TRUSTEES PRACTICAL GUIDE

Aspiring Law

Keeping the interest of beneficiaries top of mind

HOW TO **ACT**

What you **must** do

1. Act honestly and in good faith
2. Know the terms of the trust and act in accordance with the terms
3. Act for the benefit of the beneficiaries or for the trusts stated purpose
4. Exercise trustees powers for a proper purpose

What you can **opt out** of

To act unanimously in decision making	Trustee not to take any reward for the role	To invest prudently	Not to make a personal profit from the trust	Not to exercise power for own benefit
To avoid conflicts of interests between the trustee & interest of beneficiaries	To regularly consider whether to exercise their powers.	To be impartial to beneficiaries as set out in trust deed.	To restrict future decision-making powers of trustees	To exercise reasonable skill and care

HOW TO DEAL WITH **BENEFICIARIES**

Provide Basic information

Advise a person they are a beneficiary

Name and contact details of trustees and any changes of trustees

Advise the beneficiary has the right to request a copy of the deed or other trust information

Further Trust Information if Requested

Beneficiary can request all information on the terms of the trust, its trust property and its administration.

- sets of accounts
- trust minutes
- information on distribution

HOW TO **DEAL** WITH **BENEFICIARIES**

However,
before giving the information,
the trustees must consider the following
factors and then make a decision on whether
to provide basic or further information.

- ✓ The nature of beneficiaries interests in the trust and the likelihood of a distribution to the beneficiary in the future.
- ✓ Whether personal or commercial confidentiality applies
- ✓ The expectations of the settlor on the sharing of information when the trust is created
- ✓ The age and circumstance of beneficiaries
- ✓ The effect on trustees and beneficiaries if information is provided
- ✓ The effect of giving the information on relationships within the family
- ✓ The effect of giving the information on the relationships between trustee and beneficiaries
- ✓ The practicality of giving information to all beneficiaries where there is a large number of them
- ✓ The practicality of restricting use of the information
- ✓ The practicality of redacting the information
- ✓ The context of the information request

HOW TO **MANAGE** THE **TRUST**

WHAT **TRUSTEES** NEED **TO DO?**

1

Get all trust records up to date

2

Review the trust deed and check on the optional duties

3

Consider the trusts position on notifying beneficiaries of the basic information. Review the list and record the decision on giving information and how you considered each factor in that decision.

4

Start or continue with regular trust meetings where trustees formally reviewing the activities of the trust:

- ✓ Information to beneficiaries
- ✓ Reviewing property and other assets and noting any changes
- ✓ The insurance the trust holds for property
- ✓ Any guarantees, mortgages or loans liable for
- ✓ Consideration of the needs of the beneficiaries and whether need to make a distribution
- ✓ If settlors living in the trust property - review arrangements and paying rent
- ✓ Approve annual tax return or tax arrangements (if applicable)

Aspiring Law

WANAKA | ARROWTOWN | DUNEDIN | CHRISTCHURCH
0800 277 529
RECEPTION@ASPIRINGLAW.CO.NZ
ASPIRINGLAW.CO.NZ