

Trustee Duties

What are your duties as trustee of a trust?

When a trustee accepts the position, they become subject to certain duties. These duties reflect the fiduciary relationship that the trustee owes to the beneficiaries. A trustee who breaches their duties may be personally liable for any loss caused.

Here is a summary of some of the general duties of trustees. Some trust deeds may impose additional duties or alter these duties.

1. Duty to obey the terms of the trust

This means that the trustee must have an understanding of the terms of the trust deed.

2. Duty to use diligence and prudence

The trustee must take care with the trust property and affairs.

3. Duty to act in good faith and avoid conflict

A trustee must not profit from the trust or deal with trust property for their own benefit.

4. Duty to keep proper accounts and provide information

Beneficiaries are entitled to information regarding the trust property, however a trustee is not required to provide reasons for its decisions.

5. Duty to administer the trust personally

This means that the trustee must not delegate their powers and duties. The trustee should still seek financial and legal advice when appropriate in respect of the trust.

6. Duty to act impartially

The trustee cannot favour one class of beneficiaries over another.

7. Duty to preserve and invest

The trustee must invest trust monies for the benefit of the beneficiaries. The duty to preserve trust property includes a duty to insure assets where a prudent person would do so.

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