

# About trustees

This fact sheet is designed for trustees, to give them some basic information about their role and duties.

For a better understanding of trusts and of some of the technical terms that you might come across, ask for our other fact sheets About trusts, About Lincoln's Life Policy Trust and About Lincoln's Family Flexible Trust.

Please note that although Lincoln Assurance Limited and its representatives and staff have taken a great deal of care to see that the information we have given you is correct, we do not give personal advice. This means that we cannot accept responsibility for ensuring that the information is correct or for ensuring that our suggestions are appropriate to your own circumstances.

## The role of the trustee

A trustee is an individual or a company that has the legal 'on-paper' ownership of property but must use that property for the benefit of the beneficiary. A trustee may be a beneficiary. However, the trustee(s) must treat the rights of all beneficiaries fairly.

Trustees' responsibilities include:

- managing the trust strictly in accordance with the terms and conditions that the settlor (the person setting up the trust) has set out in the trust document
- looking after the assets of the trust, actively reviewing the investment of the trust property and taking suitable advice where this is needed
- protecting the interests of the beneficiaries.

## The duties of a trustee

It is up to the trustee to make sure that the trust property is administered in accordance with the terms of the trust. So when you accept an appointment as trustee, you are taking on a serious responsibility.

Each trustee is personally answerable to the beneficiaries of the trust, and owes them what is called a fiduciary duty. This fiduciary duty means that, if you do not faithfully

carry out the terms of the trust, you are committing a breach of trust and you may be personally liable to compensate the beneficiary for this.

As a trustee, you also have a duty under the Trustee Act 2000 to take care in carrying out your role. You must act on reasonable business principles when making or reviewing investments of the trust policy, unless the trust document itself says that you do not have to do this.

Here are some examples of mistakes that are commonly made:

- Paying money or allowing money to be paid to someone who is not a beneficiary of the trust. In particular, money must not be paid to the settlor if he or she is not a beneficiary. Note that a settlor cannot be a beneficiary under Lincoln's Life Policy Trust.
- Allowing the settlor or someone else to have excessive influence over your decisions. Even if this person is a fellow trustee, you are responsible equally with him or her to make sure that decisions are taken in the best interests of the beneficiaries.
- Surrendering the policy, making fund switches and otherwise dealing with the policy without taking proper advice (if this is needed) or giving enough thought to whether this is truly in the best interests of the beneficiaries.

Another aspect of being a trustee is that you must be available to make decisions with your fellow trustee(s). Therefore,

- if your contact details change, you should tell Lincoln and/or your fellow trustee(s) about your new details (preferably both).
- if you can anticipate that you will or may become unable to act, because for example you are moving out of the United Kingdom or because your health is failing, then you and your fellow trustee(s) should consider appointing a new trustee to replace you.

## **Choosing a trustee**

At the outset of a trust, the settlor must choose one or more trustees. From time to time a new trustee may need to be appointed. It can fall to the existing trustees to choose a new trustee.

When choosing a trustee, it is important to bear in mind the serious responsibility being given to that person. You should be careful to appoint trustees who you can rely on to carry out the terms of the trust faithfully and independently.

It is also important to be sure that in practice the trustees will be able to do what is required of them. For this reason, your chosen trustees should be:

- over the age of 18 (a legal requirement for all appointed trustees)
- living in the United Kingdom where they can easily be contacted
- willing to act as a trustee
- in good mental and physical health.

It is sensible – and sometimes necessary because of legal rules about trusts – to have at least two but not more than four trustees acting at any one time.

## **How Lincoln can help**

If you have any questions about choosing a trustee or about your role as trustee, our Customer Services team may be able to help. Call 0845 605 2323 between 8am and 8pm Monday to Friday or between 9am and 1pm on Saturdays. Alternatively, you may wish to direct your questions to your own solicitor or other adviser.