



**PUBLIC TRUSTEE  
AND GUARDIAN**

# FACTSHEET

## Powers of Attorney

## TRUSTS

### What is a Trust?

A Trust is a relationship where a person or organisation known as the trustee is under obligation to hold assets and/or funds for the benefit of other persons known as the beneficiaries.

A Trust can be created by a Will, a deed or a court order. A Trust created by a Will is called a Testamentary Trust and becomes effective when you die. In contrast, a Trust created by a deed will usually become effective on the date the deed was created.

A Court Ordered Trust is a Trust established by orders made by a court.

### Types of Trusts

Trusts may be created for a range of reasons such as tax effective estate planning or to provide ongoing support for a beneficiary. All trusts need careful explanation and proper assessment of their benefits. It is important to match your wishes and your beneficiaries' needs with the right type of trust. We can advise on the type of trust you may require and help set it up.

### Trusts for children

These are generally created in Wills and are administered for children until they reach the age of 18 or an older age if specified. While the funds are held in trust you may want to specify if it can be used for the child's benefit, for things like education and living expenses.

### Trusts for adults not able to manage their own finances

Trusts for adults can be an extension of a trust created for a child, if the person does not have capacity to manage their own affairs when they turn 18 or can be created for someone who is already an adult. Trusts can also be created for adults vulnerable to financial loss or financial exploitation. These types of trusts can continue for a very long time, particularly if the person is only young when the trust is created.

### Special disability trusts

The purpose of a special disability trust is to assist families to make financial provision for the current and future needs of a family member with a severe disability. The beneficiary must be assessed by Centrelink as being eligible to be a beneficiary of a special disability trust. Consultation with a professional is recommended as there are eligibility criteria and ongoing reporting obligations.

### Trusts for accommodation – life interests and right of residence

A life interest or right of residence can be set up to provide accommodation for a beneficiary. These types of trusts are often used so that a family member can have the right to live in the family home for as long as they wish. These trusts can be restrictive, so it is particularly important to get professional advice in deciding whether this type of trust is right for your situation.



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### Responsibilities of a trustee

A trustee is a person or organisation responsible for administering a Trust for the benefit of the Trust beneficiaries. Their main role is to manage the funds or assets within the terms of the Trust. A trustee may be required to manage assets for a long time, so permanency and financial management skills are needed.

### Your trust team

When the Public Trustee and Guardian is appointed the trustee of a trust, you will be looked after by a designated trust team to guide you through the process. They will listen to your views, consult with you on important decisions, offer impartial guidance, work to resolve any difficulties and keep things moving. Our trust team is made up of skilled staff who understand the management of all types of trusts. They are supported by legal, financial, property, tax, and investment professionals.

### Establishing a Trust

The Public Trustee and Guardian is committed to making trust establishment and administration accessible to a wide range of individuals and families. Whether you are planning for the future, supporting a loved one with special needs, or managing a complex estate, the Public Trustee provides tailored solutions and expert guidance throughout the process.

### Eligibility to establish a Trust

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

- Individuals seeking to create a testamentary trust through their will.
- Parents or guardians of individuals with a severe disability, 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.

Eligibility may vary depending on the type of trust and the specific legal or financial requirements involved. The Public Trustee can assist in assessing your situation and recommending the most appropriate trust structure.

### Administering funds

Subject to the terms of the trust, funds may be used for the beneficiary's maintenance, education and advancement in life. When considering how funds are used we take into account the financial position of the carer, beneficiary's parent or guardian.

### Next steps

If you require assistance with establishing a Trust or require general information about Trusts, please contact our office on 02 6207 9800 or via email [PTG@act.gov.au](mailto:PTG@act.gov.au).

The Public Trustee and Guardian offers a range of services to the ACT Community, and we are here to help.