



Public Trustee

# Protecting Your Trust

*Information for families, carers and beneficiaries of court trusts.*

The Public Trustee provides quality will-drafting, trustee and asset management services to all Western Australians. We can assist you or your loved ones with:

- Wills and Will Storage
- Enduring Powers of Attorney
- Deceased Estate Administration
- Trustee Services
- Financial Administration
- Give2Good Foundation

## What is a court trust?

A court trust is established when a court, tribunal or assessor awards damages to a person (called the beneficiary) who is injured, and that person is unable to manage the money themselves. In these cases, a trustee is appointed to manage the money on behalf of the beneficiary and make sure it is used in accordance with the law and in the beneficiary's best interests. Such payments might be made, for example, after a personal injuries or criminal injuries compensation claim.

## Who does a trustee report to?

All trustees can be held accountable to the Supreme Court and may also have to apply to the Supreme Court for permission to perform certain duties. In addition, trustees can be held accountable to the court, tribunal or assessor that appointed them.

The Public Trustee has a direct reporting relationship to Government, through the Department of Justice, and may be required to explain matters to the Attorney General. The Public Trustee is also subject to the scrutiny of the Ombudsman, who has the power to investigate certain matters and report adverse findings to the Parliament of Western Australia, as well as the Auditor General.



## Why choose the Public Trustee?

The Public Trustee has extensive experience in trust management and at any given time has about 5,000 matters under administration in its Trust Management section. These include some of the largest court awards made in Western Australia.

Our senior Trust Managers have extensive training and experience and we have often been appointed as trustee in the most difficult or contentious cases. We understand that

our responsibilities go far beyond just investing your money – we strive to balance the need to invest and grow money with spending it to improve the beneficiary's quality of life.

Our staff are caring, professional and genuinely act in the best interests of the clients they serve. As a government service, the Public Trustee isn't subject to the risks of closure, takeovers, mergers or death, which ensures the continuity of our services.

## What services does the Public Trustee provide as a trustee?

As trustee of a court trust, the Public Trustee will:

- Pay advances for special needs
- Budget and plan for future needs
- Assist in sourcing special purpose vehicles, real estate to suit disabilities and other items or equipment to meet specific needs
- Pay bills
- Provide regular statements to the beneficiary, or where appropriate, their carer or next of kin
- Invest the money to either grow it or to meet current needs
- Arrange taxation, property management, property maintenance, external investment advice and other services where required.

The Public Trustee also acts as trustee for trusts created by a Will, intestacy or deed.



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## What about involving family members?

When appointed as a trustee, the Public Trustee will often consult with family members when making decisions about expenditure, investments and other matters relating to the beneficiary's interests.

## What is the process?

If you or a loved one will be awarded a compensation payment, the Public Trustee can meet with you and your family to discuss the long-term care needs of the beneficiary, an investment plan, the services we offer and also to provide a detailed estimate of our fees so you can ensure your award includes provisions for all fees foreseeable. We can come to your home or meet with you at our offices and can also provide this information to your lawyer. To arrange an appointment, call 1300 746 212.

## What is the cost?

The fee for establishing a court trust is based on the value of the trust and ranges from no fee to \$7,050.

Three annual fees apply for acting as trustee:

- A personal financial administration fee, based on the number of transactions we perform
- An asset management fee, based on the value of certain assets of the trust; and
- A residences and real property fee of \$2,820 for each property, retirement village unit, relocatable home, mobile home or caravan (permanently located in a caravan park) that we manage as part of the trust. This does not include the beneficiary's principal place of residence or that of his/her spouse, de facto partner or minor child. The Public Trustee will continue to consider a home as the beneficiary's principal place of residence for 12 months after s/he leaves it as long as it is not rented to a third party.

These fees apply for court trusts established on or after 1 July 2017. Some fees may be remitted under certain circumstances, for example, where the Community Service Obligation applies.

The Public Trustee provides a community service by ensuring that those people who are genuinely unable to pay can still access our services. Under our Community Service Obligation, only the minimum fee of \$30 per month will be taken if the value of the liquid assets managed under the Trust (which includes cash, bank accounts, term deposits, managed funds, shares or money in the Public Trustee's Common Account or Investment Funds) is less than \$5,000 or if the fee reduces the value of these liquid assets below \$5,000. In addition, with the exception of the minimum fee, the total fee to be taken will not exceed 5% of the total value of the estate under administration (excluding motor vehicles, furniture, personal effects and jewellery). Disbursements, legal and miscellaneous service fees are excluded from the Community Service Obligation.

## Investments

Depending on the beneficiary's needs, the Public Trustee may choose to invest their money in one of the four Public Trustee Investment Funds, superannuation, as well as place some in the Common Account, which is used as the operational account for day to day needs. Management fees are applicable but these are deducted from the funds before interest payments are credited back to the beneficiary's account. Individual fees are not charged. Money held in the Common Account earns interest calculated daily and is credited to the trust on a twice-yearly basis. The Public Trustee Investment Funds are sometimes also called Strategic Investment Accounts and are strategic common accounts under the *Public Trustee Act 1941*.



## Public Trustee

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