

“New Normal” Tips for Trustees



The impact of the COVID-19 pandemic has been felt by every sector of the economy. Whilst there are some signs of market re-emergence, recovery will be a long and turbulent journey. During this difficult time, trustees must act as proactively as possible to review all aspects of administration of the trust in order to meet their fiduciary obligations to the beneficiaries and avoid any potential liability for breach of trust.

Here are some helpful tips for trustees navigating their role during this unprecedented time:

- **Evaluate the risk to assets and beneficiaries:** speak to knowledgeable advisors about the trust assets to identify potential risks arising as a result of the pandemic, and draw up a plan to minimise the impact of those risks. The plan could include strategies such as refinancing of loans, appropriate budgeting and/or scrutiny of other bodies managing interests of the trust. Trustees should also consider how the pandemic has affected the beneficiaries and plan accordingly. Some beneficiaries may now have a greater financial need for trust assets.
- **Keep good records:** when assets are evaluated and decisions made, trustees should record the details of why a strategy was considered or rejected, any advice from advisors and the comments of beneficiaries or third parties with regard to trust assets. Documenting these details will help you to demonstrate that you have met the standard of care required of trustees.
- **Communicate with the beneficiaries:** explain regularly how the pandemic is impacting the trust and its day to day administration.
- **Consider involving the Court:** this may be necessary in the following circumstances:
 - When petitioning for instructions. This option allows trustees to seek guidance from the Court in relation to trust assets. An order approving a decision or choice will also protect trustees from potential liability.



- To give Notice of Proposed Action. This option forewarns the beneficiaries of any proposed action trustees may or may not take. If the beneficiaries do not object to the proposed action then trustees are protected from potential liability.
- To modify (or end) the trust where there is a change in circumstances and this change defeats the purpose of the trust entirely.

As not all of these tips will be applicable to all trustees, we advise consulting with professional advisors to best meet your fiduciary duties as trustees and the needs of the trust.

Please contact us for assistance in managing trusts during this difficult time.



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