ACROBAT TRUST

FROM WAY TRUSTEES

Contents

Keeping it in the family:

Protecting family wealth across the generations

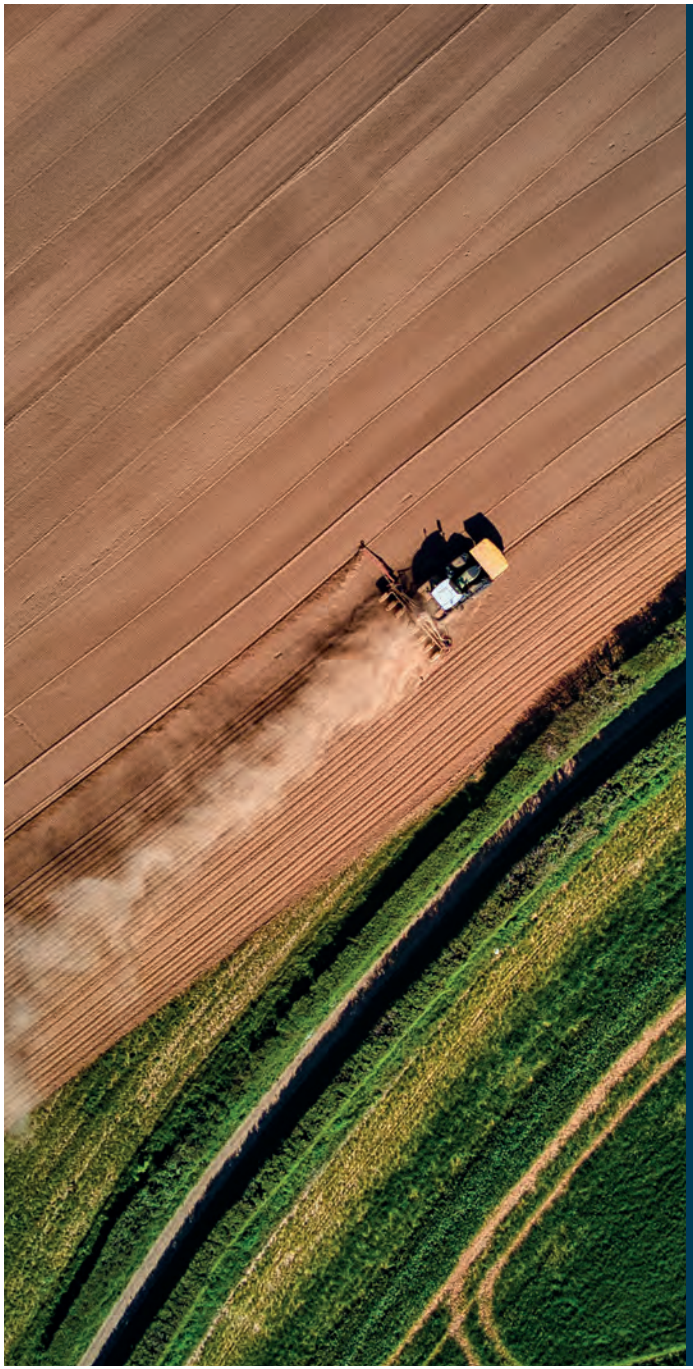
Most people in later life have two overriding objectives; to leave the best possible legacy for their family and ensure they have enough money to meet their own life needs.

The two are not mutually exclusive as their accumulated wealth may need to be used for either or both purposes, depending on how life turns out. The use of the Acrobat Trust by WAY Trustees is the most robust yet flexible family asset protection facility on the market, having been designed specifically with family wealth preservation in mind.

Many of us are aware of friends and relations who have not made the most basic of preparations for life's potential difficulties.

Illness, loss of mental capacity, death…few of us know families who are not affected by sudden, radical changes of circumstance.

This is where inter-generational wealth planning meets estate planning: ensuring that your family's collective wealth works harder for the benefit of all, while fulfilling the intentions of you, the settlor.



WAY Trustees believe there are three fundamental elements to consider when thinking about your legacy:

1. A comprehensive and well thought out Will

2. The appointment of trusted attorneys via a Lasting Power of Attorney, potentially governing your financial and health issues in later life.

3. A Family Reversionary Trust to ensure your assets are protected and deployed, in accordance with your wishes, during your lifetime (before) and after your demise, but also to safeguard you and your family from unnecessary Inheritance Tax (IHT) in the future.

Most people are familiar with the first two. However, only the very aware, tackle the third, which could be the most important step of all. It can preserve your family wealth into the far-reaching future of your descendants, thereby securing your legacy.

There are of course many more reasons to organise a Family Reversionary Trust, and in recent times, the attraction to mitigate IHT has been a major draw.

In our view, the creation of a discretionary trust can offer many more benefits to you and your family both during your lifetime and beyond including:

- Allowing trustees to make urgently needed funds immediately available to family, including after your demise, without the need to wait for probate (which can take several months and in more extreme cases years).
- Permanently protecting family assets so that they are not inadvertently dispersed following a marriage breakdown for example.
- Differentiating between beneficiaries in post-death support for your spouse (or civil partner) and children (whether natural, adopted, step or other) in line with your ongoing wishes.
- Offering financial security and support to you in the event of failing health and/or the need for care later in life.
- Mitigating IHT on an inter-generational basis.
- Plus, other benefits as you will discover later.

In essence, gifting accumulated wealth into a Family Reversionary Trust is a straightforward way of laying down a guide for how and in what circumstances those assets can be used for your needs and the benefit of your family members, before and after your death.

Should you choose WAY Trustees, we become de facto the impartial guardians of your funds as independent professional trustees and we will use your guidance (both initially and as circumstances change) on how you would like assets to be used for you and your family on an ongoing basis.

You have the WILL. You have the POWER. We provide the TRUST.

Estate planning should be about helping families retain their accumulated wealth, ensuring it passes to the right people, at the right time, in the most tax effective manner possible.

WAY Trustees offer a national, niche professional service, exclusively focused on creating trusts and managing family wealth for people wishing to protect their assets from the potential for family dynamic changes. These changes may be anything that could have a negative effect on your legacy wealth such as ill health, divorce, family discord, bankruptcy and anywhere in between.

In short, we're here to protect your wishes and help ensure the security of inter-generational wealth. WAY Trustees will act on behalf of and in the interests of you and your wishes before and after your demise. We are a highly professional company solely working to manage trusts for people who have appointed us. To that end we employ a team of skilled and conscientious trust staff who, between them, work tirelessly on behalf of their settlors and the trust beneficiaries.

Why take our word for it?

We are so confident of our people and services that we recently (2021) invited Mills & Reeve LLP, a respected national legal firm specialising in trust work, to audit our trust management processes plus our book of live trusts. The company, which prides itself on over "two centuries of experience", concluded that:
"In our opinion the files audited show that WAY Trustees provide a service of very high quality, with attention to detail and a commitment to adhering to the principles and standards required of a professional trustee. The audit showed that WAY Trustees are committed to providing an efficient and effective service to their clients, including ensuring compliance requirements are met and that individual client circumstances are taken into account when making trustee decisions."
For further comment please see Section 6: What the Professional Say.

WAY Trustees is firmly aligned with Mills & Reeve LLP, whose professional organisation memberships such as STEP (an organisation which specialises in family inheritance and succession planning) and Resolution (for lawyers committed to non-confrontational divorce) marry up with our own associations and memberships, expertly positioned to provide the best family wealth preservation protection.

So why is that important?

At the heart of it, we know what we're doing and want you to have absolute belief that we do too. Our professional trustees will take time to understand your unique family dynamic and will then ensure your interests remain paramount, all the while ensuring the complex and regulated legislative duties of a trustee are followed.

Trusting the Trustee

Left to right: Kevin Barker (Trust Operations Manager), Rabea Wullner (Trust Officer), Paula Convery (Trust Officer), Thomas Digan (Trainee Trust Manager)

In the past it was enough for a trustee to simply be a trustworthy individual. However, the role and responsibilities of a trustee have become much more complex.

The advent of increased regulation and litigation means the duties of a trustee have taken on a whole new dimension.

WAY Trustees:

- are fully conversant with and understand the terms of the trust;
- regularly review the needs of the beneficiaries;
- are sympathetic to the needs of the settlor (you) whilst not compromising their responsibilities to the beneficial class (your beneficiaries);
- ensure beneficiaries are treated fairly at all times;
- act impartially and do not allow personal opinions and prejudices to influence actions;
- ensure investments held by the trust are suitable and expose the trust to an appropriate amount of risk;
- periodically review the investments, taking advice from qualified professional advisers to ensure they continue to be suitable;
- consider tax implications for the trust, the settlor and beneficiaries;
- register the trust with HMRC and provide ongoing administrative support in relation to The Trustee Act 2000 which is the legislation that all trustees must adhere to.
- comply with the provisions set out in UK Anti Money Laundering requirements.

WAY Trustees of course wants to reassure both existing and future Settlors that it is operating in accordance with all of the above requirements. Just as importantly, WAY Trustees has a sensitive and conscientious approach to delivering its efforts on behalf of the trusts it manages. Nobody knows what the future holds for them or their families and so it is necessary for trustees to respond appropriately to events as they happen and to do their best to look after the interests of all beneficiaries.

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The role of Flexible Reversionary Trusts

The History

Many taxpayers over the last 20 - 25 years have settled some of their assets into flexible discretionary trusts for the sole purpose of mitigating IHT on death. However, a more sensible approach is to focus on helping individuals to achieve the majority of their, often opposing, life and financial goals of securing their future and that of their families in the face of the many unknown future challenges they might encounter - life's twists and turns – whilst also mitigating taxes.

These challenges may be personal, relationship, commercial, educational, health-orientated or any one or more of all sorts of unexpected future events. If such strategies can be arranged in a tax efficient manner, that then represents a real 'win-win' situation for the client. Gifting personal financial assets into such a trust, creates a segregated legal entity for tax purposes representing a protected store of assets, with a potential lifespan of 125 years (regardless of the lifetimes of the settlor and/or any of the Individual trust beneficiaries).

How we can help

The trust is managed on your behalf, the settlor, for the benefit of all beneficiaries for so long as it is appropriate within that whole timeframe. The independent trustee will always work within an effective legal mandate specified within the trust wording and is generally guided by the ongoing wishes of the settlor.

Furthermore, the various Trustee Acts govern the way in which trustees are obliged to discharge their responsibilities.

The Tax Position

The 2006 Finance Act introduced new rules whereby gifts and settlements placed into a discretionary trust, are taxable transfers for IHT purposes.

This means that most settlors restrict such gifts to £325,000 every seven years. This is to reflect the extent of the NRB for IHT and the inter vivos period during which such gifts continue to be aggregated with any other chargeable transfers.

Historically, the average age of our settlors tends to be around 70 years of age. To be comfortable gifting a portion of their assets, they clearly need to know they could personally still potentially benefit from the assets they have gifted, if their circumstances change. This is the job of the reversion facility.

Gifts then fall out of account after 7 years, enabling clients to recycle their full Nil-Rate Band (currently £325,000), every 7 years.

A male aged 70 typically has an average life expectancy of 16 years, whilst a female has an average life expectancy of 18 years* (thus enabling each to potentially recycle their respective NRB's twice and still have their respective full NRB reinstated before death).

Quite distinct from all the other benefits of such trusts, explained in some detail in the following pages, this means that there can also be a substantial tax benefit (a potential reduction of some £130,000 in Inheritance Tax per person, every 7 years or almost £400,000 in the above examples where 3 NRB's are utilised).**

*Source: Office of National Statistics Average Life Expectancy Tables for England & Wales published December 2019

** Current Nil Rate Band, £325,000 X 40% IHT tax rate = £130,000

The Mechanics

The wording of the Acrobat Trust from WAY Trustees, permits (but does not oblige) the trustees to revert up to 10% of the trust value to the settlor on an annual basis. Any full or partial reversions not distributed to the settlor can then be deferred by the trustees for distribution at any one or more future anniversaries.

Of course, there is little point in establishing a separate segregated pool of assets in this way, simply to take them back into your taxable estate (if not spending any reverted money). This is not what is intended, of course and reversions are mostly deferred, but should the settlor have any unanticipated need for financial support, be it some kind of personal crisis or a health or long-term care need, then the trustees will seek to support those needs as appropriate.

At the same time any level of funds can be made available to your family (at the discretion of the trustees, having referred to you and/ or your Letter of Wishes) at any time, for any purpose and not simply as a result of a crisis.

Protecting Family Assets. There are many circumstances whereby the trustees can help protect and/or utilise family assets.

The following are just some examples of life events where a suitable trust can be an emotional and practical comfort, not a hindrance, to creating financial security for the settlor and their family during their lifetime, on their death and long into the family's future (up to 125 years).

Having access to funds to cover Family Emergencies

A daughter's business needs financial assistance, a brother's roof blows off, a favourite aunt has a medical problem requiring expensive and urgent treatment. A suitable trust that allows gifts or loans to a class of beneficiaries aside from named or added beneficiaries is crucial in circumstances such as these.

Protecting Family Wealth

Every parent wants to help their children on their way in life, such as helping with a first house purchase. The often-unvoiced fear is that good relationships can turn sour and a subsequent divorce will see half of that gift disappear out of the family forever. Offering such support via a loan from the trust avoids this consequence.

Covering Care Fees

The potential requirement to cater for and cover one's own long-term care needs is a constant source of concern for us all as we get older. Do we retain cash in our estate to do this or is there a better solution? By moving money into a trust, it falls out of account for IHT purposes after 7 years but remains available for care home or other health/medical costs at the discretion of the trustee, who will refer to the Settlors "Letter of Wishes".

Avoiding unintentional consequences of remarriage or a new civil partnership

It is not uncommon for a widow or widower to remarry, in many cases a younger partner who is likely to outlive them. Upon remarriage any previous Will becomes defunct and subsequent "joint" assets will automatically pass to the survivor on the first death. That often means original family assets become diverted away to new and external family. Assets within, or lent by, a trust can protect such family assets.

IHT savings and a surviving spouse or civil partner

On the other hand, a couple who have each settled funds into trust can benefit by the deceased spouse/ civil partner's trust adding the survivor as a beneficiary. By this means the survivor can be loaned funds, instead of taking reversions from their own trust, thereby creating a debt against their own estate to reduce subsequent IHT liabilities.

Special occasions which "crop up"

Funds within a suitable trust can be used for special occasions or specific family needs. Life has always been unpredictable and having tax-sheltered funds in a trust, available to deal with life's uncertainties, has many advantages over keeping funds within your own taxable estate – they are protected from external access, including from bankruptcies and other legal threats.

These are just some typical real life situations whereby, having passed assets into a separate legal entity, your own trust, you can achieve excellent safeguarding of inter-generational family wealth for up to 125 years.

Our booklet, a compendium of letters of wishes and "write your own" draft clauses for such letters, offers several more situations where your personal guidance to your trustee will help preserve and protect your family wealth inter-generationally.

What the Professionals Say:

Informal observations by the Mills & Reeve team

We have recently completed a technical trust audit on the operations of the trustee subsidiary of WAY Group and were pleased to be able to offer a positive opinion on its work on behalf of settlors and beneficiaries of the many trusts they tend on behalf of all stakeholders.

The primary copyrighted trust that is the main focus of their work on behalf of wealthy families, is a well-researched and professionally drafted (by an eminent and published UK trust expert) trust, aimed at protecting the interests of settlors and their families by arranging for financial assets to be husbanded by attentive and committed professional trustees. The trustees are ready to assist in applying creative solutions to help with the many unexpected events which happen within families everywhere.

The trust precedent has been available since 2003 and the WAY trustees now oversee some 1,146 trusts with financial assets amounting to £181.8m. We have been impressed by the flexibility contained within the trust clauses which allow the trustees great leeway in looking after the various beneficiaries, including the settlors themselves. The benefits range from progressive mitigation from Inheritance Tax to a plethora of multi-generational benefits and protections for a wide range of beneficiaries.

In particular we have seen practical instances which demonstrate how the trustees have used their extensive powers to address various family 'situations'. Just one example of both the flexibility of the trust and the care and attention extended by the personal trustee department at WAY on behalf of trust families is demonstrated in the following example from the files seen by Mills & Reeve.

A February 2011 trust, where the settlor died in 2018 and, following discussions with the family, WAY added the surviving spouse as an additional member of the appointed class of beneficiaries (not possible during the settlor's life without compromising the Inheritance Tax benefits of the trust).

The trustees subsequently lent the spouse what was effectively a temporary bridging loan to assist in a house move. Care was taken to ensure the other beneficiaries were not compromised by this, since the surviving spouse had by then found a new partner. They were comfortable with the loan. After the loan was repaid the trustees were then asked to lend a smaller amount to a young granddaughter of the settlor who needed assistance in buying a

property. An agreed legal charge was placed on the property by the trustees, given her young age and because she was purchasing a property with her partner, to further protect the trust assets from a dilution by any unanticipated actions by non-family members.

Of course, the WAY trustees are ever mindful of both the rights and the wishes of all beneficiaries of their trusts. We have been impressed by the work done by the WAY Trust team on compiling a directory of 'Letters of Wishes' and, in particular, variable paragraphs to be used within such letters to guard against unforeseen events or actions which might undermine the original trust intentions. Trustees are given extensive powers but under Trust legislation they have to remain fully responsive, initially to the settlors, but also to all beneficiaries, of the trusts for which they are responsible. This generally happens by settlors giving their trustees guidance in the form of a Letter of Wishes. Such guidance is of an organic nature in that variations or replacement Letters of Wishes can be issued at any time as family circumstances change. After the demise of settlors then such wishes and guidance can be shared with the trustees by members of the beneficiary class.

Partner, Mills & Reeve, respected national legal firm specialising in trust work, June 2021

Twenty fifth anniversary
The Evolution of WAY Group

Paul Wilcox left his senior management accounting role in British Steel Corporation in 1976 to join the personal advice industry. By 1978 he was setting up personal trusts for wealthy clients seeking to mitigate Capital Transfer Tax (described at the time as the death tax) – the forerunner of Inheritance Tax. These trusts were not a strategy to avoid tax, they were a means to stop already taxed assets from suffering a second layer of somewhat 'inappropriate' tax. However, the benefits of settling money into trust go well beyond tax mitigation. A trust is a secret and timeless box of magic tricks for managing family assets (as we are sure the Duke of Westminster knows very well). Paul's original clients then had their trust money's managed by their own independent stockbrokers.

The area representative of the company then offering these trusts was Bob Young, who was to become Paul's good friend and later his business partner. The advice firm, Wilcox Young, was thus born, just a few years later. In time they launched a range of funds suitable for trustee investment and continued to assist clients to 'settle' a portion of their investments into their own family trusts, often invested into WAY's own well-spread, portfolio-style unit trusts.

Fast forward to 1996 and the partners, along with two further members, established the WAY Group – Wilcox And Young, effectively. The Group then grew substantially over the many intervening years, remaining focussed on advice and investment management, before divesting itself of various non-core activities to re-focus on their shared passion for bringing the incredible family benefits of personal trusts to an ever-growing audience. The original WAY portfolio style funds (the WAY Funds) were taken over by Brompton Asset Management some years ago but, remain competitive (from a performance perspective) and are still managed with trustee investment in mind. Many 'WAY' trusts continue to successfully access these funds for their investment.

Meanwhile the WAY Group currently has a single focus going forwards - the establishment and management (via WAY Trustees) of family trusts for the moderately wealthy. They have been responsible for setting up some 1200 individual trusts containing assets of almost £200m. The benefits to the Settlors of those trusts, and to their families, can be life-changing as their circumstances change, often well beyond expectations, good or bad. Paul Wilcox continues as nominal Chairman of the Group, but the highly professional team which has evolved over the years now has its own impeccable reputation.

Key personnel at WAY Group

Paul Wilcox
Joint founder and Chairman of WAY Group who, in collaboration with Nick Chadwick, had the vision, many years ago, to develop personal trust services to manage family assets.

Nick Chadwick
Shareholder and adviser to WAY Group. He is a highly venerated leader in the field of Inheritance Tax mitigation strategies over many decades.

Joanna Ciuk
A Master's graduate in Accounting, with 20 years' experience in accounting and management. Her analytical skills are central to managing the business.

Kevin Barker
Our senior trust manager. He is a highly qualified trust and estate professional, with more than 20 years' experience of wide-ranging trustee operations.

Rabea Wullner
Rabea is a skilled and experienced trust administrator. We also benefit from her experience as a compliance auditor with a national financial services organisation.

Richard Green
Joint founder and Non-Executive Director of WAY Group, he was a director of Jardine's in Hong Kong before returning to the UK in 1996 to jointly found WAY Group.

David Andrews
A former national newspaper editor and writer. He has been a WAY Group collaborator for many years advising on matters such as distribution strategies.

Gemma Houghton
Head of Marketing at WAY Group with responsibility for marketing, brand development and PR. Previously she worked in strategic business development.

Paula Convery
Paula brings extensive experience as a senior administrator, demonstrating important skills across general financial accounting and taxation areas.

Thomas Digan
Tom is a recent law graduate. He brings both up-to-date legal knowledge, along with his youthful energy and creativity. He is currently studying for his STEP diploma.

Talk to us

Contact us today to arrange a commitment free consultation to find out if the Acrobat Trust by WAY Trustees is right for you and your family.

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