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The perfect trustee?

Discover what makes a trustee stand out from the crowd.

In this column, I have raised some issues about the fundamental concept of trusteeship, such as the thought that, in the modern world, if the initial reaction of a person when asked to be a trustee was not to refuse, then he or she was probably not the right person to be a trustee at all. I have also questioned whether, with the exception of the vulnerable (taking that in its wider sense), people see the advantages of a trust in the way they once did. Lastly, I suggested that trustees should be looking to emphasise the positive qualities that they bring to the role of trustee.

So what makes a trustee stand out? My belief is that the fundamental role of the trustee is to be on the side of the beneficiary, so far as possible. Sometimes it has been possible (and a real privilege) to have taken a beneficiary through from ignorance of what a trust is, onwards and upwards to empowering them to use the trust assets within the confines of the settlor's wishes in a joint venture to enable him/her to fulfil their potential. In particular, I think that this arises when a beneficiary is very young. Taking the time to explain, in a specifically tailored way, what the trust entails, its privileges and its balancing responsibilities, and to enable the beneficiary grow into ownership of his or her interest, has been rewarding. There is also a degree of self-interest in doing this. I have always noticed that some of those beneficiaries who are the most difficult are those who do not understand what the trust is about. Their resentment comes out in criticism of the trustee, of trust management, of investment policy, or whatever, because they do not feel part of it. In a world where so much reflects on that loathsome word 'transparency', it is surely obvious that a beneficiary who feels involved in as many aspects of trust policy, including investment policy, is going to be much more amenable if he or she knows what is happening and why. There are then no surprises.

So it seems to me that beneficiary relations are paramount, but just being good with your beneficiaries is hardly a complete answer. In this day and age, the duties of a trustee are fearfully complicated and much relies on the quality of the decision making. I have talked in this column before about the importance of the decision-making process, not at the level of the particular decision, but at the level of choosing the right advisor. The *Trustee Act 2000* tells trustees that the primary duty is to take advice – but it does not deal with the question of 'advice from whom?'. Very often, the matter arises in the case of investments and, particularly at this moment, trustees do need to have confidence in the underlying soundness of the advice given. Often the advice is coming from someone who is qualified to give the advice and extremely pleasant, and may have been associated for a long time, but, sadly, that does not make the advice better!

A trustee does have to be firm in reviewing those relationships and the fact that there is a long association is often a very real obstacle. I do see that the process, which I first saw presented by Abacus in Jersey, of reviewing and comparing the results of all the investment advisors to the trusts that they manage, can produce some very uncomfortable results. I am no lover of benchmarking, because I do not have much confidence in the concept of artificial benchmarks, but I do see the importance of having empirical data that can sometimes confirm one's suspicions of under-performance and that may reflect inadequate standards of advice. So, in short, an excellent trustee must be backed up to advice of equal excellence.

Finally, I think that a really good trustee is the one who knows when the trust has served its purpose and the time has come to close it down. At this moment, trustees often have a conflict of interest because the trust may have been a reliable and welcome source of contribution to the beer and fags fund for many years, but the ability to say to the beneficiary 'you can now stand on your own two feet' is one of which a really good trustee should be the possessor. When it happens, a trustee can be rightly proud.

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