

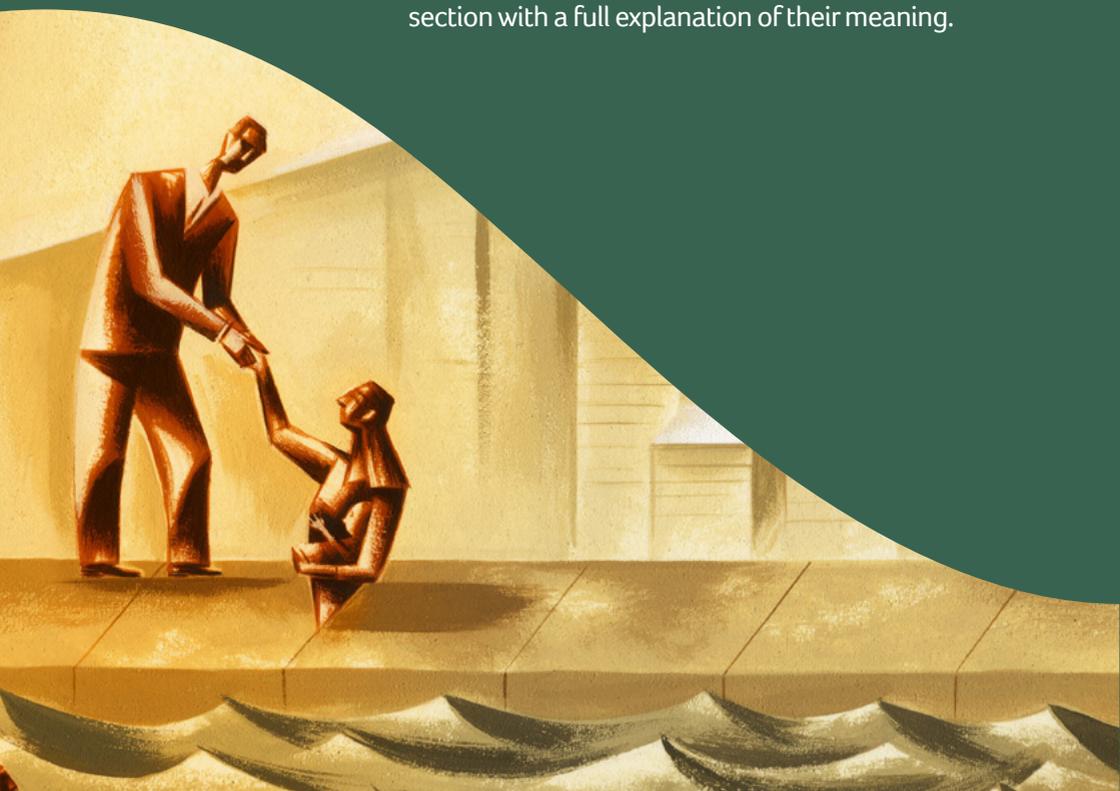
Understanding Minors Trusts



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As a parent or guardian of a child who is the beneficiary of a trust administered by State Trustees, it is important to understand how trusts operate, including ways in which you and the beneficiary can gain assistance from your own dedicated staff member at State Trustees – your Trust Consultant.

You will notice key words highlighted using **bold** type – these terms can be found in the Glossary section with a full explanation of their meaning.



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1. Trusts and State Trustees

1.1 What is a trust?

A **trust** is a way of holding **assets** (such as money, **property**, shares, jewellery or even household items) for the benefit of a person or purpose. A person who is entitled to benefit from the assets is known as a **beneficiary**. The assets are usually held by a **trustee**.

In the case of a Minors Trust, it is standard practice for the trustee to interact with the parent or **guardian** as the primary contact in matters relating to the trust until the beneficiary turns 18 years of age. This is because under the law, a person who is a **minor** is deemed not to have full capacity to deal with matters relating to their legal and financial affairs.

1.2 Why is a Minors Trust created?

There are a number of different ways in which a trust for a minor can be created.

The main ones are:

- A minor inherits money or other assets from the estate of someone who has died. For example, a family member who has died may have made a **Will** under which they have left money to a minor. The Will may specify that the beneficiary's inheritance be held in trust until they reach a particular age;

- Funds have been awarded to the minor as **compensation** for the death of a relative, usually a parent, for example, by the Transport Accident Commission (TAC) in the instance of a road accident;
- Superannuation benefits have been paid to a minor from the entitlements of a deceased family member;
- An insurance company or the Courts award money to a minor as compensation for an injury or for a civil or criminal act;
- Money has been set aside by a family member for the benefit of the minor, for example, an education fund set up by grandparents.

1.3 What rules and laws govern Minors Trusts?

For every trust, there is usually a legal document that authorises a nominated person or company to act as trustee of the trust funds, referred to here as the **Trust Document**.

The Trust Document will differ depending on the source of the trust. For example:

- If the trust has resulted from a **deceased estate**, the Will and the grant of **Probate** serves as the Trust Document. If there was no Will the Trust Document is called **Letters of Administration**;
- If the trust has been set up by a living person or an organisation (such as a Superannuation Fund) to provide for a **child**, the Trust Document will take the form of a **Deed**;

- Where the trust arises from specific legislation (for example, accident compensation) then the legislation itself serves, in effect, as the Trust Document;
- Sometimes an Order of the Court creates a trust and this Order is the Trust Document.

Trust Documents vary in the level of detail provided about how the trust is to operate. Some are very specific about what funds can be accessed and what they can be used for (for example, only to be used to fund tertiary level education). In such cases, the trustee is required to follow these rules.

Where the Trust Document does not contain specific instructions as to how the trust funds are to be used, the trustee is nevertheless bound to act within the parameters set down by law. In Victoria, this means the trustee must act in accordance with general law principles, as well as the Trustee Act 1958 (Vic.) and other related legislation.

An application to the Court is required to vary the terms of a Trust Document unless the Trust Document itself authorises amendments.

1.4 What if the minor has more than one trust?

Some minors have more than one trust and the parent or guardian may wish to pool them together as one. Unfortunately, this is not possible because the trusts are often from different sources, with each source having its own Trust Document.

1.5 What does the trustee do?

The trustee's priority is to get to know the Trust Document, the assets and circumstances of the trust, and the needs of the beneficiary, in order to be able to act appropriately for their benefit.

The trustee's role in relation to a Minors Trust may include any or all of the following tasks and duties:

- Protecting any assets of the trust. For example, making sure that assets are insured;
- Developing an investment strategy for the trust funds and reviewing this annually. This includes a duty to invest trust funds in investments that are not **speculative** and do not have a high level of risk;
- Making decisions about requests for trust funds, and ensuring all expenditure is for the benefit of the minor;
- Acting in what the trustee considers to be the best interests of the beneficiaries;
- Acting impartially between all beneficiaries;
- Keeping proper accounts for all aspects of the trust.

In performing these tasks, the trustee must abide by trust law, including all legislation governing the operation of trusts, and all reporting and auditing requirements.

1.6 In which cases will State Trustees become the trustee of a trust?

State Trustees takes on the role of trustee of a Minors Trust in a range of circumstances.

The following are the most typical situations we experience:

- In the case of a trust arising under a deceased estate, State Trustees' role as trustee may flow from being appointed as the **Executor** and Trustee, or (if there is no Will) as administrator under Letters of Administration;
- In many cases where a trust is created by a Court or Tribunal, State Trustees is appointed to act as trustee;
- A person establishing a trust may choose to appoint State Trustees to act as trustee;
- In some cases, State legislation may dictate that funds be held by State Trustees, for example in the instance of TAC trusts;
- An existing trustee may decide to step down from the role, and appoint State Trustees in their place.

1.7 Who is State Trustees?

State Trustees is one of the largest providers of Trustee, Executor and Personal Financial Administration Services in Victoria. With more than 70 years experience we are administering over 3,000 trusts at any given point in time.

As a **trustee company** wholly owned by the State of Victoria, our governance is directed to maintaining the stability and security expected from us as Victoria's public trustee entity.

State Trustees provide an annual report to State Parliament through the Treasurer, disclosing how we manage our business and meet our obligations.

1.8 What are the advantages of having State Trustees as trustee?

Professional and experienced

Many private individuals who find themselves in the position of trustee find the role challenging, and can feel overwhelmed by competing demands as to how best to deal with trust monies for the minor's benefit. State Trustees has many decades of experience in acting professionally, fairly and objectively in the administration of trusts, while continuing to act impartially as required by our trustee role.

Accountable

We are subject to greater accountability due to the regulatory framework within which we operate, with regular internal and external audits to ensure that everything is managed professionally and responsibly at all times.

We'll always be here

State Trustees will always be here to ensure continuity of administration for the trust.

1.9 Who is my Consultant?

Your Consultant is your main point of contact for any questions or matters you wish to discuss. You can speak directly to them by telephone or, if you prefer, you can meet with them at our offices.

In addition to your Trust Consultant, State Trustees has other specialised services that further support the day-to-day running of the trust, where appropriate, including:

- Financial planning, for example, the preparation of a financial plan;
- Preparation and lodgement of **income** tax returns and other relevant documentation;
- Conveyancing, where sale of property is involved;
- Legal advice and litigation, for example where disputes around trust assets and liabilities need to be resolved.

2. Fund Applications

2.1 What is the purpose of funds held in a Minors Trust?

All trusts are different. Some are intended for the expenditure of funds to benefit the minor during their childhood. Others may not allow any expenditure at all with the goal being to hold and protect funds until the minor reaches adulthood. Some Trust Documents specify that trust monies may only be used for specific purposes – such as education, or medical expenses, particularly in instances where a minor has a disability or illness.

Others give the trustee the **discretion** to use their best judgement in using trust monies to benefit the minor as they see fit.

As a minor is in the care of parents or guardians who earn an income and/or other pensions and allowances, it is as a general rule not expected that trust monies are to serve as a sole source of funding to meet the minor's day-to-day expenses.

Depending on the terms of the Trust, Trust funds may be a supplement where other family income cannot meet a need of the minor.

2.2 What can trust funds be used for?

All expenditure from the trust must benefit the minor. When you request access to funds, we take into account:

- What other funds could be used for the purpose. This may include any other trusts or other family income. For example, parents' wages, the minor's own wages if already working, Centrelink payments. The amount of funds in the trust and how long the trust monies need to last;
- The needs of any other beneficiaries if there is more than one;
- Any specific rules about what purposes the funds may be used for, as outlined in the Trust Document;
- The best interests of the minor.

Examples of the types of expenditure that may be approved are:

- Educational expenses – including school fees, books, camps or excursions, private tutoring, assistance with higher education expenses, educational opportunities such as exchange programs;
- Medical expenses, or dental expenses such as braces;
- Recreational activities or sporting equipment, appliances for the minor's room (for example, television, sound system);
- The cost of driving lessons and contributing towards the purchase of the minor's first car.

Sometimes, requests are declined or will only be partly funded by the trust. Some examples of the types of requests that may be declined are:

- A family holiday. While we would not generally agree to the trust meeting the costs of all family members, we would be more likely to accept applications for funds to meet the portion of the costs relating to the minor (although different considerations may apply where, for example, the minor has a disability that requires attendance by another family member);
- The total cost of a medical bill. The trust will only cover the gap between the total cost and the amount not covered by Medicare or private health insurance;

- Reapplication for an item that has previously been approved and funded;
- Major assets. Requests for trust funds to purchase major assets will only be considered in particular circumstances. For example, the purchase of a motor vehicle would be considered if:
 - the minor is physically disabled and a modified car is required;
 - an upgrade or larger car is required to accommodate the minor as an additional family member;
- Legal costs incurred for advice associated with establishment of the trust;
- Any item that falls outside restrictions set out in the Trust Document.

2.3 Transport Accident Commission (TAC) trusts – are there special rules?

Some trusts that State Trustees manages are those where compensation has been paid to a minor by the Transport Accident Commission (TAC) for the death of a parent as a result of an accident.

TAC trusts work a little differently to Minors Trusts. TAC pays a lump sum payment to State Trustees to manage on trust for minors until they reach the age of 18. The balance remaining in this trust when they turn 18 years of age is paid to the minor.

In addition to the lump sum, an annual education allowance and a fortnightly maintenance payment for day-to-day items such as food and clothing is made by TAC directly to the parent or guardian. A Family Counselling Allowance is also available from TAC to help parents and guardians.

State Trustees takes these payments into consideration when assessing applications for trust funds from the lump sum. For example, a request for funds for any education-related expense will only be approved if the annual education allowance has been fully exhausted first, and documentation confirming this has been provided to us.

Similarly, requests for funds to meet day-to-day expenses will be considered only when the fortnightly allowance is insufficient.

2.4 How can I apply for trust funds?

When you wish to access funds from the minor's trust, an Application for Funds form will need to be completed.

Please keep in mind the following guidelines, which will assist you in accessing trust funds quickly and easily:

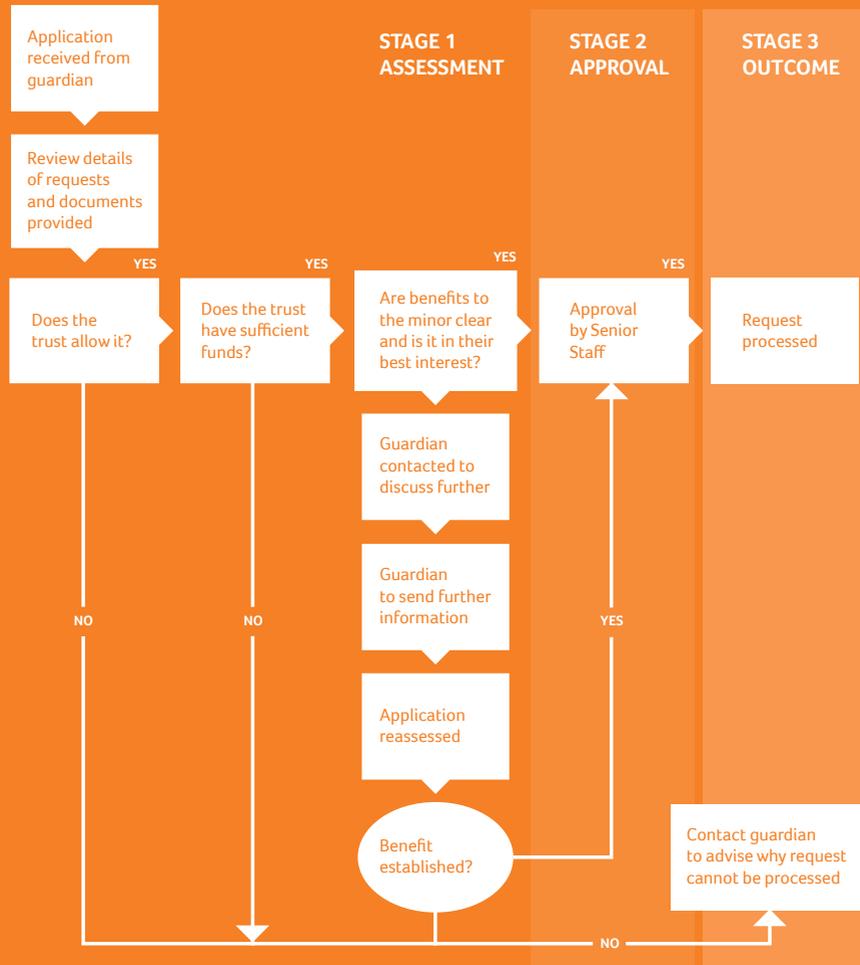
- The request for funds must generally be made by the legal parent or guardian whose identification and signature has been provided – or by the beneficiary themselves after reaching the age of 18;

- Along with the application, please attach supporting documents such as a bill, invoice, school account, quote. This paperwork provides an important audit trail for the trust and is often required later to clarify details of payments;
- If a request for funds requires more information or has been declined, we will contact you to discuss this;
- Approval is not automatic. If you need to pay something that is not certain to be approved, it's best to discuss this with your Trust Consultant before committing to such a payment. In some cases we may be able to give 'in principle' approvals by telephone;
- If an urgent payment is required please telephone your Trust Consultant to discuss;
- In cases where reimbursement is approved, funds will be transferred directly into the parent or guardian's bank account. Please provide the relevant bank account details on the Application for Funds form;
- We do not provide trust funds in the form of cash. Approved payment methods include direct payment to a supplier of goods or services, cheques for payment when goods or services are received or Electronic Funds Transfer to a nominated bank account.

2.5 How does State Trustees assess applications for trust funds?

When you apply for funds from the trust, we assess the application using an established process.

Your Trust Consultant will review the request and any information provided to ensure the request is complete and that the funds will benefit the minor. If the Trust Consultant needs any further information they will contact you. There are several steps we go through when we review an application:



Your Trust Consultant will be in contact with you to confirm whether the application has been approved, partly approved or declined.

2.6 How long does it take?

Any written correspondence will receive a response within 10 working days and, unless more information is required, payments will be processed within this timeframe.

Allow as much time as you can for the processing of any requests by sending them as early as possible before the due date for payment.

3. Investment and Taxation

3.1 How are funds managed and invested?

A key part of our role as trustee is protecting and investing funds that are to be held in the trust. State Trustees is required by law to invest this money prudently to ensure our clients have financial security, both now and in the future. The Trustee Act 1958 (VIC) requires that, as a professional trustee, we do not invest trust funds in investments that are speculative or which involve a high level of risk.

For each trust:

1. A portion of the trust funds are retained so that they are readily available when needed for school, medical or day-to-day expenses. These funds are invested in the **Cash Common Fund**. Trusts that only have a short time to run are also invested in the Cash Common Fund;

2. For any additional funds remaining after allowing for day-to-day expenses an investment strategy is developed, taking into consideration the following factors:

- o expected needs of the minor: are there any special circumstances such as illness or disability that need to be considered, or particular aspirations for the minor such as private education, music lessons, sporting pursuits?
- o length of time the trust will exist;
- o how often cash will need to be accessed;
- o any specific objectives set out in the Trust Document, such as income generation or **capital growth**.

Our qualified financial planners develop an investment strategy to take advantage of long-term capital growth and income opportunities for these funds. This may include investment in a range of assets such as Australian and international shares, property and fixed interest.

In addition to its Cash Common Funds, State Trustees has a range of other investment funds (known as the inveST Funds) which permit investment across a variety of asset types.

Please speak to your Trust Consultant if you would like to know more about State Trustees' investment products.

It is important that we know about any large requests for funds as early as possible to allow proper planning of the investments and to make sure funds can be made available when needed by the minor. Similarly, you should advise us of any changes to your personal circumstances which could affect the minor's needs from the trust.

3.2 How are other assets managed or protected?

In some instances, other types of assets are placed on trust for a minor, for example a motor vehicle, a property, even a piece of jewellery. This is usually as a result of a deceased estate where the person who wrote the Will specified that the asset is to be managed on trust until the beneficiary reaches a certain age, at which time they assume full ownership.

In some cases, the Will provides details about who is to perform certain duties in maintaining this asset, for example, the person responsible for upkeep, maintenance, insurance, payment of rates, etc. In others, these details are not specified and it is by agreement between State Trustees and you as guardian as to who will take on certain responsibilities.

If a family is living in a property that is held on trust for the minor there is an expectation that the parent or guardian will attend to the maintenance and upkeep of the property to an acceptable standard.

3.3 Does a trust pay tax?

Some trusts do pay tax and some trusts do not. It depends on the type of trust and what transactions have taken place.

Taxation law requires that a trustee must lodge an annual income tax return for any trust that earns taxable income in a given financial year. This is separate from the personal taxation obligations of the minor.

State Trustees reviews the taxation affairs of every trust and, depending on the nature and transactions of the trust, it may either:

- Pay tax on trust income not distributed to a beneficiary (in which case, the beneficiary does not need to pay tax on this income);
- Declare that the income is to be assessed in the hands of the beneficiary, rather than the trust itself (in this case, the beneficiary will need to include the trust income, along with any other income they earn, for example, bank interest, wages, income from other trusts, in their own personal income tax return);
- A combination of the two above. For example, where some income has been accessed by the beneficiary and some income has been retained in the trust;
- In some cases where disability is involved, the trustee may be assessed to pay tax on the trust income on behalf of the beneficiary. The beneficiary is then entitled to a credit in their personal tax return for any tax paid by the trustee on their behalf (should they be required to lodge a tax return).

When State Trustees have completed the trust's tax return after the end of each financial year, we will advise you in writing of the tax position of the trust.

3.4 Does a minor pay tax?

Trust distributions is assessable income, just like wages and bank interest. A personal income tax return may need to be lodged for the minor if they have earned taxable income.

Although not carried out by State Trustees in our role as trustee, our tax experts can attend to the personal tax returns of the minor if needed, at an additional cost.

If you are uncertain about whether you need to lodge a personal tax return for the minor, you should either speak to your taxation adviser, or we can arrange for you to speak to one of our tax accountants.

In many cases, tax fees and liabilities can be deducted from trust funds when personal tax matters are attended to by State Trustees.

4. Statements and Fees

4.1 What is included on the annual financial statement?

State Trustees issues a financial statement for all trusts each year. The statement comprises two documents:

1. **Statement of Account.** This has columns headed 'Debits' and 'Credits' and it records all the money that had been paid out of the Cash Common Fund (Debits) and all the payments

received into it (Credits). The balance of this statement appears as the last entry of the Asset and Liabilities Statement. This balance represents the cash asset of the trust.

2. Asset and Liability Statement.

This gives you the current value of all that the trust owns in investments (securities, like shares and bonds), real estate, cash as at the date of the statement. These are collectively known as the Assets of the trust. It also records any amounts that the trust owes. These are known collectively as the Liabilities of the trust. However, it is very unusual for Minors Trusts to have any liabilities to record. The difference between the Assets and the Liabilities gives the balance of the trust as at the date of the statement.

4.2 What if I need help with the statement?

If, at the time of receiving the financial statement, you have any questions or require further clarification, please contact your Trust Consultant.

4.3 What are State Trustees' fees?

The fees and commissions that State Trustees charge for trust administration services are those allowed to a trustee company by law. The rates of commission and fees are the current statutory maximum that may be charged unless the Court or the person committing the trust to State Trustees' administration (for example the **settlor** or **testator**) allows otherwise. Actual commission rates for a specific trust may be lower under certain circumstances.

Capital Commission	<p>Up to 5.5% (incl. GST) on the initial gross value of any assets of the trust.</p> <p>Example: \$10,000 is deposited into a trust. Capital commission of \$500 is charged plus \$50 GST.</p> <p>In addition, if there is any capital growth in the course of the trust, additional capital commission will be charged on the value of this growth.</p>
Income Commission	<p>Up to 6.6% (incl. GST) on the gross income received by the trust.</p> <p>Income may be received from investments such as interest from common funds, bank investments, share dividends, rent from investment properties, or income distribution from managed funds.</p> <p>Example 1: \$100 interest is earned on the Cash Common Fund and paid into the trust account. Income commission of \$6 is charged plus \$0.60 GST.</p> <p>Example 2: \$500 in dividends is earned on shares held in trust. Income commission of \$30 is charged plus \$3 GST.</p>
Common Funds and inveST Funds investment Management	<p>0.88% (incl. GST) p.a. on the capital sum invested in any of the State Trustees Common Funds. Most trusts will have part or all of their funds held in our Cash Common Fund to meet immediate needs of beneficiaries and trust expenses. The management fee is calculated on the diary balance of funds in the Common Fund and charged monthly.</p> <p>Example: A trust has \$1,000 in the Cash Common Fund. If no other transactions were to occur, in the course of a year a management fee of \$8 is charged plus \$0.80 GST.</p>
<p>Depending on the nature of the trust, State Trustees may provide other services for which fees are applicable such as Taxation, Financial Planning and Legal services.</p> <p>The charges may also appear on your statement depending on the nature and transactions of your trust.</p>	
Stamp Duty	<p>This is tax charged by the State Revenue Office.</p> <p>The settlement of funds into a trust by a private person incurs a payment of \$200 stamp duty (regardless of the amount or assets settled into trust).</p> <p>Generally, estates, intestacies and court ordered or compensation matters are not required to pay Stamp Duty, whereas other trusts settled by Deed are.</p>

Advances	<p>In some cases, State Trustees may make an advance if money is required by a beneficiary and there are insufficient trust funds available at the time, for example, to meet an immediate expense ahead of interest being received, or to assist a beneficiary with an urgent purchase where insufficient cash exists until assets can be redeemed. An advance will show as a debit in the trust's Cash Common Fund balance.</p> <p>The amount of the advance is in the nature of a temporary loan by State Trustees to the trust to cover a shortfall – usually short term.</p> <p>State Trustees is not permitted to charge interest on advances at a rate more than the current penalty interest rate less 2.5%, and generally applies a rate that is the same as the rate that the Cash Common Fund is presently earning.</p>
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5. Regular Reviews

As trustee, we conduct a review of all minors' files annually, which includes consideration of the following:

- Whether the strategy for investment and protection of trust assets is still appropriate, relative to the needs and circumstances of the minor, the original objectives of the trust, the trust term and the amount remaining;
- Whether sufficient funds will be available to meet the likely needs of the minor;
- Whether we have your most up-to-date contact details;
- If the minor's 18th birthday is approaching – at this time, we will generally cease contact with the parent or guardian and start making direct contact solely with the beneficiary;

- Ensuring that compliance requirements are up-to-date. For example, has the trust tax return been completed? Have statements been sent? Has all correspondence been attended to? Are there any other important circumstances to note?

Each year you will receive a Beneficiary Review Form. This asks for information about the minor including their schooling, any other income or benefits they may be receiving, expectations about expenditure needs for the next 12 months, any illnesses or medical conditions, and change of address or contact details.

While providing this information is optional it will assist us as trustee in conducting annual reviews of all minors' files.

If the review raises any concerns, your Trust Consultant will contact you to discuss any issues requiring attention.

6. Trust Conclusion

6.1 When does the trust end?

This will depend on the individual Trust Document governing the trust, but most Minors Trusts end when the minor reaches a specified age. This is usually 18, 21 or 25 years of age.

Some, especially those trusts created under a Will, may end with a specific event, for example, the completion of tertiary education.

Others may end when funds are exhausted. Some remain in operation “for the life of the beneficiary”. This is usually when a trust has been established for a disabled child who may continue to require care into adulthood.

In the case of a TAC trust, if the minor does not reach the age of 18, the trust ends when they die and trust funds are returned to the TAC.

6.2 Does the minor know about their trust?

State Trustees will need to commence direct contact with the minor when they turn 18, regardless of the age at which the trust vests, and in some cases we may have cause to be in contact with the minor before then. It can therefore be beneficial to ensure that the minor is fully aware of the trust by the time we make contact with them.

Some families find it difficult to discuss the subject. Please contact your Trust Consultant if you would like us to meet with you and the minor to explain any aspect of the trust.

6.3 Can the trust be extended?

As trustee we are bound by the Trust Document or legislation governing the trust and therefore do not have the discretion to make this change.

In circumstances where the minor has a disability which may mean they are unable to manage their funds when the trust ends, you should let us know as soon as possible. While the existing trust cannot be extended, there are other options that may be considered such as the creation of a new trust, or a Victorian Civil and Administrative Tribunal (VCAT) Administration Order if the minor does not have capacity to manage their own financial affairs.

6.4 How are trust funds paid out?

When the trust has reached its end date and the funds and assets of the trust are transferred to the minor, this is often referred to as ‘**vesting**’. Winding up the trust involves completion of the taxation affairs of the trust as well as dealing with any assets. In some cases, assets will be redeemed and the funds made available to the minor. In other cases we can leave the asset intact and simply transfer the asset directly into the minor’s name.

We will send you a letter approximately one month before the vesting date. This will include a Statutory Declaration of Identity which is to be completed by the minor and returned along with other proof of identity.

The process of finalising a trust usually takes 20 working days from the time we receive the Statutory Declaration and other requested documents. It is important not to commit trust funds to a major purchase until they are actually received by the minor in case there are any delays.

6.5 How can we make the most of these funds for the future?

It is important to be aware that the way in which the trust funds are used upon vesting can affect:

- The minor’s potential Centrelink entitlements;
- The amount of Capital Gains Tax that may be payable;
- The amount the minor will have to pay in annual income tax; and
- The value of Family Tax Benefit received by guardians.

Finances should be structured so that you and the minor do not miss out on any entitlements for which you are eligible.

State Trustees have an established relationship with Fiducian Financial Services. If the minor is interested in their advice as to how best to invest or utilise their trust funds they can contact Fiducian direct on (03) 9279 6300.

7. Your checklist

Following is a checklist of things you can do to help us keep up-to-date with your information and circumstances, which will help us deliver a better service to you.

Review this list every so often to ensure we have everything we need to provide the best service we can.

- If you move, don't forget to provide us with your updated address and contact details
- If the minor moves out of home please advise us as soon as possible, for example, if someone else is acting as their guardian
- If there are changes in your financial circumstances (such as income or employment), let us know so that we can take this into account when assessing your applications for trust funds and in reviewing the investment strategy for trust funds
- Check that you have followed the guidelines when applying for trust funds as outlined in section 2.4 and completed all forms correctly. This will save time and avoid us having to make further contact with you before making a decision and for forwarding funds
- If you have a TAC trust, you will need to keep a record of all the minor's educational expenses to check against TAC's annual educational allowance.
- Make sure we are aware of any disabilities, medical conditions, addictions or other circumstances that may effect the minor's required access to trust funds
- Let us know if you have any concerns about other parties that may try to directly or indirectly access trust funds or to gain information about the trust – such as a relative or peer of the child. If we are aware of such circumstances it can assist in our assessment of applications for funds
- Talk to the minor and ensure they are aware of the trust before they turn 18 when we start communicating directly with them
- If you are sent a Beneficiary Review Form complete and return it to keep us up-to-date with any information that you may not have previously provided us

8. Privacy and Feedback

8.1 Protecting your privacy and confidentiality

State Trustees respects the privacy and confidentiality of the individuals it interacts with in relation to the trust: the parent or guardian, and the minor themselves. State Trustees is bound by various obligations under State and Federal privacy legislation, and by the duty to respect confidentiality under general law. Refer to the State Trustees Privacy Policy Statement if you have any concerns or queries about how State Trustees deals with personal information.

8.2 Concerns

At State Trustees we are committed to customer service. If you have a concern, it is very important to us. If you have experienced a problem, or feel that a decision is unfair, please let us know by advising the details of your concern in writing. For further details, please refer to the 'Resolving Concerns' brochure included.

8.3 Feedback and suggestions

To help us continually improve our service we regularly undertake telephone surveys to contact our clients and gather their feedback on the service we've provided.

You can rest assured that your responses will be gathered by an independent person (not your own Trust Consultant) and they will be treated confidentially. All results are pooled and not analysed individually.

You are under no obligation to participate, but we are very appreciative if you do – it allows us to keep improving the service we offer.

9. Glossary

The explanations are not intended as a legal definition of the terms.

Assets

The things the trust holds for the beneficiaries. In general, the assets of the trust can be anything of value – cash, shares, property, vehicles, furniture, jewellery, artworks, rights, investments of any sort. The trustee owns these assets on behalf of the trust until the trust comes to an end, at which point the assets then pass to the beneficiaries.

Asset & Liability Statement

A statement showing the net asset value of the trust managed by State Trustees at the date of the statement.

Beneficiary

A person eligible to benefit from the trust assets. In the context of this document the beneficiary is the child (or “minor”) that the trust was created for. A trust may have more than one beneficiary at the same time.

Capital

The capital of the trust is the whole of the assets or property of the trust apart from any accumulated income. It can be the funds or other assets originally comprising the trust, the capital growth in those assets, items purchased by the trustee with trust funds during the trust, or income which has been retained and added to the capital (if the Trust Document allows for this).

Child

Here the term “child” is used to refer to a “minor” – a person who has not attained the age of 18 years.

Capital Growth

The increase in value some assets have over time. For example, a house may increase in value over years. The redemption of assets that give rise to a capital gain may be subject to capital gains tax. (Some assets may also, potentially, decline in value).

Cash Common Fund

This is one form of investment utilised by State Trustees and other trustee companies. It is a form of cash management account with funds available at call. Interest is calculated on daily balances and credited monthly. It is often used as part of an investment plan for trust funds.

Compensation

Usually funds awarded under specific legislation or by a Court to individuals who have suffered an injury or loss – either personally or by the death of a relative.

Deceased Estate

The assets and liabilities of a person are often referred to as their “estate”. Once a person has passed away the management of their assets and liabilities, their “deceased estate” is administered according to their Will or under the laws of **intestacy** if there was no Will.

Deed

A “Deed” is a type of document recording a legal arrangement. Here we are referring to a document that records the creation of a trust. It will usually state who the trustee is, the beneficiaries, the initial trust assets and any special rules or “terms” of the trust.

Discretion

In many trusts, trustees are given powers to do a range of things by the terms of trust or governing legislation, for example, the ability to apply trust funds for the benefit of the beneficiary. The trustee must determine, based on consideration of the circumstances, the information available and the nature of the request, if the proposed use of the funds will be for the benefit of, and in the overall best interests of, the beneficiary. Where a trustee is given the power to decide whether to do, or not to do, a thing, or the manner which it should be done – it is said to have a “discretion”.

Executor

The person or entity appointed under a Will to administer the estate of a person who has died. If a trust arises under the Will then a trustee is also involved – often this can be the same person or company.

Guardian

A person the law regards as having proper authority with respect to the care and control of the affairs, property or rights of another person, for example, a child.

Income

Income is something received in return for investment or effort. Trust assets can earn income such as interest on invested funds, dividends from shares, rent from property etc. The trustee needs to keep a separate accounting of the income and capital of a trust because some trusts have separate rules for use of income and capital. Income must also be accounted for tax purposes.

Intestacy

Where a person dies without a Will then they are said to have died “intestate”, and their estate is dealt with as an “intestacy”. In these cases, the law determines which family members are entitled to the estate.

Letters of Administration

If a person dies without leaving a Will (known as dying “intestate”) the Court may issue a formal document, known as “Letters of Administration”, appointing an administrator of the assets and liabilities of the deceased. This person then administers those assets and liabilities in accordance with intestacy laws.

Minor

A person less than 18 years of age – see “Child”. In this Guide, it is also used to refer to an older beneficiary of a trust where the **terms of trust** require the trust assets to be maintained in the trust until the beneficiary reaches an older age, for example, 25 years.

Probate

When a person dies and leaves a Will, that Will must be proven as valid to the Court. If the Court approves the Will it then issues a document to the executor recognising their authority to administer the estate of the deceased in accordance with that Will – this document is the “Grant of Probate”, sometimes just called the “Probate”.

Property

All the things that can be capable of being owned can be considered “property”. In the case of a trust this is generally all the trust assets and any accumulated income.

Settlor

A person who establishes a trust. This word is used where the person creates the trust during their lifetime. A person can also create a trust in their Will (see testator).

Speculative

In relation to investments, this means “risky”. Even if there is a chance that the speculative investment will do very well, it is more likely there will be a bad result.

Statement of Account

A statement summarising the transactions of the trust processed through the Cash Common Fund Account during the statement period, grouped by transaction type. Note: The “Statement of Account” is not chronological.

Terms of Trust

Any special rules written into the **Trust Deed** or Trust Document which the trustee must follow or is guided by.

Testator

The person making a Will.

Trust

A legal arrangement, in which one party (the trustee) holds property for the benefit of others (the beneficiaries) or for certain purposes allowed by law (for example, for charitable purposes).

Trust Deed

In this context, a document that creates a trust. See Deed.

Trust Document

This can be one or more documents which together define a trust, such as a Will, Probate, Deed, Court Order, legislation, etc.

Trustee

A person or entity that holds trust property for the benefit of others (the beneficiaries) or for certain purposes.

Trustee Company

A trustee company is one that has been authorised (pursuant to the appropriate legislation) to act in the capacity of trustee and similar roles. Such companies have special powers and responsibilities in relation to the management of trusts.

Vesting

In relation to a Minors Trust, this is often used to refer to the time when the trust comes to an end. This may be at the occurrence of a certain event, such as the beneficiary attaining 18 or 21 years of age, or the death of a beneficiary. The trust will also end if all trust funds and other assets have paid out or distributed.

Will

A legal document in which a person specifies how their estate is to be dealt with after their death.

Find out more about how State Trustees can help you

State Trustees has been helping Victorians establish and manage trusts for more than 70 years. We have expertise in trust administration and can act as your trustee. In addition, we operate the State Trustees Australia Foundation, a perpetual Public Charitable Trust, which enables Victorians to make ongoing donations to eligible charities in a flexible, tax-effective way.

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