

TRUST SERVICES

Public Trustee and Guardian

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ACT Government
Justice and Community Safety

EXECUTIVE SUMMARY



Victor Hugo Martin
Chief Executive Officer

This document outlines a comprehensive framework for establishing and managing trusts that serve the diverse needs of individuals.

Trusts are essential tools for protecting assets, supporting vulnerable beneficiaries, and ensuring that financial and personal wishes are carried out with integrity and transparency.

This prospectus provides a detailed overview of the types of trusts available, the benefits they offer, and the professional services provided by the Public Trustee and Guardian.

The Public Trustee and Guardian operates with a commitment to ethical governance, legal compliance, and a client-centered focus. Whether the goal is to provide for children through a testamentary trust, support a loved one with a disability, or create a lasting charitable legacy, the Public Trustee and Guardian offers tailored solutions backed by decades of experience and public accountability. We are also often appointed as an independent trustee by the Court.

By choosing the Public Trustee and Guardian to be the trustee, clients gain peace of mind knowing their trusts are managed with professionalism, impartiality, and a deep understanding of fiduciary duty. This prospectus serves as both an introduction and a roadmap to securing financial futures through trusted public stewardship.

ABOUT THE PUBLIC TRUSTEE AND GUARDIAN



The Public Trustee and Guardian is a statutory authority established under the *Public Trustee and Guardian Act 1985* and is dedicated to providing professional trustee, estate, and financial administration services to the ACT community. Established to serve some of the most vulnerable community members, the agency operates independently and with a strong commitment to transparency, accountability, and ethical governance.

We are unique in that we operate in perpetuity. As a government entity, we do not carry the same risks as private trustees being acquired, merged or liquidated.

The core mission of the Public Trustee and Guardian is to protect and manage assets on behalf of individuals who may be unable to do so themselves, including minors, people with disabilities, and those without trusted family or friends to act as fiduciaries. The Public Trustee and Guardian also serves as executor of estates, administrator of financial affairs under legal authority, and trustee for a wide range of trust structures.

Our agency is staffed by empathetic professionals with experience in law, finance and taxation, ensuring that every trust is managed with precision and compassion. Clients choose the Public Trustee and Guardian for its impartiality, continuity, and deep understanding of complex family dynamics and financial structures. Whether managing a simple trust or a multi-generational estate, the Public Trustee and Guardian provides reliable, ethical, and expert support.

UNDERSTANDING TRUSTS

A **trust is a legal arrangement** that allows a person or entity to transfer assets to a trustee, who then manages those assets for the benefit of one or more beneficiaries. Trusts are widely used in estate and business planning, asset protection, and financial management, offering financial benefit, flexibility and control over how assets are distributed and used. They are particularly valuable in situations where beneficiaries may be minors, have disabilities, or require long-term financial support.

Trusts can be tailored to suit a wide range of needs. For example, a testamentary trust is created through a will and comes into effect upon a person's death, providing structured support for beneficiaries.
A discretionary trust allows the trustee to decide how and when to distribute income or capital, offering flexibility and protection. Special disability trusts are designed to provide for individuals with severe disabilities while preserving access to government benefits.

The **trust deed is the foundational document** that outlines the terms of the trust, including its purpose, the appointment and powers of the trustee, and the rights of the beneficiaries. Trustees have a fiduciary duty to act in the best interests of the beneficiaries, manage the trust prudently, and comply with legal and regulatory requirements.

The **Public Trustee and Guardian offers professional** trustee management, ensuring impartiality, compliance, and ethical stewardship. This is especially important when family dynamics are complex or when beneficiaries require long-term care and financial oversight. By choosing the Public Trustee and Guardian, individuals gain peace of mind knowing their assets are managed with integrity and transparency.



TYPES OF TRUSTS WE MANAGE

1 TESTAMENTARY TRUSTS

These trusts are created through a will and come into effect upon the death of the Will maker.

They are commonly used to provide long-term financial support to children, dependents with special needs, or vulnerable adults.

Testamentary trusts offer tax advantages and asset protection, especially in cases of family breakdown or financial instability.

2 SPECIAL DISABILITY TRUSTS

Designed to assist individuals with severe disabilities, these trusts allow families to set aside funds for the care and accommodation of a disabled beneficiary without affecting their eligibility for government benefits.

The Public Trustee and Guardian ensure compliance with strict legislative requirements and manages the trust with sensitivity and professionalism.

3 CHARITABLE TRUSTS

Charitable trusts are established to support philanthropic causes. They can be set up to benefit specific organisations, communities, or social initiatives.

The Public Trustee and Guardian ensures that funds are distributed ethically and in accordance with the settlor's wishes, maintaining transparency and accountability.

4 PROTECTIVE TRUSTS

These trusts are ideal for beneficiaries who may be vulnerable due to age, illness, or financial immaturity.

The trustee manages the assets and controls distributions to ensure the beneficiary's long-term welfare and financial stability.

5 DISCRETIONARY TRUSTS

A discretionary trust enables the trustee to use discretion as to how to distribute income to beneficiaries during a financial year.

These trusts are tax effective as the trustee can vary the income paid depending on how much other income the beneficiary receives. These trusts offer asset protection from creditors or other legal claims on the beneficiaries.

6 COURT APPOINTED TRUSTS

A court-awarded trust is established by judicial order to manage and distribute assets for the benefit of a specified individual or group.

The trustee operates under the court's direction, with limited discretion, ensuring distributions align with legal and fiduciary obligations.

These trusts may offer tax advantages depending on the structure and can provide protection from creditors or legal claims against the beneficiary.

BENEFITS OF ESTABLISHING A TRUST

Establishing a trust through the Public Trustee and Guardian offers a wide range of benefits that extend beyond simple asset management. Trusts are powerful tools for protecting wealth, supporting loved ones, and ensuring that financial and personal wishes are carried out with integrity and precision.

1. Asset Protection

Trusts can safeguard assets from financial risks such as bankruptcy, legal claims, or family disputes. By placing assets in a trust, they are legally separated from personal ownership, offering protection against creditors and ensuring that they are preserved for the intended beneficiaries.

2. Support for Vulnerable Individuals

Trusts are particularly valuable for supporting individuals who may be unable to manage their own finances due to age, disability, or other vulnerabilities. The trustee ensures that funds are used appropriately, providing ongoing financial stability without compromising government entitlements.

3. Estate Planning and Succession

Trusts allow for structured and strategic estate planning. Testamentary trusts, for example, can provide for children or dependents in a controlled and tax-effective manner.

4. Tax Efficiency

Certain trust structures offer tax advantages, particularly in managing income distributions and capital gains. Trustees can apply tax strategies that align with the trust's objectives while remaining compliant with relevant laws.

5. Professional Management

By appointing the Public Trustee and Guardian, individuals gain access to experienced, impartial professionals who manage the trust with transparency, accountability, and legal expertise. This is especially beneficial in complex family situations or when long-term administration is required.

6. Peace of Mind

Ultimately, establishing a trust provides peace of mind. It ensures that assets are managed responsibly, beneficiaries are provided for, and the person's wishes are respected.

TRUSTEE RESPONSIBILITIES AND GOVERNANCE

Trustees play a critical role in the administration and success of a trust. Their responsibilities are both legal and ethical, requiring a high level of diligence, impartiality, and accountability. When the Public Trustee and Guardian is appointed, clients benefit from professional governance, transparent processes, and strict adherence to fiduciary duties.

Core responsibilities of a trustee

- **Managing trust assets prudently**, including investments, property, and cash holdings.
- **Distributing income or capital** to beneficiaries as outlined in the trust deed.
- **Maintaining accurate records** and preparing financial statements.
- **Ensuring compliance** with relevant laws, including taxation, reporting, and regulatory obligations.
- **Communicating transparently** with beneficiaries and stakeholders.

Governance framework

- Independent oversight to ensure ethical conduct and legal compliance.
- Internal controls and audits to safeguard assets and prevent mismanagement.
- Conflict-of-interest policies to ensure impartiality in decision-making.

Fiduciary duty

- The fiduciary duty is the cornerstone of trustee governance. It requires the trustee to act loyally, prudently, and solely in the best interests of the beneficiaries. This duty prohibits self-dealing and mandates full disclosure of any potential conflicts.

Public Trustee and Guardian Advantage

Unlike private trustees, the Public Trustee and Guardian offers **continuity, impartiality, and institutional stability.** This is especially important in long-term trusts or where family dynamics may complicate administration. Clients can rely on the Public Trustee and Guardian to manage trusts with integrity, professionalism, and a commitment to public service.

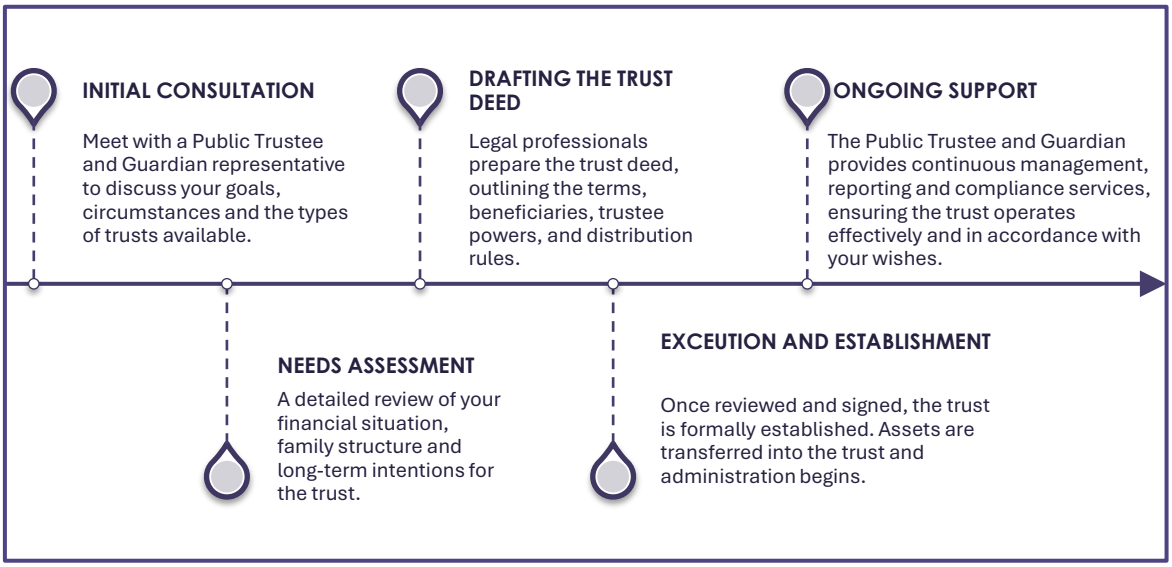
CLIENT ELIGIBILITY AND APPLICATION PROCESS

The Public Trustee and Guardian is committed to establishing a trust and administration accessible to a wide range of individuals and families.

Whether you are assisting your client in planning for the future, supporting a loved one with special needs, or managing a complex estate, the Public Trustee and Guardian provides tailored solutions and expert guidance throughout the process.

Eligibility to establish a trust with the Public Trustee and Guardian generally includes:

- ✓ Individuals seeking to create a **testamentary trust** through their will.
- ✓ Parents or guardians of individuals with a **severe disability**, who are eligible for a **Special Disability Trust**.
- ✓ People requiring **asset protection** or structured financial support for vulnerable beneficiaries.
- ✓ Donors or philanthropists wishing to establish **charitable trusts**.



FEES

Understanding the fees and charges associated with trust services is essential for transparency and informed decision-making. The Public Trustee and Guardian is committed to providing clear, fair, and competitive pricing for the establishment and ongoing management of trusts. Fees are determined annually by the Attorney-General and are structured to ensure that we can cost recover from our delivery of services, while ensuring accessibility for individuals and families.

Establishment Fees

These are one-time charge when a trust is created. This covers:

- Legal drafting of the trust deed
- Initial consultation and needs assessment
- Asset transfer and registration
- Administrative setup

The cost may vary depending on the type of trust (e.g., testamentary, special disability, charitable) and the complexity of the arrangements.

Ongoing Administration Fees

These fees cover the day-to-day management of the trust, including:

- Asset management and investment oversight
- Distribution of income or capital to beneficiaries
- Preparation of financial statements and lodgement of tax returns
- Compliance with legal and regulatory obligations

Additional Service Fees

Occasionally, additional fees may apply for:

- Legal advice or dispute resolution
- Property transactions or valuations
- Complex financial arrangements
- Complex taxation lodgements or private rulings



All fees are disclosed upfront, and clients receive annual statements detailing charges and services provided. The Public Trustee and Guardian operates under strict governance and accountability requirements, ensuring that fees are reasonable and justified.

INVESTMENT OF TRUSTS

The Public Trustee and Guardian is committed to the professional management of trust funds to ensure that the value of client assets is preserved and enhanced in line with our fiduciary obligations. Our investment strategy is designed to deliver strong, sustainable returns while maintaining prudent oversight and governance.

The Public Trustee and Guardian utilises a mix of diversified products to invest trust funds to achieve the best outcome for our clients. The Public Trustee and Guardian has achieved above average investments returns in the last financial year. This approach allows the Public Trustee and Guardian to manage risk effectively while maximising returns for beneficiaries.

Investment decisions are informed by the Public Trustee and Guardian Investment Board, which provides independent advice on the investment of money held in common funds or otherwise available for investment. The Board plays a critical role in overseeing investment performance, reviewing strategy, and ensuring compliance with legislative and fiduciary standards. The Public Trustee and Guardian serves as the Senior Member of the Board, with all other members appointed by the Minister, ensuring a balance of independence and expertise.

The Public Trustee and Guardian aims to achieve above-average investment returns, reflecting the strength of our strategy and the quality of our governance. We remain focused on delivering the best outcomes for our clients through responsible stewardship, continuous improvement, and a commitment to transparency. Public Trustee and Guardian continues to uphold its responsibility to protect and grow the financial interests of those who rely on our services.



CASE STUDIES AND TESTIMONIALS

Testamentary trust for minor children

Following the unexpected passing of a parent, a testamentary trust was established to provide financial support for two minor children. The Public Trustee and Guardian managed the trust assets, ensuring regular distributions for education, healthcare, and living expenses.

The trust also preserved capital for future needs, such as university tuition. The surviving family members expressed deep appreciation for the stability and transparency provided during a difficult time.

> "The Public Trustee was a lifeline during our family's most vulnerable time. Their professionalism and empathy made all the difference."
> *– Sarah M., Canberra*

Special disability trust

A family established a Special Disability Trust for their adult son with a severe intellectual disability. The trust enabled them to set aside funds for his long-term care without affecting his eligibility for government support.

The Public Trustee and Guardian ensured compliance with legal requirements and managed the trust with compassion and professionalism. The family reported peace of mind knowing their son's future was secure.

> "We never imagined how complex managing a trust could be. The Public Trustee and Guardian took care of everything and kept us informed every step of the way."
> *– James T., Wagga Wagga*

Charitable trust legacy

An individual created a perpetual charitable trust to support local youth arts programs.

The Public Trustee and Guardian administered the trust, distributing income annually to eligible organisations. The donor's legacy continues to enrich the community, and beneficiaries have praised the trust's impact on their development and opportunities.

These examples highlight the value of the Public Trustee and Guardian in delivering secure, ethical, and effective trust management tailored to individual needs.

Get in touch with us today!

Do you have a matter where a trust would be appropriate for them?
Want to know more details?

Get in touch with us to discuss how the Public Trustee and Guardian can help your client.

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