookkeepers
- A statement of the trust objectives
- Budgets of future income and expenditure

We have many of these agreements available for trustees and would encompass most of the investment documentation as part of our review process.

The requirement for thoroughness may create fees in addition to our usual investment management service. Better to get the management and paperwork right however than to suffer expensive future litigation.

Please note that whilst every effort is made to ensure that the information contained within this explanation is correct, these notes are by necessity brief and of a generalised nature. Clients should seek specific personalised advice prior to undertaking any arrangement. These notes are named [09.2020 Trustee Investments](#) and was last updated in September 2020. Whilst we have done our best to ensure facts are current to this date laws and options are changing constantly so always check before action.

E.&O.E.