

WHY MAKE A TRUST? FAQs

Frequently Asked Questions

Many people are concerned about the prospect of setting up a Trust. Of course each individual will have personal questions, but as a start to the thinking process those most frequently asked questions are listed below.

Q. Can a settler be a trustee

A. Yes

Q. Can a trustee be a beneficiary

A. Yes

Q. Can I be a sole trustee?

A. Technically yes (unless the trust holds land) but it is not a preferred option

Q. Must I appoint a professional trustee?

A. The strict answer is no but it is recommended. It is important to be extra careful to whom you give the power and responsibility of trusteeship.

Q. Can a trust protect assets from divorce or bankruptcy proceedings?

A. The Courts have wide powers so protection is only available up to a point. Much depends on the terms of the trust, the timing and the purpose for which it was created. Once again professional advice is essential.

Q. How many trustees should there be?

A. Two or three are preferred, four is usually the maximum.

Q. Can I put assets into a trust but keep the income from (or use of) the assets myself.

A. The tax consequences of this is usually unacceptable as income and capital gains would be taxed as yours. On your death the trust's assets would be added to your own estate and inheritance tax charged on the total. In certain limited circumstances however, it might be appropriate, particularly if tax is not an issue.

Q. My chosen executor/trustees for my modest estate are relatives. Is this wise?

A. If they are an adult and sensible this should not cause a problem. They will have the power to hire (and fire) professionals who would (or should) be able to advise them what to do.

There are many other questions that may need answering, and each individual case is exceptional. Please speak to Nigel Stratton, if you wish to explore more about using trusts.



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