



PK | GROUP
L O N D O N

Trusts

Our guide to trusts

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Trusts: An introduction

Trusts can be set up to serve a variety of purposes and the choice can be confusing. There are many different types of trust but they all serve broadly the same purpose – to define a process of distributing assets to named beneficiaries. **You may want to establish a trust if you need to support someone who is unable to manage their money independently, or to ensure your own money is used to look after you in later life. If you run a family business and are thinking about succession planning, using a trust may be a good way to reduce tax to be pain on inheritance.**

Tax is an important consideration but it is rarely the main driver for establishing a trust. In addition, there are different tax rules depending on the type of trust used.

There is a misconception that trusts are just for wealthy individuals but in fact, they can be an appropriate financial planning solution for many of us. **To ensure you select the most appropriate trust for your requirements, the right financial advice is crucial. PK Group's holistic approach to financial planning means you have access to a number of specialists qualified to advise on both trusts and trust taxation.**

As a trust is a legal document, it should be drawn up by a solicitor. The needs of beneficiaries may change over time and it is important to ensure the trust can adapt to new requirements.

Why set up a trust?

There are four main reasons to set up a trust:

- **Control**

When used as part of a family wealth financial plan, trusts can help with Inheritance Tax planning to manage obligations efficiently. They can also give you control over how your assets are used by future generations.

- **Support**

Establishing a trust is an efficient way to support someone (or yourself in later life) unable to manage financial requirements. A trust ensures that their (or your) needs are looked after in the future.

- **Safeguard**

A trust structure can be beneficial for children; it can safeguard assets and finances for future generations.

- **Protect**

Assets held in trust are protected should there a personal or business relationship breakdown.





Who uses trusts?

- **Parents and grandparents**

Trusts can be used as part of generational wealth planning to create a legacy for children or grandchildren.

- **Family members**

As part of the estate planning process, trusts can be used if there is a wealth transfer within a family.

- **People in business**

Business owners can use trusts to protect business assets, separate business assets from personal assets, and aid in the efficient transfer of business assets between generations.



Benefits or setting up a trust

What are the key benefits of a trust?

- You can clearly define who can receive which assets and when they are disbursed.
- You can control assets and ensure a stable distribution to beneficiaries.
- A trust framework ensures the smooth transition of assets to beneficiaries whilst you are still alive or on death.
- Trusts enable you to manage a beneficiary's affairs if they are too young or incapacitated.
- Trusts can protect and safeguard assets from personal or business relationship issues.
- Creating a trust allows you to pass on assets efficiently thus minimising inheritance tax.

What are the benefits of a trust for a business?

- Business shares and any capital realized from the sale of these shares are protected and segregated from an individual's personal estate.
- A legal framework is established with a protocol in place in case of illness, retirement, divorce or other issue to protect the longevity of the business.
- A trust provides a framework for succession planning and tax efficiency for family businesses.



Different types of trust

There are many different types of trust for different purposes, including:

- **Accumulation Trust**

Trustees can accumulate income within the trust and add it to the trust's capital. These trusts are often used until the beneficiary becomes legally entitled to the trust property or income generated by trust assets.

- **Bare Trust**

Often used to pass assets to young people, the beneficiary has the right to all the capital and income of the trust at any time if they are aged 18 or over. For inheritance tax purposes, the asset placed in a bare trust as an initial gift is deemed to be a potentially exempt transfer and if the Settlor (the donor) survives for seven years then inheritance tax is not payable. Income and capital gains arising from assets in trust will be taxable and should be declared to HMRC.

- **Charitable Trust**

This is one of three structures to choose from when setting up a new charity – either a trust, charity or Charitable Incorporated Organisation (CIO). Gifts to charitable trusts are free of both inheritance tax and capital gains tax and potentially may qualify for income tax relief.

- **Discretionary Trust**

Trustees can make certain decisions on how to use the trust income (and in some cases the capital). Depending on the trust deed, trustees can decide what conditions to impose on the beneficiaries, how often payments are made, which beneficiary to make payments to and what gets paid out (income or capital). Discretionary trusts may be used for future requirements for beneficiaries who are not capable or responsible enough to deal with money themselves. Both will trusts and lifetime trusts (protecting property that can be passed on to family) can be structured as discretionary trusts.



Different types of trust

- **Interest in Possession Trust**

Beneficiaries are entitled to any income as soon as it is produced and the trustee must pass this on as it arises (less any expenses). It also allows the beneficiary to live in their property while it is in trust and is often used in a will where a person has died leaving a spouse and children.

- **Mixed or Hybrid Trust**

As the name suggests, this is a combination of more than one type of trust and may have different tax rules for different aspects of the trust.

- **Non-resident Trust**


Used when either the trustees are not resident in the UK for tax purposes or only some of the trustees are resident and the settlor is not resident / not normally resident / domiciled in the UK when the trust was established or funds added.

- **Settlor-Interested Trusts**

The settlor or their spouse or civil partner benefits from the trust. The trust structure could be an accumulation trust, discretionary trust or an interest in possession trust. This type of trust will be structured as an interest in possession trust, accumulation trust or a discretionary trust.

- **Vulnerable Beneficiary Trust**

Similar to a discretionary trust, these are set up for beneficiaries who are mentally or physically disabled or someone under 18 (a 'relevant minor') whose parent has died. Specific tax rules apply to the assets held within trust making this more tax-efficient for the beneficiary.



Important roles within a trust

There are three key roles within a trust:

- Settlor
- Trustee
- Beneficiary

- **Settlor (also known as Grantor):** Creates the trust, appoints the trustee(s) and specifies the beneficiary(ies). The settlor defines how and when the beneficiary benefits from any gifted assets or death benefits. They transfer assets to the trust and define the rules by which the trustee manages the trust.
- **Trustee:** Assumes legal ownership of the trust property. The trustee can be an individual or an entity, and the settlor may appoint multiple trustees. Trustees follow the settlor's wishes and guidelines, and manage the trust accordingly. They ensure that the trust is managed in the best interest of the beneficiaries. It is unusual to appoint just one trustee; usually there will be two or three trustees acting together. Trustees are responsible for making and reviewing investments, disbursing payments and distributing assets.
- **Beneficiary:** May be a person, an entity (for example a charity) or something else and there may be multiple beneficiaries. A beneficiary is entitled to benefit from the trust, and the trust property should be managed for their benefit. They receive income, capital or both from the trust.



The role of trustee and their duties

If you create a trust as settlor you will need to appoint a trustee to manage the trust.

You may be also be asked to act as a trustee, acting for someone else's trust.

What does this role entail?

Generally, anyone aged 18 or over and legally capable of holding property is eligible to be a trustee.

Each trustee needs to be properly appointed and listed in the trust governing document.

The Trustee Act 2000 regulates the duties of trustees and covers five aspects of trust law: duty of care, power of investment, power to appoint nominees and agents, power to acquire land, and the power to receive remuneration for work done as a trustee.

A person is disqualified from being a trustee if they are convicted of an offence involving dishonesty or deception (unless the conviction is spent), if they are an undischarged bankrupt, or if they have been disqualified from acting as a company director.

Trustees have a duty of care when acting on behalf of a beneficiary. A professional such as a solicitor or accountant acting as a trustee will have a greater duty of care as a result of their specialist knowledge or experience.

As a trustee it is your 'fiduciary duty' to act in the best interests of the trust beneficiary. Trustees are held personally liable for their actions so it is important to show you have complied with all expected duties.



Core trustee duties

A trustee has many duties including:

- Acting in the beneficiary's best interests.
- Acting with reasonable care and skill and distributing assets correctly.
- Acting unanimously.
- Acting impartially between beneficiaries.
- Always being accountable to the beneficiary.
- Ensuring there are no conflicts of interest.
- Managing any potential risks.
- Observing the terms of the Trust.
- Providing any information required by a beneficiary.
- Taking appropriate advice when needed.

Trustees may have to pay tax on behalf of a trust. Depending on the type of trust there may be income tax, inheritance tax or capital gains tax to pay. A trustee must report these details to HMRC and ensure any tax is paid.



Setting up a trust

There are many different trusts available for a variety of requirements. Each type of trust is taxed differently so it is important you discuss your individual needs with a qualified adviser.

To ensure you select an appropriate trust, the right financial advice is crucial. PK Group's independent financial advisers and tax advisers can discuss your requirements to assess an appropriate trust structure for your needs.

Once you have decided on the most appropriate trust, you will be in a position to set up the trust.

Setting up a trust is a three-step process:

- **Create the declaration of trust agreement.**

As settlor, once you have decided to create a trust, identified the beneficiaries of the trust, the proposed assets, and when the trust becomes active, a trust solicitor can then assist in the creation of a declaration of trust agreement. The legal wording of a trust agreement needs to be precise and the recommendation is to engage a solicitor. The declaration of trust will define the legal structure of the trust, the chosen trustees and the nature of the trust. Solicitor costs will vary depending on the nature of the trust.

- **Appoint the trustees**

Once appointed, the trustees will be able to register the trust (not required if the trust is a bare trust).


- **Fund the Trust**

The trust will then be administered by the appointed trustees according to the settlor's wishes and guidelines.



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