Family Trusts

A family trust helps provide for the ones you love and protects your assets into the future.



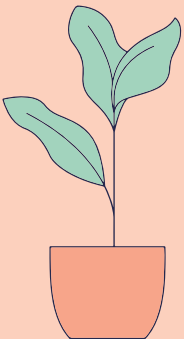
Public Trust

Trusts

Thinking about a family trust? Start with trusted advice.

A family trust is a way to legally protect your assets and plan for the future. But it's not a one-size-fits-all solution. This guide outlines the basics and why expert advice matters.

Setting up a family trust is a significant decision. It can help safeguard your assets, support loved ones, and ensure your wishes are respected. But it also comes with responsibilities, legal implications, and long-term commitments.



At Public Trust, we've been helping New Zealanders manage trusts for over 150 years. Our team of legal, accounting and trust specialists can help you decide whether a trust is right for you and support you in setting it up and managing it effectively.

What is a family trust?

A family trust is a legal arrangement that allows you to transfer ownership of your assets, such as your home or investments into a trust. While you no longer own these assets personally, you can still influence how they're managed and used. Trusts can help ensure your wishes are carried out, even after you're gone. However, trusts are complex and not easily reversed. It's essential to seek expert advice before making a decision.



Why set up a trust?

People establish trusts for many reasons, including:

- **Estate planning:** Protecting assets and reducing the risk of disputes or claims.
- **Family protection:** Providing for vulnerable beneficiaries or keeping assets within the family.
- **Relationship property:** Offering protection alongside a contracting out (pre-nup) agreement.
- **Creditor protection:** In certain circumstances.

What are the potential downsides?

When assets are placed in a trust, you relinquish personal ownership. This means others typically trustees are involved in decision-making. While you may still have influence, you can't treat the assets as your own.

The Trusts Act 2019 outlines strict rules around how trusts operate and who is entitled to information. There are also ongoing costs and administrative responsibilities to maintain the trust's legal integrity.

Setting up a family trust

A trust involves three key roles:

- Settlor – the person who sets up the trust and transfers assets into it.
- Trustees – the people who manage the trust and hold its assets.
- Beneficiaries – the people who benefit from the trust.





What do I need to decide first?

Think about:

- **Assets** – what you want to put into the trust. You can include many types of assets, but it's best to choose those likely to increase in value.
- **Beneficiaries** – who you want to benefit. Anyone can be a beneficiary but only include people you genuinely intend to benefit.
- **Trustees** – who will run the trust. Any responsible adult can be a trustee. We recommend at least one independent trustee – someone who is not a relative or a beneficiary. You can also be both a trustee and a beneficiary.



How is a trust set up?

A trust must have a trust deed. The settlor usually starts the trust with a small amount (for example, $10) and then transfers assets to the trustees, who hold them for the beneficiaries.

What is the trust deed?

The trust deed sets out the rules everyone involved must follow.

How is the trust run?

Trustees manage the trust in line with:

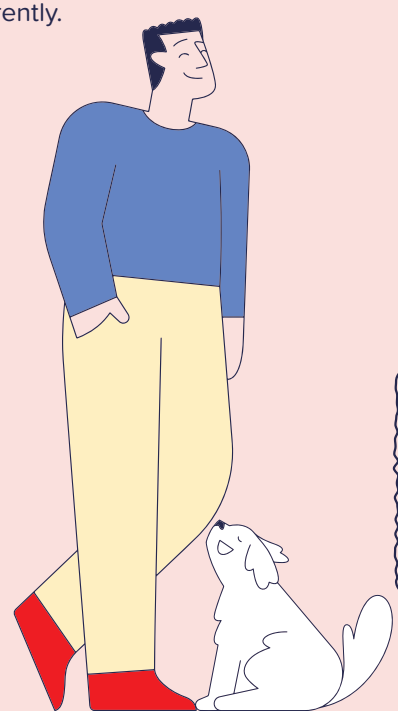
- The Trusts Act 2019
- The trust deed
- The letter of wishes (a document outlining the settlor's goals and objectives)

Trustees must act responsibly and in the best interests of all beneficiaries.



Trusts and relationship property

Under the Property (Relationships) Act 1976, if you've been in a qualifying relationship with your partner for three years or more your partner is entitled to half of any relationship property if you separate or die. You can make a legal agreement (sometimes called a "pre-nup" or contracting out agreement) to share this property differently.



What happens to relationship property?

If you transfer relationship property to a trust and this disadvantages your partner, the court may take that property into account if you separate.

A word of caution: this is a complex topic that has only been briefly touched on here. It's important to get specialist advice concerning family trusts and their association to relationship property.

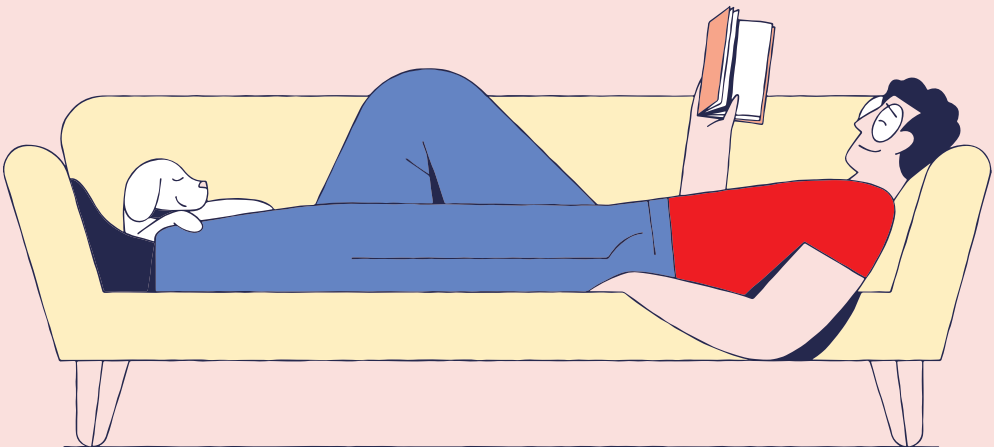
Relationship property explained

Relationship property is property that has been acquired or contributed to during the course of a relationship - for example, jointly held bank accounts or the family home.

Making the trust flexible

What you tell us about your situation is important.

When we set up the family trust, we'll provide a structure that suits your intentions and is as flexible as possible. You need to tell us as much as possible about your situation so we can set up things appropriately at the beginning. It can be difficult and expensive to change things later on.



Choosing the trustees

Who should I choose?
You may choose a family friend as an independent trustee, but they must act genuinely and not just "rubber stamp" decisions. Being a trustee can be demanding, especially around investments, and disputes can put friends in difficult positions. Many people prefer a professional trustee organisation, like Public Trust to be their independent trustee.

Who can be a trustee?
Any responsible adult or a trustee organisation like Public Trust. Choose someone with common sense who can remain impartial if disagreements arise.

What are a trustee's responsibilities?
Trustees take on significant responsibility, when choosing a trustee consider:

- Making decisions consistent with the trust deed.
- Managing trust assets appropriately.
- Acting carefully with investments.
- Keeping accurate financial records and informing all parties.
- Sharing trust information with beneficiaries when required.



Why choose a professional independent trustee?

A professional trustee brings expertise, impartiality and long-term support, making your trust stronger and less likely to be challenged.

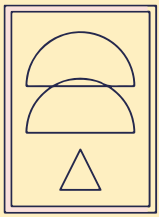
An independent trustee organisation like Public Trust offers:

- Expertise and objectivity – balancing family interests fairly
- Prudent investment decisions – managing assets responsibly
- Administrative support – handling trust paperwork and compliance
- Legal updates – keeping you informed of changes that affect your trust

Public Trust can provide these services for the life of your trust, ensuring it is managed professionally and with integrity.

What happens if I want to change the trustees?

We can set up your trust, so you act as a protector, giving you the power to remove and appoint trustees. In your will, you can also nominate someone to choose new trustees after your death.







Trustee duties

Under the **Trusts Act 2019**, trustees must understand their duties and the trust terms. There are mandatory and **default** duties:

Mandatory duties:

> Know and follow the trust terms

> Act honestly, in good faith, and in beneficiaries' best interests

> Use trustee powers properly and lawfully

Default duties:

> Invest prudently

> Avoid personal benefit or profit

> Review trust assets and obligations regularly

> Avoid conflicts of interest and act impartially

> Make decisions unanimously with co-trustees

Trustees determine how beneficiaries benefit from the trust and how the trust is managed, so accountability is key.

Information rights explained

This information must be given proactively unless exceptional circumstances apply.

The Act provides a procedure for when a trustee decides not to provide information.

Beneficiaries must be kept informed of trustee changes and can request additional trust details. They may also be required to pay costs associated for processing these requests under the Act.

Beneficiaries' rights to information

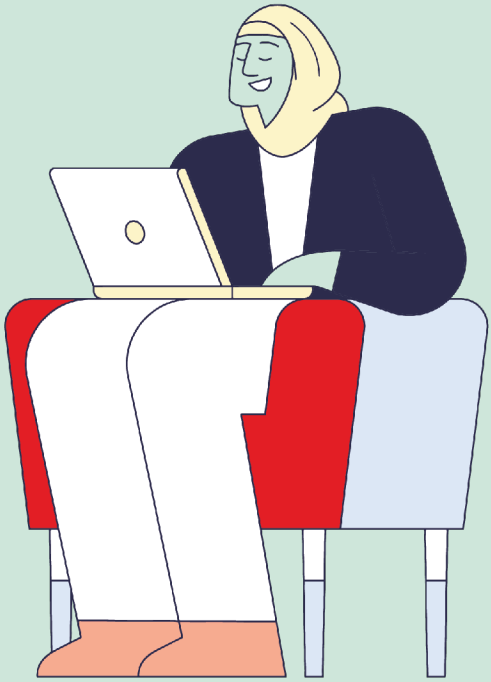
Trustees are required to provide beneficiaries with basic trust information soon after the trust is set up, including:

> Confirmation they are a beneficiary of the trust

> Trustee(s) name and contact details

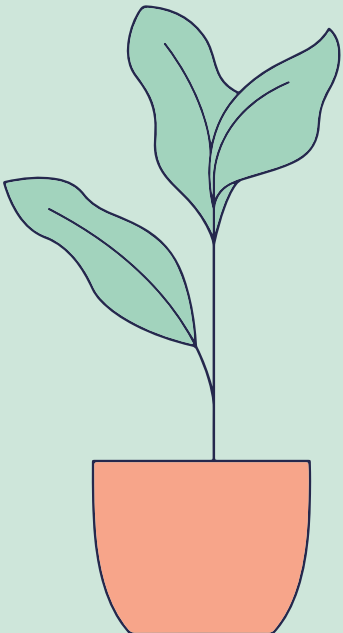
> Details of each appointment, removal or retirement of a trustee as it occurs

> The right to request trust terms or other information



What it takes to administer a family trust

Proper administration is essential to keep your trust compliant and effective.



Administration
It's importnant to operate the trust correctly, document all decisions and maintain accurate records.

Annual meeting of trustees
The annual meeting of trustees is part of the ongoing management and administration of a family trust; inlcuding:

- Review family circumstances and trust assets
- Check investments and policy
- Approve accounts and tax returns
- Share information with beneficiaries
- Plan for changes and consider distributions



Keeping records

All decisions should be recorded in written resolution signed by all the trustees, keeping resolutions, accounts and balance sheets together. Maintain records of payments and debt forgiveness for the life of the trust.

Accounts and tax

Tax law is complex and rules change often, so annual reviews are vital. Public Trust can manage payments, income, records, accounts and tax returns, or you can use your accountant. Fees can be charged to the trust.

Your will and enduring power of attorney

Review your will at least every three years and keep your enduring power of attorney up to date.

Trustee investments

Trustees can invest in any asset they consider will benefit the trust but must act prudently. Negligence or fraud can lead to liability. Public Trust can draft your trust deed to help manage complexities.



Trusted for generations

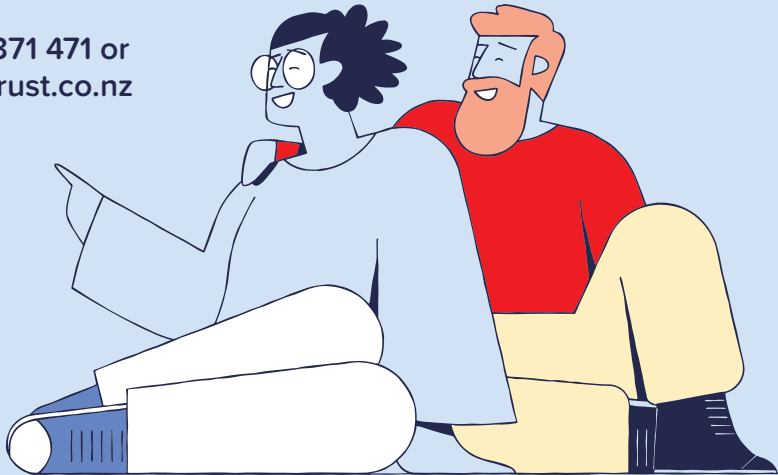
Since 1873, we've been here to protect what matters most to Kiwi — their family, their wishes, and their future.

When it comes to setting up a trust, experience counts and getting it right matters.

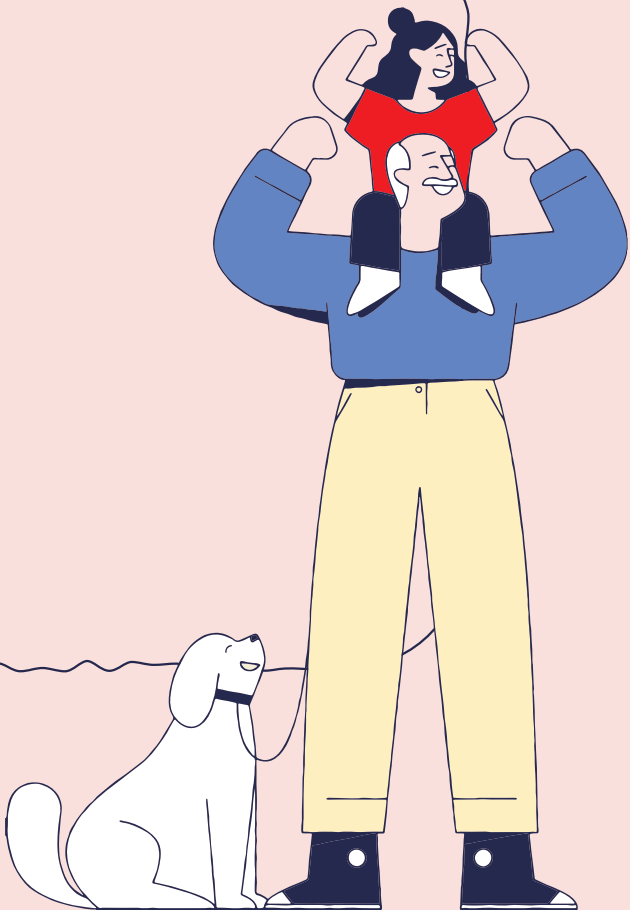
For over 150 years, we've helped New Zealanders navigate life's big decisions with confidence and care. As a Crown entity, everything we do is guided by legislation, including the Public Trust Act 2001 and the Administration Act 1969, ensuring integrity, transparency, and proper process.

There's a lot to consider, but we're here to help you decide if a trust is right for you and your family.

Call us on 0800 371 471 or visit www.publictrust.co.nz



Notes



Find out more at publictrust.co.nz



Got any questions about what you've read?

We have the expertise and experience to help you – with convenient options to get you sorted online, in-person or over the phone.

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