

APPOINTING A TRUSTEE

A trustee is the person responsible for managing a trust on behalf of another person or persons (beneficiary/ies).

Choosing a trustee

Trustees hold a position of significant responsibility. To protect your beneficiary/ies from dishonesty and /or incompetence, you should think carefully about who you appoint. Follow the below steps when choosing and appointing a trustee:

- **Understand the duties of a trustee.** The trustee must carry out their duties and exercise any powers they have in a way that is consistent with the trust deed or the Trusts Act. They must:
 - Act impartially toward all beneficiaries, unless otherwise stated in deed;
 - Act in good faith and not use the trust property for their own purposes/benefit;
 - Maintain the value of the trust property, typically by investment;
 - Keep records of investments, outgoing expenses and dispositions made;
 - Insure the trust property;
 - Take advice from professionals if needed;
 - Consider all circumstances when deciding whether to distribute trust property.
- **Identify an appropriate trustee/s.** While a trustee can be any adult who is of sound mind and not declared bankrupt, it is highly desirable to choose a trustee who:
 - Has a reasonable level of financial competence—they don't have to be financial professionals themselves, but they should be comfortable seeking and following professional advice;
 - Is unlikely to have a conflict of interest with the beneficiaries;
 - Is likely to follow your plans for the future of the named beneficiary or beneficiaries, or at least take advice from those who support your plans;
 - You can appoint up to four trustees to manage a trust, in which case they should act jointly and unanimously to agree on decisions. It is also possible to appoint a trustee company, the Public Trustee or a professional advisor.
- **Talk to the person/s you are considering for the role of trustee to confirm that they are willing.** It is also advisable to speak with and appoint alternative trustees who may step in if initial appointees are unable to perform the role due to unforeseen circumstances.

To find out more about setting up a trust, call Disability Law Queensland on 3622 1250.