Quilter Financial Planning

A guide to acting as a trustee

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You have been chosen to act as trustee of a trust that has been created to administer a life assurance policy. The role of a trustee isn't a daunting one and shouldn't take up much of your time. However, you may have some questions and this guide aims to give you some answers.

What is a trust?

At its simplest, a trust is a legal instrument that enables someone to give away property in an efficient way. While a trust will often be used to make gifts of shares, cash, land and bricks-and-mortar property, in this case, it is being used to hold a life assurance policy for the benefit of beneficiaries nominated by the policyholder.

There are three entities involved in creating a trust.

1. **Beneficiary** – the person or persons that the policyholder chooses to benefit from the proceeds of the policy.
2. **Settlor** – the creator of the trust, which is the policyholder.
3. **Trustee** – administrators of the trust; the settlor is automatically a trustee, but it is customary to appoint at least one further trustee.

Why put a life assurance policy in a trust?

A trust helps to make sure that the right money goes to the right people at the right time. The key feature of a trust is that the policy holder no longer owns the asset held in the trust, their life assurance policy. This means that should the policyholder die the proceeds of the policy do not form part of their estate. This delivers two important benefits.

Avoid probate delays

Probate is the legal process that determines how a dead person's estate is distributed. The probate process, on average, takes between nine and twelve months to complete.

By placing a life assurance policy in a trust, the policyholder has transferred ownership to the trust. Because the trust now owns the policy there is no ownership issue to be decided by probate. This means the life assurance provider can pay the proceeds quickly to the trustees, who will pass the money to the nominated beneficiaries.

Avoid inheritance tax

Inheritance tax (IHT) is a tax due on the value of a dead person's estate once it passes a certain threshold. Currently, IHT is payable at the rate of 40% of the amount by which the estate exceeds £325,000.

By placing the life assurance policy in trust, the proceeds no longer form part of the estate. This means the trustees can distribute the proceeds of the policy with no liability to IHT.

Trusts in practice

As settlor, the policyholder is automatically a trustee, but it is sensible to appoint additional trustees, which is why you've been nominated. It is usual to appoint at least two trustees at outset. You can retire as a trustee if you no longer wish to continue. If at any time only one trustee remains, a further trustee should be appointed.

You don't need any special qualifications to be a trustee other than being over 18 and of sound mind.

Your duties as a trustee

You and any other trustees are the legal owners of the policy. Therefore, you are responsible for administering the trust and its assets. This means deciding who benefits from any funds in the trust and when.

When a life assurance policy is the only asset of the trust, funds will only ever exist if the policyholder dies. If this happens, your duties as a trustee usually extend to nothing more than passing on the policy proceeds to the trust's nominated beneficiaries. The life assurance provider will require written instructions from all the trustees before paying the proceeds.

However, if any of the beneficiaries are young children, the proceeds stay in the trust until they are 18. In this event, you and any other trustees become responsible for investing the trust assets until the trust can distribute the assets to the beneficiaries.

Certain further trustee duties exist under law.

- **Duty to preserve the trust assets**
  Although you don't need any special skills or knowledge to perform your role as trustee, you must ensure, when required, that you invest the trust assets appropriately. This will probably involve seeking professional investment advice.
- **Duty to treat all beneficiaries fairly**
  You must administer the trust assets for the benefit of all beneficiaries. You must not favour one beneficiary over another unless the trust expressly allows you to do so.
- **Your trusteeship is a not-for-profit role**
  As a non-professional trustee, the law prevents you from profiting personally from acting as a trustee. This means you cannot receive any form of payment for your activities as a trustee.

Quilter
Foundation

The Quilter Foundation is Quilter's charity. The Quilter Foundation provides vital funding to carefully selected charitable organisations, focusing on education, employment and health & wellbeing.

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