



Department of the Attorney General  
Government of Western Australia

# Protecting Your Trust

Information for families, carers and  
beneficiaries of Court Trusts



PUBLIC TRUSTEE



## How does a Trustee work?

<p>What is a trustee?</p>	<p>A trustee is a person or corporate entity that takes responsibility for various assets and manages them for another person.</p> <p>The trustee of a Court Trust holds a court award on trust, and then uses it in the best interests of the beneficiary, in accordance with the law. The key word in the relationship is 'trust.'</p>
<p>Who can be a trustee?</p>	<p>Only a company listed in the Trustees Act or the Public Trustee. An individual can be a trustee, but it is normal to have a corporate trustee when a trust has been created by a Court or other judicial body.</p>
<p>Who is a beneficiary?</p>	<p>The beneficiary is the person who 'owns' the assets held in trust. By law, the assets can only be spent in the best interests of the beneficiary.</p> <p>This is because the beneficiary may need protection long after friends and family are able to assist.</p>
<p>What is a guardian?</p>	<p>A guardian is appointed by the State Administrative Tribunal, and has responsibility for 'lifestyle' decisions – such as decisions about medical procedures, education, and other everyday matters. A trustee will rely on the recommendations of a legally appointed guardian when considering requests for expenditure.</p>
<p>What about parents?</p>	<p>In the absence of a legally appointed guardian, the trustee will consult with parents and/or family members when making decisions about expenditure, investments and other matters relating to the beneficiary's interests.</p>
<p>Who is responsible for the trust?</p>	<p>The trustee is ultimately responsible for all funds spent from the trust. Although a parent, guardian or close family member may recommend an expenditure, the trustee still is responsible – by law – and may have to prove to a court that the payment was in the best interest of the beneficiary.</p> <p>The Public Trustee will take family wishes into account, but by law is fully responsible for each decision. That is why all trustees, including the Public Trustee, normally requires evidence for all expenditure.</p>
<p>Why do trustees require substantiation of expenses?</p>	<p>Public Trustee is required to obtain written evidence, in the form of receipts, loan documents, etc, to justify most financial transactions. This applies to all clients and their families.</p> <p>Unfortunately a trustee can't just accept the word of family members – which is sometimes difficult for families to accept. After all, it is the family who looks after and cares about the beneficiary.</p> <p>We can consider your comments in good faith, but each decision must be fully documented to ensure that the beneficiary's interests are always protected. We ask that families consider this, and hope that they are not offended when asked to provide substantiation.</p>
<p>Who does a trustee report to?</p>	<p>Private trustee companies must comply with the Trustees Act and the Trustee Companies Act. The Public Trustee must also comply with the Public Trustee Act. All trustees may have to account to the Attorney General in the conduct of their trustee duties.</p> <p>In addition, a trustee is responsible to the Supreme Court and may need to apply to the court for permission to do certain things. The Supreme Court has the power to appoint a trustee and at any time may change the appointment of a trustee.</p>
<p>Who else oversees trustees?</p>	<p>Unlike other trustees, the Public Trustee has a direct reporting relationship to Government, through the Department of Justice and the Attorney General, and may be required to explain any trust matter to the satisfaction of the Attorney General. The Public Trustee is also subject to the scrutiny of the Ombudsman, who has the power to investigate all matters and report adverse findings to the Parliament of Western Australia.</p>

## Why choose the Public Trustee?

<p>Trustworthy Permanent Independent</p>	<ul style="list-style-type: none"> <li>• 60 years of service to Western Australians. The Public Trustee has been managing trusts since 1941</li> <li>• At any given time the Public Trustee has about 4,500 matters under administration in its Trust Management section, including some of the largest court awards made in Western Australia</li> <li>• 32 staff dedicated to the management of trusts, over 125 staff in total</li> <li>• Our Senior Trust Managers each have an average of 22 years experience</li> <li>• There will always be a Public Trustee. The Public Trustee is not subject to the human frailties of an individual trustee, or takeovers and mergers of private trustees</li> <li>• The Courts have consistently appointed the Public Trustee, even in the most contentious cases</li> </ul>
<p>Proudly Western Australian</p>	<ul style="list-style-type: none"> <li>• Trust management services are provided in Western Australia, by Western Australians and under the trustee laws unique to Western Australia</li> <li>• All specialised services, including legal and investments, are based in Western Australia</li> <li>• No head office or service centre 'over east'. WA based operations means no inconvenient time zones – we make all decisions right here in Perth</li> <li>• Established links with Public Trustees in other states to provide a national service</li> </ul>
<p>Value for money</p>	<ul style="list-style-type: none"> <li>• Upfront once-only management fee, with annual fees that are based on your investment earnings</li> <li>• Not subject to commercial profit pressures. Fees are subject to review by Government</li> </ul>
<p>Efficient Accountable</p>	<ul style="list-style-type: none"> <li>• Our size gives us buying power. We use competitive tendering when sourcing external specialist service providers</li> <li>• State of the art trustee software is used to make routine tasks easier, allowing more time for personal attention</li> <li>• Unlike private trustees, the Public Trustee is subject to review by the Western Australian Ombudsman, and the State Government through the Attorney General</li> </ul>
<p>Prudent investments</p>	<ul style="list-style-type: none"> <li>• The Public Trustee provides a full range of investment choices, and recognises that each client will have different goals and investment strategies.</li> <li>• Strategies are regularly reviewed by specialist external investment advisers</li> <li>• The Common Fund is backed by the State Government</li> </ul>
<p>Quality, caring service</p>	<ul style="list-style-type: none"> <li>• The Public Trustee acts in the public interest, frequently taking on the most difficult court awards that commercial trustees will not accept</li> <li>• We appreciate the crucial role that family and carers play in the life of each client, and ensure that all our Trust Management staff seek the support of family in managing a trust</li> <li>• We recognise the past effort of family and other carers during the hard years prior to the court trust being awarded</li> <li>• We aim to make your life easier by having a single point of contact – your Trust Manager – who is empowered to respond to all your requests</li> <li>• We can hold important meetings and conferences in your home, for your convenience</li> </ul>

## What services do we provide?

<p>Trust Management Services</p>	<ul style="list-style-type: none"> <li>• The Public Trustee provides services for Court Appointed Trusts, Criminal Injury Compensation Trusts, Testamentary Trusts and Trusts created by Trust Deed. (Many other non-trust services are also provided by the Public Trustee.)</li> <li>• Payment of advances for special needs</li> <li>• Budgeting and planning for future needs</li> <li>• Assistance in sourcing special purpose vehicles, real estate to suit disabilities, and other purchases to meet specific needs</li> <li>• Managing the many employment obligations that come with hiring carers</li> <li>• Bill payment</li> <li>• Provision of regular statements.</li> <li>• Active investment management with sound controls and philosophy.</li> </ul> <p>External services, where required, at additional cost.</p> <ul style="list-style-type: none"> <li>• Taxation services</li> <li>• Property management</li> <li>• Property maintenance.</li> <li>• External investment advice (no trailing commissions)</li> </ul>
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## What about the cost?

<p>What will it cost?</p>	<ul style="list-style-type: none"> <li>• An estimate of fees for the life of the trust is provided to the court at the time settlement is reached. Other fees for services may be applicable from time to time, depending upon the requirements of your trust.</li> </ul>
<p>Why are the Public Trustee fees so reasonable?</p>	<ul style="list-style-type: none"> <li>• Most fees are set in legislation and regulations, and are subject to Parliamentary review</li> <li>• Management costs are not time-based, ensuring clients get as much individual attention as they require</li> </ul>
<p>Can fees change?</p>	<ul style="list-style-type: none"> <li>• Fees can change, and depend upon changes made to the Public Trustee Act and the Public Trustee Regulations, as amended from time to time by the Western Australian Parliament or in some limited cases the Public Trustee</li> </ul>







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What about the cost?





PUBLIC TRUSTEE

## Who do I contact?

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Western Australia 6000

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