

Trustees Guide

7 things every trustee
should know about Investing.



1. Trustee Obligations for Investing

Trustees must be particularly careful when investing trust assets. They must invest the trust's assets according to the Trust Deed, any statute and general law that is in place and also in accordance with any court order.

Generally, a trustee must:

- Act in the best interests of both present and future beneficiaries.
- Act impartially and fairly.

A trustee should also take advice in areas where that trustee does not have any expertise, such as investments. "A trustee exercising any power of investment shall exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others" (section 13B Trustee Act 1956).

If the trustee has special skills from their profession, employment, or business, a higher duty of care is imposed. In this case, "the trustees in exercising any power of investment, shall exercise the care, diligence and skill that a prudent person engaged in that profession, employment, or business would exercise in managing the affairs of others" (section 13C Trustee Act 1956). These are high standards for trustees to meet.

It is important to note that prudent decisions are measured more by how investment decisions are made by the trustees rather than the results of the investment decisions made.

2. The Investment Policy Statement

The Investment Policy Statement (IPS) is a practical risk management tool that trustees can use to demonstrate to beneficiaries that investment decisions have been made prudently.

An Investment Policy Statement should take into account the following:

- Objectives for the trust;
 - What are the trust funds required for?
 - How much is required?
 - When are the funds required?
- The trust's risk profile – unless authorised by the Trust Deed, trustees must not make speculative investments. This does not mean that trustees cannot make investments that may carry a degree of risk, but the degree of risk must be reasonable and in keeping with the trust's objectives and risk tolerance;
- Capital growth and income requirements that meet the needs of the beneficiaries;
- Liquidity needs for the trust.

Beneficiaries may request access to trust documentation. The IPS will show beneficiaries that the trustees are very clear about their investment obligations.

3. The Investment Process

Achieving successful investment outcomes for a trust requires a clear understanding of the trust's objectives, and an IPS that should be followed to ensure that the trust's objectives are met.

The investment process can be viewed as a 4-stage cycle:

- Discover: Obtaining a clear understanding of the goals for the trust taking into account the (sometimes conflicting) needs of all beneficiaries;
- Create: Developing the investment strategies to achieve these goals.
- Deliver: Implementing the investment strategies.
- Review: Monitoring the investments to ensure ongoing success, taking into account any changes in the investment objectives for the trust.

It is very important that a proper investment process is followed.

4. Diversification and Asset Allocation

While selecting specific investments and deciding when to buy and sell those investments can have an impact on the overall return, a well diversified portfolio may be the crucial factor in determining how well investments perform in the long run.

Diversification is generally regarded by the investment industry as a prudent investment principle, and when determining an appropriate allocation of assets, trustees should seek qualified investment advice.

5. Investing Appropriately

When making investment decisions, trustees should also consider the following:

- The nature of existing trust investments and other trust property;
- The need to maintain the real value of the capital or income of the trust;

- One investment strategy cannot be pursued at the expense of the other, the two must be kept in balance.
- The risk of capital loss or depreciation;
 - A trustee may wish to set up a replacement or depreciation fund to take into account this risk.
- The potential for capital appreciation and the likely income return;
 - Investments should be made to deliver the best total return for the beneficiaries in relation to the risks associated with the particular investments and taking into account both yield and capital growth.
- The length of the term of the proposed investment;
 - Trustees need to consider the capital and income needs of the beneficiaries, the duration of the trust and the maturity of other investments.
- The probable duration of the trust;
 - Different types of trusts have different durations and will therefore require different investment portfolios.
- The aggregate value of the trust's estate;
 - Trustees should look at the value of the proposed investment in relation to the whole portfolio of investments.
- The effect of the proposed investment in relation to the tax liability of the trust;
- The likelihood of inflation affecting the value of the proposed investment or other trust property.

Although all of the above will not necessarily be relevant in all cases, they form a useful framework for a trustee when making investment decisions.

6. Investment Administration

Trustees have an obligation to keep appropriate records of their investments and transactions.

Accurate valuations of the investments held by the trust and income statements need to be available to meet the trust's tax obligations.

To lessen the administrative burden of managing their investments, trustees may consider appointing a custodian to hold assets on the trustees' behalf.

A custodian can take care of all investment documentation, including tax statements and can simplify the process when trustees retire and new trustees are appointed.

7. Seeking Professional Advice

Given the large range of investment options available today, it can be extremely onerous on a trustee to select and justify their investment decisions without the

experience and impartiality provided by an investment professional. Trustees should therefore seek recommendations from investment professionals to assist them in setting the IPS and making their investment decisions.

When selecting an Investment Adviser the following should be taken into consideration:

- Can the Investment Adviser demonstrate that their advice can be substantiated by up-to-date research? Do they have a documented investment philosophy?
- Can they demonstrate a comprehensive investment process?
- Do they show an understanding of the specific requirements of trusts?
- How independent are their recommendations, e.g. do they sell their own product for which they receive payment?

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