WHO WE ARE

TrustGuard is a joint New Zealand Trustee Services and Perpetual Guardian initiative. Our Team of in-house Solicitors and Trust Specialists are dedicated to performing comprehensive reviews of existing trusts and providing expert guidance resulting in a best practice trust regime in New Zealand.

RAISING THE STANDARD

Our aim is to establish an agreed industry standard in respect of the administrative requirements for Trusts in New Zealand. This will be achieved by collaborating closely with advisors and educating clients ensuring a comprehensive one-team approach.
TIMES ARE CHANGING

With the proposed changes to trust law in New Zealand the role of the professional Trustee will have greater responsibility and accountability particularly around Trust structure and administration. The question therefore is: “when placed under the microscope will your Trust be deemed compliant?”

Due to these proposed changes we are already seeing some advisors who took on the role of professional Trustee looking to step away. With others wanting further support, our TrustGuard team is ready to facilitate with transitions for both options and everything in between.
7 CRUCIAL QUESTIONS

Unless you can answer YES to ALL of the following questions about your existing Trust, you could be risking your future:

1. Do you fully understand the content of your Trust Deed and the obligations it imposes on you (as a Trustee)?

2. Are you sure all assets owned by the Trust are held in the names of the current Trustees?

3. Does your Trust have its own bank account?

4. Are you sure all Trustee decisions have been recorded correctly and reflect the documents executed?

5. Do all the Trustees meet at least annually?

6. Do the Trustees maintain an up to date minute book?

7. Is your Memorandum of Wishes up to date and reflective of how you wish your Trust (to be used) in the event you are no longer able to give your voice?
Are you using the correct type of Trust structure for your current objectives?

Not only has there been legislative change, but your life and your objectives may have changed too. It’s important to review your Trust setup to ensure the outcomes represent your true wishes.

Below are the six main types of Trusts.

**FAMILY TRUSTS**

The Family Trust is generally used by a couple either married or in a de facto relationship that have combined assets of equal values and generally do not have children from any other relationship. The Family Trust will hold a family home, investments, a holiday home etc.

**PARALLEL TRUST**

Parallel Trusts are ideal for those couples who have disproportionate values in the assets they hold, have children from a previous relationship and have formed new relationships – this is commonly referred to as a Blended Family. Here couples who are looking to protect their assets and want to ensure that their children will receive an inheritance would establish a separate Trust for each partner.

**SINGLE TRUST**

This Trust would be used by a single person who is just starting to acquire assets such as their first home and want to use the Trust to keep their assets separate from future relationships. They should also be considered by people just exiting a relationship and who want to ensure that their assets are kept separate from a future relationship.
INHERITANCE TRUST

Most parents, at some stage of their lives need to consider what provisions they would like to make for their children on their passing. They would normally wish their children to have the use and enjoyment of the assets but also recognise that most children only inherit funds once. Thought should be given to establishing protection around the assets that their children inherit to ensure they are not subject to a claim from a partner or creditor of that child.

BUSINESS TRUST

Here we look to separate out Business Assets from the Family Assets. The Business Trust should hold shares in a Private Company therefore allowing dividends to pass to this Trust, which in turn can be distributed to that Trust’s Beneficiaries (this should include your Family Trust/Parallel Trust or Single Trust). It will also allow the growth of the Company to be retained within the Trust and not to the former shareholder which presumably was you.

CHARITABLE TRUST

This type of Trust is used by individuals who wish to provide for a charitable purpose and can be held either for a fixed period of time or held in perpetuity. Your charitable purpose can be specific to your favourite charity or to charities in general.
TRUST STRUCTURES

To form a Trust, a Trust Deed is prepared and signed. The Trust Deed specifies who the Settlor, Appointor/Protector, Trustees and Discretionary Beneficiaries are. The Trust Deed also provides the Trustees with a full range of administrative powers which in-turn, allows the Trustees to exercise a wide variety of decisions for the benefit of the discretionary beneficiaries, both now and in the future.
STRUCTURE OF AN INHERITANCE TRUST

- **Settlor**: You
- **Appointor/Protector**
- **Trustee**: You & an Independent Trustee
- **Beneficiaries**: Your Child and/or their Children

STRUCTURE OF A BUSINESS TRUST

- **Settlor**: You
- **Appointor/Protector**
- **Trustee**: You & an Independent Trustee
- **Discretionary Beneficiary**: You
- **Discretionary Beneficiary**: Your Children
- **Discretionary Beneficiary**: Your other Trusts
HOW WE CAN HELP

TrustGuard is a unique service which reviews a Trust and offers direction and recommendations to help ensure the Trust functions as intended to achieve the client’s ultimate end goal.

Our process has been carefully designed to support both clients and advisors. We not only help ensure Trusts are managed to best practice standards, but we make sure all parties fully understand the complexities of each unique Trust structure. We will work closely and collaboratively with the client’s advisors, lawyers and accountants to ensure that the best possible outcome for the client is met.

This service is for those clients who already have an existing Trust where New Zealand Trustee Services or Perpetual Guardian are not currently a Trustee.
HOW WE SUPPORT EXISTING CONNECTIONS

- Intermediaries refer clients
- We liaise with advisors to assist with any transfers of assets
- Send Trust Minute Book to us for review
- Working with the advisors to prepare documents and meet clients with action items
- We liaise with clients, discuss options & provide recommendations
- We liaise with intermediaries & advisors to forecast potential outcomes of changes
- Trust added and advisors included in our annual review list
THE TRUST REVIEW FORM

This document enables a detailed review of the current situation of a Trust and makes recommendations to help the Trust develop and achieve its specified objectives. The Trust Review Form is designed to establish the process for creating a successful, legally compliant Trust and covers a range of topics including:

Information for consideration

- Trust Deed
- What were the intentions of the settlors? Are they still relevant today?
- Who are the trustees? Who should they be?
- Who are the beneficiaries of the trust? Who should be?
- What assets are held in trust? Should consideration be given to placing additional assets into the trust, i.e. Life Insurances, Rental Properties, Investment Portfolios etc?
- Has any gifting been completed?
- Is your Will supportive of your here and now?
- Is your Memorandum of wishes reflective of your intentions/wishes?
- Do you have an Enduring Power of Attorney (EPA) in place for Property?
- Do you have an Enduring Power of Attorney (EPA) in place for Personal Care & Welfare?
- What is the trust’s current financial situation?
- Have annual accounts been prepared?
- What documentation is in place to support the administration of the trust?
RECOMMENDATIONS

The TrustGuard review process will result in specific recommendations for each client which are designed to assist them in the administration of their Trust. Based on the client’s documentation, recommendations may include:

- Adjustment or preparation of documents to bring the administration of the Trust up to a best practice standard.
- Based on the reasons why the Trust was created versus the present requirements of the clients, we may recommend the winding up of the Trust.
- In some cases we will recommend resettling the Trust. To do this a new Trust is created and the assets are transferred from the old Trust to the new thus keeping them protected and retaining any gifting previously completed. This allows the continuation of already protected assets under a much more robust Trust Deed.

Options

- Take over administration, providing no major issues are discovered.
- Correct the administration where possible and take over the administration.
- Resettle assets into a new Trust and wind up the old Trust.

OUR BEST PRACTICE APPROACH ONCE APPOINTED

To ensure the ongoing compliance and success of our Trusts we hold Annual Trust meetings with our clients and their advisors. This is an opportunity to meet with all parties involved to review all aspects of the Trust, Wills and supporting documentation to capture any changes and amend the structure to support the clients objectives year to year.
CALL THE TEAM ON 0800 698 787 TO ARRANGE A ONE-ON-ONE CONSULTATION WITH A TRUSTGUARD SPECIALIST
HOW TO REACH US

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