

# Trustee guide

**Rethink  
Trust  
Corporation**

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**Rethink  
Mental  
Illness.**

## Being a trustee

If you have been asked to consider being a trustee of a trust which is set up for the benefit of someone living with mental illness, you might have lots of questions about your role as trustee, as well as how a trust works. We have produced this guide to try and answer these questions and give you an overview of the role of a trustee and in particular about being a trustee alongside Rethink Trust Corporation (RTC).

## What is a trust?

In simple terms, a trust is created when someone (known as the settlor) gives assets to someone else (known as the trustee). These assets make up the trust fund, and the trustee manages it on behalf of someone who will benefit from it (known as the beneficiary).

In your case, the settlor will be someone you know well. They may be your mother, father or other family member or close friend. The beneficiary is also likely to be someone you know well, perhaps a sibling or other relative, or a close family friend.

## What is a discretionary trust?

With a discretionary trust, the trustees have a power to decide how the income and capital is to be dealt with. As well as paying out the income and/or capital to the chosen beneficiaries, the trustees will have the option to hold on to and re-invest the income. This means that in some years the beneficiaries may receive no income at all, but might get more in other years.

## Why has the settlor decided to put funds into a discretionary trust?

The settlor will usually want to make sure that, after they have passed away, the beneficiary is financially supported. There are a number of reasons why a settlor might want to create a trust. We would recommend that you discuss this with the settlor so you can understand their reasons for creating the trust and understand how they would like the beneficiary to be supported.

### Some reasons can be:

a

A trust would allow the settlor to make a gift to someone who, for one reason or another is unable to manage the money themselves. This is often why people set up a trust to help someone with a mental illness.

b

The settlor can use a trust to provide for a number of different people, either at the same time or one after the other. For example, the settlor can direct the trustees to pay the income from the trust fund to his or her son or daughter with a mental illness during their lifetime, and to pay the capital to other relatives after their death.

c

The settlor can use a trust to mitigate tax, particularly inheritance tax.

## What does a trustee do?

The trustees of a trust fund decide how to use the money in the trust to help the beneficiary. If there is more than one trustee they all need to agree..

Accepting the role of trustee means accepting a high level of responsibility. The law states that trustees have a duty of care in relation to their trust. For example, this could involve taking appropriate advice and investing trust money in stocks and shares. As a trustee, you may be asked to make a payment to a beneficiary for a purpose which, if you were asked in a personal capacity, you would not personally agree. A trustee must not allow his or her personal views to compromise the management of the trust in any way.

When the beneficiaries make a request for money to be paid out of the trust, all of the trustees have to agree otherwise the payment can't go ahead.

RTC will only act as a professional trustee of trusts which are made on its standard forms. The settlor can also choose other people to be a trustee. This is often a friend or relative of the beneficiary and is probably why you have been asked to consider taking on the role.

## What is Rethink Trust Corporation (RTC)?

RTC is a wholly owned subsidiary of Rethink Mental Illness. Rethink Mental Illness is a charity that believes a better life is possible for millions of people affected by mental illness. For over 40 years they have brought people together to support each other. It runs services and support groups across England that change people's lives and it challenges attitudes about mental illness. You can get more information about Rethink Mental Illness at [www.rethink.org](http://www.rethink.org).

There are a number of directors who make up the board of RTC. They are not trustees – it is always RTC which is the trustee. The directors make decisions on behalf of RTC. The directors come from a variety of backgrounds and have an interest in mental health issues. Most have a relative with mental illness. You can see their profiles online at [www.rethink.org/RTCteam](http://www.rethink.org/RTCteam)

## Who runs the discretionary trust fund?

A dedicated trust officer, who is employed by Rethink Mental Illness, deals with the day-to-day requirements of the trust. The trust officer passes information and any fund requests to and from the trustees for consideration. The trust officer is familiar with how mental health problems can sometimes affect people, and is able to identify issues relating to welfare benefits, social care and housing and can signpost beneficiaries and family members to any other support systems which might be available to them.

## How does the request process work?

a

The principal beneficiary will usually contact the trust officer by phone, email or letter to ask for money from the fund. The beneficiary can also ask someone else (including you as trustee) to ask on their behalf. They will need to confirm the amount they need, what it's for and when they need it. The officer will also gather information if they can about how the beneficiary is at the moment, their income and housing situation. If the beneficiary has given permission, the officer may also speak with any professionals that are supporting them, such as their social worker, support worker or ward manager.

b

The officer will then email details of the request to all trustees including you. We encourage you to respond as soon as possible. If for any reason there is no response within a reasonable time, the officer will call the trustees to check they received the details of the request.

c

The trustees will then give their views, either by email or by phone, and aim to reach a decision. They will let the officer know.

d

The officer will then let the beneficiary know the decision. If it is approved, they will make arrangements for the money to be paid. Money can be paid by BACS transfer or cheque, although BACS transferred is preferred as it is quicker. The trust can also pay shops directly, for example, to buy white goods or a computer.

## Rachel and John's story

Rachel is John's sister and also acts as a trustee along side RTC for John's trust, which was set up by their late mother. When Tim John got in touch to ask for the trust to pay for a new guitar and guitar lessons, RTC wanted to find out more. Rachel knew that music was a big part of John's life and playing the guitar in his spare time helped him manage his mental health. Rachel contacted RTC to let them know about John's interests. The trustees then both agreed to release money from the trust fund to pay for John's guitar and lessons. Rachel's contribution as a trustee not only helped John get the help from the trust, which their mother wanted him to have, but also helped all of the trustees to make an informed decision about the funds.

## What contribution can I make as a trustee?

We know having a friend or relative of the beneficiary acting alongside RTC can be very helpful for a number of reasons. This is because you are likely to have an understanding of what the settlor wanted when they set up the trust. You will hopefully also know about the beneficiary's day-to-day situation.

### For example, you might know:

- How they are at the moment
- If they are having money problems
- If there are any issues arising from fund requests.

Hopefully you will be able to provide a personal insight into both the settlor's wishes, as well as the beneficiary's situation which the board of RTC will find invaluable.

## What is expected of me as a trustee?

Ultimately, your role is to help make sure you do what is best for the trust fund and the beneficiary.

You will be expected to make decisions, along with RTC, on how the money in the trust is invested.

You will also be expected to decide whether or not to approve any requests to make payments from the trust fund to benefit the main beneficiary. When we contact you about a new request, please respond as soon as you can. If you need to look into it more or speak to the beneficiary first, please let us know. Sometimes it may be necessary to encourage the beneficiary to make requests from the trust and you can also make requests on the beneficiaries behalf, as long as you are acting in their best interests.

You will also be expected to receive and approve copies of the trust accounts each year. RTC prepare these and they will be sent to you in trust accounts are usually issued between May and August, timing depends upon the receipt of information from third parties

## Shereena and Tariq's story

Shereena was planning to attend a family wedding in New York. She had enough money to cover hotels and general spending money, but not enough to cover the cost of flights. Tariq, a family friend who knew Shereena well, was acting as trustee along side RTC for Shereena's trust. He knew that Shereena would really benefit from meeting her relatives and that she was well enough to make the journey. He encouraged her to make a request from the trust to help with air fares and was able to support her when she booked the trip.

## What is the difference between me as trustee and RTC?

You and RTC would both act as trustees of the trust set up by the settlor. However, RTC is a professional trustee and takes care of the administration of the trust. You would be a 'lay' trustee. RTC will also be responsible for preparing the accounts and complying with any taxation requirements. The annual trust accounts will be sent to you for approval; this will enable you to keep track of trust funds. You will be asked to approve the accounts if you agree with the contents.

## Do I get paid to act as a trustee?

Your role as a trustee is entirely voluntary, and you don't get paid. However, the trust may be able to reimburse any expenses you incur carrying out your role as trustee.

For example if you attend a trustee meeting with RTC, the trust will not pay you for your time that you spent at the meeting. However, should you choose to, you might be able to claim back reasonable travel expenses to attend the meeting, with the agreement of your co-trustee(s).

## Do the directors of RTC get paid to act as a trustee?

No. All members of the RTC board give their time voluntarily.

## Why does RTC charge fees?

RTC, whilst owned by a charity, is not in itself a charity. It generates a surplus from its activities and that surplus passes to Rethink Mental Illness to cover costs incurred by Rethink Mental Illness in supporting RTC. For example, the costs of the day to day administration of the trust fund, the preparation of trust accounts and dealing with tax returns.

## Jane and Mary's story

Jane was a trustee alongside RTC for her sister Mary's trust. Mary was sectioned and hospitalised for over twelve months. Housing Benefit no longer covered her rent and no one knew how long it might be before Mary would feel well enough to come back home. It was decided to end her tenancy and some of Mary's personal possessions had to be put in storage. Jane knew that Mary would not be able to afford the cost of storage, even though her care coordinator was helping to arrange it. She made a request on Mary's behalf to the trust. The Officer then checked the request with RTC. RTC agreed with Jane that paying Mary's storage fees was in her best interest and a good use of the trust funds.

## What happens if I disagree with the other trustee's opinion?

You, as trustee, RTC and any other co-trustee need to agree when deciding about a beneficiary's request from the trust. So if you disagree with them, this means the request cannot go ahead.

In most cases any problems are resolved with further communication. However, if all of the trustees cannot agree and the matter can not be resolved between them, then the matter would need to go to the court and a judge would decide.

## Can I be a trustee without the beneficiary knowing?

RTC understands that acting as trustee can sometimes be challenging. Many trustees who act along side RTC are siblings or close family members, which can sometimes make things difficult. You might not want your brother or sister to know that you can decide about their financial affairs. We can be discreet about your involvement, if you let us know but if the beneficiary asks, they do have a right to know who the trustees are.

## What if I'm to be a beneficiary of the trust too?

Depending on how the settlor chooses to set up the trust fund, eventually you might also stand to benefit financially from it. For example, the money in the trust could pass to you or your family if the beneficiary passes away. This could lead to a conflict of interest.

This should not be a problem as long as there is at least one 'neutral' trustee such as RTC. All trustees have to agree about how to use the money in the trust. So if you make any decisions that appear to be not in the best interests of the beneficiary, the neutral trustee can block this. We would hope that you would follow the settlor's wishes and it is imperative to your role as trustee that you always act in the best interests of the principal beneficiary.

## Do I have to attend meetings?

A face to face meeting can really be useful for all parties involved, and especially so for the beneficiary. We encourage these meetings on a regular basis – usually annually. You are not compelled to attend, but we would encourage it.

## Can I stop being a trustee?

If you want to retire as a trustee at any point, please contact the trust officer. It is possible to retire from a trusteeship and this is done by signing a deed of retirement.

## Can another trustee be appointed once the trust is set up?

A new trustee can be appointed, but, depending on the wording of the trust deed, may require express agreement of the settlor or alternatively the agreement of all of the existing trustees before this can happen.

## What do I have to do when the trust closes?

A trust fund may close for various reasons. For example, the principal beneficiary might no longer need a trust or they might pass away and the settlor will then decide to close the trust. Usually the settlor will inform RTC of their intention to close the trust. When a trust is being closed, as trustee, both you and RTC will have to follow the process set out in the deed to pay out any funds and close the trust.

**If your contact details change, please let us know as soon as possible.**

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