



**Simpler Law.**



**Professional Trustee Service.**  
**The role, responsibilities and benefits**  
**when appointing a Professional Trustee**



## Simpler Law. Who Are We?

**Simpler Law** is a nationwide firm specialising in estate planning and end of life services. With over 30 years of combined experience, we have grown to become one of the UK's largest Law Firm's specialising in this sector. We have written over 200,000 bespoke Wills with many containing advanced Will trusts.

**Simpler Law** is a nationwide company with clients throughout England, Wales, Scotland, and Northern Ireland. Whilst the head office is based in Lincoln, it has offices in Leicester, Cardiff, Birmingham, and the Northeast.

In addition, our sister company **Fidelis Legal Services** are expert drafters of living trusts (Please note this is a reserved activity, which can only be carried out by a person authorised under the Legal Services Act, e.g. a Solicitor) having provided many thousands of these over the years to our clients. **Fidelis Legal Services** also assist with the ongoing management of these trusts by their appointment as trustees and currently hold over 500 million pounds of trust assets across the UK\*. Our clients also benefit from specialist tax advice in respect of their end-of-life planning.

Our outstanding service has earned us a 5-star Trustpilot rating and, with a fully insured service, gives peace of mind to all of our clients that choose us to help them put their affairs in order.

Please note that we can also be appointed, in many cases, in trusts that we have not written (subject to the terms of the trust). Call us for further information if you wish to discuss our services any further.

\* Data correct as at 1st August 2022

For more information visit our website at [WWW.SIMPLERLAW.CO.UK](http://WWW.SIMPLERLAW.CO.UK) or text **TALK to 66777** or call us on **0333 600 1000** for a free no obligation chat.



Simpler Law Ltd. (a wholly owned subsidiary of HAIG Legal Group Ltd. [HAIG]) may, where necessary, sub-contract to its sister companies, Fidelis Legal Services Limited and/or Northwood Banks & Co Limited, also wholly owned subsidiaries of HAIG, for other legal or estate planning work to be carried out in order to fulfil your requirements and meet your estate planning needs.



# The Role of Trustee.

## What is a Trustee?

A trustee owes fiduciary duties to the beneficiaries. These duties are typically set out in the trust deed or provided by Statute.

## Main duties of a Trustee?

### Duty to the terms.

A trustee must know and adhere to the terms of the trust, which are prescribed by the trust deed.

### Duty of loyalty.

Trustees have a fiduciary duty towards beneficiaries. A trustee must administer the trust solely in the interest of the trust beneficiaries and cannot place his or her interest in conflict with beneficiaries.

Trustees should not profit personally from their role as trustees other than a fee which they may receive for their trusteeship if they act in a professional capacity.

### Duty to manage the trust effectively.

To manage a trust efficiently, a trustee must be very familiar with the terms of the trust, the trust assets and liabilities, the circumstances of the beneficiaries and the purpose of the trust.

Effective management systems should be in place to ensure that the appropriate decisions are made in a timely manner and considering the terms of the trust and the interests of the beneficiaries.

A trustee also has a duty to invest prudently on behalf of the trust and should diversify the investment of trust assets in the interest of beneficiaries, unless the trust directs that this is not necessary.

### Duty to act personally.

Trustees act personally and must be involved in decision-making in respect of a trust. While trustees are typically permitted to engage advisers such as lawyers and financial advisers, the final decision on trust matters should be made by the trustee.

In certain circumstances, trustees may delegate powers to third parties by power of attorney or deed of delegation. This must be permitted by the trust deed. For example, delegating powers to an agent to purchase or sell properties overseas.

The trustee is still obliged to properly instruct and supervise the agent. Decisions amongst the trustees must be made unanimously unless otherwise permitted by the trust deed.

### Duty to consider the beneficiaries.

A trustee must act impartially with respect to the beneficiaries by considering all beneficiaries in their decision making. They should also not follow the instructions of the settlor but may give consideration of the wishes of the settlor which are not binding unless included in the terms of the trust.

### Duty to account.

Unless otherwise provided by a trust, a trustee must keep trust accounts and other records. They must also respect beneficiaries' rights with regard to requests for trust information, as generally, beneficiaries have a right to receive information about the trust but not the decisions of the trustee.





## The Benefits of Appointing a Professional Trustee.

The benefit of having a professional trustee should not be underestimated. A professional will take on the liability and responsibility for complying with the complex legislation that governs the administration of trusts, the terms of the trust itself, as well as the reporting requirements imposed by HMRC.

Trustees may be held personally liable for breaches of duty and there are many factors to consider before accepting a trusteeship. Managing a trust is not always straightforward. For example, the Government have recently introduced the Trust Registration Service (TRS), which means that all express trusts, with few exceptions, now need to be registered with HM Revenue and Customs.

Please read on for further information on the Trust Registration Service (TRS).

### Benefits of a Professional Trustee – Family.

Appointing a professional trustee is also beneficial if your wishes differ from the expectations of your potential beneficiaries. If you are excluding family members from your trust, requesting the trustees consider uneven distributions or asking your trustees to consider the personal circumstances of your beneficiaries, a professional is better placed to act in an unbiased manner.

Refusing a distribution to a beneficiary with an addiction or withholding a payment to someone who is in a coercive relationship can be difficult for family members who are emotionally involved. A professional trustee will always act free of any conflict and in the best interests of all beneficiaries regardless of the circumstances.

### What is the Trust Registration Service?

The Trust Registration Service (TRS) was introduced by HMRC to comply with legislation that is designed to tackle money laundering and terrorist financing. The implementation of the 5th Money Laundering Directive brought an extension of the TRS to include non-taxable trusts which means that all express trusts now have to be registered.

The responsibility and liability for registering the trust and complying with the ongoing reporting requirements to HMRC falls to the trustee. Having a professional trustee means that you can be assured that all registration and compliance matters are dealt with.

HMRC impose strict timescales in relation to both the initial registration and any ongoing updates and amendments to the registration. There is a penalty regime in place if these requirements are not adhered to that is directly and personally enforceable against a trustee.

Having a professional trustee ensures that family members are not financially penalised for any unintentional failure to adhere to HMRC requirements.

## Simpler Law. How Can We Help?

Whilst the decision to appoint a trustee is entirely your choice, **Simpler Law** always recommends the appointment of a professional Trustee. **Fidelis Legal Services** is the sister company of **Simpler Law** and specialises in the following services, in addition to acting as professional Trustees.

- ▶ Will drafting services
- ▶ Professional executor services
- ▶ Trust management
- ▶ Probate and estate administration
- ▶ Conveyancing
- ▶ Court of Protection
- ▶ Trust creation
- ▶ Bespoke drafting

**Fidelis Legal Services** not only provides its professional support to **Simpler Law**, but also is used and trusted by over ninety\* other legal service providers and law firms. **Fidelis Legal Services** act as professional Trustees in thousands of trusts for clients across the UK, you can rest assured that by appointing **Fidelis Legal Services**, your Trust will be managed for you and your family's benefit at all times.

\* Data correct as at 1st August 2022

## Simpler Law. Contact Details

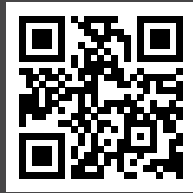
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# Simpler Law. Our Services

WILLWRITING & ESTATE PLANNING  
LASTING POWERS OF ATTORNEY  
TRUST & TAX SPECIALISTS  
PROFESSIONAL TRUSTEE SERVICES  
TRUSTEE ADVISORY & AGENT SERVICES  
PROBATE & ESTATE ADMINISTRATION  
PROFESSIONAL EXECUTOR SERVICES  
SPECIALIST CONVEYANCING  
SIMPLER CARE PLAN  
SIMPLER INFINITY PLAN



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