

# Appointing Mills & Reeve Trust Corporation Limited as a professional trustee



This note provides information on the appointment of Mills & Reeve Trust Corporation Limited; in particular, it gives an indication of the costs which may be incurred if you choose to appoint Mills & Reeve Trust Corporation as a trustee of a lifetime or Will trust.

## Appointment of Trustees

When creating a trust, you are entitled to appoint any person to be the trustees and in turn they will be free to engage the services of a professional to assist with the administration of your trust.

You might also choose to appoint a professional trustee alone or together with one or more individuals.

Clients frequently choose to appoint a professional trustee to act alone or jointly with other individuals for the following reasons:-

- To ensure independent and objective decisions are made in relation to the investment and distribution of the trust assets.
- To provide a degree of personal distance from family members who may find it difficult to make decisions where there may be a conflict of interest or where they are affected by emotional issues.
- To tie the family and the administration of your trust to your chosen and trusted source of professional advice.

## Choosing a Professional Trustee

You may choose to appoint an individual member of Mills & Reeve LLP to act as a professional trustee or, more commonly, you could choose to appoint Mills & Reeve Trust Corporation Limited in that capacity.

The appointment of the Trust Corporation, rather than an individual member of the firm, provides continuity and ensures that there will always be a professional trustee to act on behalf of the trust.

The Trust Corporation is a UK incorporated company, registered at Companies House. At any time, around 20 members of the firm act as directors of the Trust Corporation. The Trust Corporation does not undertake any trading or business activities and, therefore, does not pose any financial risk to the trust fund. The sole purpose of the Trust Corporation is to act as a corporate trustee, executor and attorney.

The information below would apply to either the Trust Corporation or an individual member of Mills & Reeve LLP acting as a trustee.

## Trustees' Fees

Mills & Reeve Trust Corporation Limited (together with any co-trustees) may choose to instruct Mills & Reeve LLP to carry out legal and compliance work in relation to a trust of which they are a trustee. Alternatively, the trustees may agree to instruct another professional if this is the right decision for the trust.

Once the Trust Corporation is acting as a professional trustee, any ongoing work to be carried out by Mills & Reeve LLP is subject to separate instructions and an agreement as to the scope of the work and the cost.

If another professional is dealing with any aspect of the necessary work, it is likely that the Trust Corporation would wish to instruct Mills & Reeve LLP to agree terms, scope and fees with the professional, as well as to check and approve the work subsequently carried out. Therefore, there would still be a cost involved.

Whenever Mills & Reeve LLP are instructed to deal with work on behalf of a trust (whether this might be trust compliance, planning advice/implementation or reviewing/approving external work), detailed terms of

engagement are sent out for approval to co-trustees and in some cases the beneficiaries of the trust.

In some circumstances, it may be necessary to undertake an initial due diligence to establish whether it is appropriate for the Trust Corporation to take on the role of trustee. A fixed fee of £250 plus VAT is charged for the time involved in carrying out this work.

In some cases, it may be appropriate for the Trust Corporation to retire as a trustee at some point in the future (or disclaim if no action has yet been taken). This would only be considered as a potential action if it were in the best interests of the beneficiaries and if the professional trustee was satisfied that the Trust would continue to be appropriately administered thereafter. In this situation, there may be a reasonable charge for dealing with the retirement and any appointment of replacement trustees or the disclaimer.

The basis on which the firm’s fees are calculated is based on the time spent dealing with the matter at specified hourly rates. These rates are reviewed annually and clients are notified of any changes.

## Charges

The current hourly rates for the people who will typically be involved in this work are as follows:-

Paralegal/Legal executive/Trust managers	£215 - £330
Associate/senior associate/principal associate	£235 - £430
Partner	£480 - £745

All work is supervised at Partner level but for cost efficiency, most of the trust compliance work would be dealt with by an experienced Trust Manager or Legal Executive, with additional legal input on specific matters by the Partner and/or a Solicitor. Where decisions are made regarding investment of trust assets or distribution among the beneficiaries of the trust, these decisions will be made at Partner level and by that Partner most aware of the particular wishes of the settlor of the trust and the circumstances of the trust’s beneficiaries.

## Estimates & Fixed Fees

It is difficult to provide an accurate estimate of the costs involved, as there are many varying factors in

the administration of a trust which will affect the overall charges, including:-

- Whether Mills & Reeve LLP is to give any planning advice and deal with implementation as well as dealing with the trust compliance work or only some of that work.
- The extent, nature and location of different assets in the trust - property, stocks and shares, loans, business property.
- The nature of the trust itself – are there multiple beneficiaries? Are they resident overseas?
- The nature of the beneficiaries – do they agree amongst themselves or are there points of contention which the trustee must negotiate?
- The nature of the co-trustees – are there other trustees with whom the Trust Corporation or M&R individual member must act unanimously? Are they prepared to undertake some of the administrative work?

If instructed to carry out the compliance work by the trustees, Mills & Reeve LLP would typically prepare annual accounts and tax returns for the trust but, in some instances, this may not be necessary or the work is being undertaken by another professional. All of these factors will have a bearing on the time spent.

Where possible, the trustees will be given the choice to opt for estimated fees based on time spent or fixed fees for Mills & Reeve LLP to carry out the particular work.

If the trustees choose an ‘estimated time’ approach:

- we will give a clear estimate of the likely costs at the beginning of the instructions;
- as noted above, the trustees will be informed if there is a change to hourly rates; and
- revised estimates will be given where circumstances change or where issues arise.

Where input is needed from other legal disciplines within Mills & Reeve LLP or for individuals linked to the trust, this work will be quoted for separately. Such work might include:-

- conveyancing charges in connection with the sale of property;
- any litigation affecting the administration of the trust;

- consideration of tax planning issues for the beneficiaries of the trust.

## Billing

Mills & Reeve LLP's current terms of engagement usually provide that we will issue bills:

- on a monthly basis for any planning work, although if costs are low in any month, they will usually not be billed until the following month; and
- on a quarterly basis for general trust compliance work.

Issuing bills at regular intervals enables the co-trustees or beneficiaries to monitor expenditure of the trust. Detailed reports of the time involved will be provided.

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