

Letters of wishes

Modern trusts often give trustees wide ranging powers which can be used at the trustees' discretion. How are these powers to be used? How can the trustees decide what the settlor wants them to do with the trust fund? A "letter of wishes" can help.

A letter of wishes is a way for you, the settlor of a trust, to inform the trustees of matters to be taken into account when those trustees are exercising their discretionary powers.

A letter of wishes is not legally binding on the trustees, but may be taken into account by them.

Typically, letters of wishes are concerned with the exercise of discretions in relation to the distribution of the trust fund (wholly or in part). Occasionally letters of wishes may also include comments in relation to the exercise of powers of investment, or of other purely administrative powers.

Letters of wishes should be reviewed regularly. It would be helpful if the trustees took the initiative in this and asked you, the settlor, from time to time if you had any changes in mind.

Letters of wishes should be kept by the trustees. If the trust is registered then they may have to update the trust beneficiary details.

Example

To: The Trustees of the A Another Discretionary Trust of 31 January 2020

It is my wish, but without imposing any legal obligation, that you, my trustees, shall use the trust fund as follows:

1. My first priority is that my widow Anne is adequately provided for. Therefore it is my wish that while my spouse is alive the trust fund should be used to support her in whatever way is necessary.
2. Subject to 1. I would wish the trust fund to be used to support the education of my grandchildren at school, college and university.
3. After Anne's death and the completion of my grandchildren's education I would like you to consider distributing the trust fund to my children in equal shares. I would only wish you to adopt a policy of inequality between them if there were substantial differences in their financial circumstances, some medical issue which required substantial funds, or some other exceptional matter.

I would ask you as far as possible to avoid investment in companies in the armaments or tobacco industries.

Signed: A Another

Dated: 1 February 2020

Please add your wishes here, or you can use your own paper:

Signed (settlor)

Date

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(DD/MM/YYYY)

Signed (joint settlor)

Date

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