Investment of Trust Funds for Minor Beneficiaries - Frequently Asked Questions for Parents

As professional Trustees we are often asked questions by the parents of minor beneficiaries. Here are some of the most frequently asked questions.

1. **The Deceased died some time ago, why are the funds only just being invested?**

   While the deceased may have died some time ago, the estate has to be administered so that funds can be made available to settle the legacy due to the minor beneficiary. Depending on the size and complexity of the estate, this will take on average between eight and eighteen months.

2. **Why do the Trustees have to pay for independent financial advice?**

   As professional Trustees Wards have a higher duty of care and are required to take independent financial advice before deciding how best to deal with Trust monies. As solicitors the Trustees are not authorised to give financial advice.

3. **Wouldn't placing the Trust fund on cash deposit avoid the need to pay for independent financial advice and reduce the risk of loss?**

   Placing the funds on cash deposit is not without risk as there is the potential for erosion of capital due to inflation. In addition, this is more burdensome from an administration point of view as the Trustees will be required to prepare and submit tax returns and access the cash deposited in order to pay the tax due.

   Even if the Trustees decide that it is best to place the funds on cash deposit, they are still required to take independent financial advice and this does not come without cost.

4. **Why don't the Trustees just put the money in my child's ISA, savings account or Premium Bonds?**

   These types of account are not appropriate to hold Trust funds. All children's accounts allow the child to access funds at the age of 18 and some younger than that. Many trusts are established to allow children access to funds at the age of 21 or older. If the Trust document is silent on the age at which your child receives the Trust money then they will receive at the age of 18.

   Premium Bonds cannot be held by Trustees.

5. **Why don't the Trustees just place the money on some other form of cash deposit? My child's savings account is paying 2.5%.**

   Trustee accounts do not usually attract favourable rates of interest and cannot be compared to the rates achieved by the type of account your child currently holds. While there is no definitive answer as to why Trustees receive lower rates of interest, our understanding is that banks tend to view Trustee accounts in the same way they view business accounts i.e. they are owned by legal entities (the Trust or the business). This generally means more work for the bank so the returns are reduced. In addition, not many banks offer Trustee accounts so there is less competition over interest rates. The reason for this is that the banks have to hold additional 'capital adequacy' to do so. Therefore, their cash reserves would need to be significantly higher than normal if they offer Trustee accounts. Many banks therefore choose not to offer them.

6. What right do the Trustees have to expose my child's funds to investment risk?

The Trustees want to strike a balance between safety and investment growth potential. Generally speaking the Trustees' specific objectives are:

- Capital growth over and above that which could be achieved by cash deposits and above the rate of inflation;
- Managing the underlying fund to a consistent level of risk. A predictable, smoothed return is preferred to a more volatile one;
- Ensuring the investment is tax efficient for the Trust.

In considering how to fulfil these objectives, the degree of risk the Trustees are willing to take is a major factor. Risk is usually measured on a scale of (say) 1 to 10 (with 1 being the lowest level of risk and 10 the highest). In deciding on the level of risk they are willing to take, the Trustees will have regard to the following:

- The length of time the funds are to be invested;
- The specific needs of the beneficiary;
- The amount of funds available.

It is very unusual for Trustees to invest in high risk investments with the usual risk level being around 3 or 4 (low to medium). The independent financial advisor will take into account all types of investments available to the Trustees and will make their recommendation based on the level of risk the Trustees are prepared to take. The risk level is not set in stone and can be adjusted. For example, it is common to reduce the risk level the closer the beneficiary gets to becoming entitled to receive the funds.

7. Can the Trustees use my financial advisor?

No. Over the years we have put together a small panel of trusted advisors. The panel members are completely independent of Wards and of specific investment providers. All members have direct, relevant experience in dealing with Trust investments. We are not paid any referral fees.

8. What if the Trust investment makes a loss?

As with any investment, there is a possibility that losses may occur. However, all Trust investments are kept under regular review by both the Trustees and Independent Financial Advisor. Investment review meetings are held at least annually. All steps will be taken to minimise loss. However, this is not always possible and as long as the Trustees have taken all the necessary advice prior to investment and have kept the investment under regular review, they will not be responsible for making up any perceived shortfall.

In the longer term (5 years or more) it is our experience that losses are very rare. With most Trust investments, when the child becomes entitled to the Trust fund, they will have the option to keep the investment on. This means that they can wait for their investment to grow in value before cashing it in.

9. My child is not old enough to pay Income Tax. Why are tax returns necessary?

It is not your child, but the Trust itself which is liable for tax.

Depending on the type of investment or account chosen, it may be necessary for the Trustees to complete Income Tax Returns and pay Income Tax even though your child is not a tax payer.

The Income Tax rules for Trusts are different to the rules for individuals. For example, for Trustees there is no tax free allowance. The first £1,000 of Trust income is taxed at the standard rate and income over £1,000 at the higher rate. The tax rates are as follows:

Standard Rate

- Dividends – 8.75%
- All other income – 20%

Higher Rate

- Dividends – 39.35%
- All other income – 45%

If you would like further information about the taxation of Trusts, please see our legal guides Tax treatment of Discretionary Trusts and 'Relevant Property Trusts' and Bereaved Minor Trusts and 18-25 Trusts.

10. What happens when my child becomes entitled to the Trust fund? Will they get their money on their birthday?

We will endeavour to contact you or your child (if they are over 18) ahead of the date on which they become entitled to their funds. At that time, they will be asked to provide proof of their identity and address.

The Trustees will try to deal with the transfer of funds in the most tax efficient way. In some cases this will involve assigning the Trust investment to your child so that they can then cash this in. This avoids the Trust having to pay a higher rate of tax on the cashing of the investment units. A transfer cannot take place prior to your child becoming entitled so they will not receive funds on their birthday. Every effort will be made to ensure that your child receives funds as soon as possible thereafter.

You can help us by keeping in touch and updating you or your child's contact details if they change.

11. How will I know if the money has been invested properly?

We will provide you with updates on how the investments are doing. This is usually done annually. If you would like more frequent updates, this can be arranged but please bear in mind that this involves extra administration and therefore additional cost which is deducted from your child's fund.

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