

USING A LETTER OF WISHES WITH A DISCRETIONARY TRUST

WHAT IS A LETTER OF WISHES?

A Letter of Wishes allows the Settlor of a discretionary trust to indicate to their Trustees, who they would like the trust fund to benefit, when distributions should be made and in what shares. An example document is shown on page 2.

CAN A LETTER OF WISHES BE USED TO CATER FOR CONTINGENT BENEFICIARIES OR SPECIFIC EVENTS?

Yes. Should the Settlor be concerned that there will be no surviving Named Beneficiaries at the time of their death, guidance can be given to the Trustees as to the contingent beneficiaries that they would like to benefit.

Example: Mr A Person is a Named Beneficiary in the trust deed and it is the Settlor's wish that, should Mr A Person die, his share is split equally between Miss B Person, Miss C Person and so on. Using this example, the Settlor would simply state this fact in their Letter of Wishes.

Another example could be where the Settlor would like the Trustees to provide for a child/grandchild's education until a specific point in time.

WHEN CAN A LETTER OF WISHES NOT BE USED?

A Letter of Wishes cannot be used where there are fixed beneficiaries with fixed rights under a Bare Trust arrangement. It can only be used where the Trustees have discretion as to how and when they are going to act.

WHO SHOULD THE SETTLOR GIVE A LETTER OF WISHES TO?

The Trustees must be given the Letter of Wishes and ensure that it is kept with the original trust deed. You do not need to provide RL360 with a copy of the document.

If we are given a copy, then whilst it may be retained on file, we are not party to its content and cannot influence any action the trustee may or may not undertake whatsoever.

DO TRUSTEES ALWAYS HAVE TO FOLLOW THE LETTER OF WISHES?

Not necessarily as a Letter of Wishes is not legally binding on the Trustees. Whilst Trustees will usually take into account the Settlor's wishes, they do remain free to act as they deem appropriate in accordance with the terms of the trust itself.

IMPORTANT NOTE

For financial advisers only. Not to be distributed to, nor relied on by retail clients.

RL360 cannot accept any responsibility for a loss of any nature caused by the use, unchanged or otherwise of a letter of wishes.

Some countries have laws governing the distribution of a person's wealth or estate. The legal basis for such a challenge would be that the rights of heirs may be placed above individual rights to pass on assets.

Authorities responsible for judgements in such cases may use discretion and uphold your clients wishes (as expressed by using a trust and/or Letter of Wishes), however, your clients should take professional advice before acting or refraining from acting upon the information given and choosing an appropriate course of action.

This form has been specifically designed to allow you to type your answers directly in to the boxes. You can then save it and print it out.

Trustees of the

Dear Trustees

Letter of Wishes

To the Trustees of the

dated , I/we would be grateful if you took the following beneficial interests into consideration:

Full name of Settlor

Signature of Settlor

Date (dd/mm/yyyy)