

KNOW HOW TO MANAGE YOUR FAMILY TRUST



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With the proliferation of Family Trusts in New Zealand over the last 20 years the legal landscape in relation to Trusts and how they are operated has changed.

There have been a number of recent Court cases involving Trusts where Independent Trustees have been left having to pay fines, damages or costs awards. Some of those cases have involved hundreds of thousands of dollars.

As a consequence being an Independent Trustee is no longer advisable unless you are a very active Trustee rather than a passive Trustee.

If you use our Trustee Company (CMS Trustees Limited) you will soon receive correspondence from us with documentation for our Company to resign for the reasons set out above.

The most obvious question therefore is how do you manage your Trust?

The best way to approach managing your Family Trust is to treat it like a Body Corporate of a multi level building or your local sports club i.e a tennis club where minutes are taken of meetings recording decisions.

It is a simple matter of recording any and all decisions made by the Trustees in relation to Trust assets in a simple Resolution signed by all Trustees.

For example if you carry out work on Trust property such as an extension or some other improvement or maintenance and use your personal funds to pay for it then the Resolution should state that this is what the Trust would be doing and how it is financed. For example is the

money to be a simple gift which the Trust has received or will it be an interest free loan which will be gifted away. If it is the latter then a Deed of Acknowledgment of Debt should be completed also.

Even if you feel that the Trust has made no decisions throughout the year because it simply owns your residential home then at least once annually you should pass a Resolution confirming the assets of the Trust and further confirming how the Trust intends meeting any outgoings in relation to the Trust assets or assets.

For example if your Trust simply owns your residential home, how are the rates and insurance costs being paid?

So a simple annual Resolution for a residential home that has had no changes would be a resolution confirming the property as an asset of the Trust and confirming what arrangements have been made for the payment of rates and insurance in the coming year. Resolutions should be held in the Trust's Minute book. In addition you should record the beneficiaries of the Trust, confirm they have all been considered and confirm who may occupy the Trust's property.

If you are unsure as to your obligations as a Trustee and maintaining your Family Trust please feel free to contact anyone of the Collins & May Law Team who can assist you.

20 MINUTE FREE

**WANT to review your Family Trust structure?
THEN call us and take advantage of our 20 Minute Free interview**