

THE DUTIES OF TRUSTEES

A trustee must act in the best interests of the beneficiary and in accordance with the terms of the trust instrument. A trustee:

- must distribute the trust only to those who are entitled;
- keep the trust property separate from the trustee's own assets and keep accurate trust statements;
- cannot profit from the trust itself, and,
- cannot delegate their duties – so the trustee must control the assets and make decisions.

Trustees are expected to act as a prudent person would by avoiding unnecessary risks, keeping costs reasonable and diversifying the investment of the trust assets.

By growing the capital through investment the amount of income generated by the trust should grow faster than inflation.

Even when invested with one manager – like U Ethical – a trustee will spread investments across managed funds, cash, shares and other asset classes to create diversification. Diversification means a trustee does not put all their eggs in one basket.



DID YOU KNOW:

How does the Property Trust invest trust money?

Trust money is invested with U Ethical, the fund manager of the Church, in accordance with their Investment Policy or any specific investment directions in the trust instrument. The investment strategy of the Property Trust is reviewed regularly and changed to suit the external economic environment. There is typically a mix of assets considered defensive and assets that aim to grow.



CREATION OF TRUSTS

Examples of charitable trusts include:

- A Uniting Church member gives a bequest in her Will to be used for the general purposes of the 'Springfield Uniting Church Congregation'. The trustee must only use her money for activities and services relating to the 'Springfield Congregation'. Fixing the roof of the Springfield church, paying the minister's stipend and paying for electricity for the church would all be permitted activities.
- A minister upon retirement donates money that funds annual scholarships for theological education at the Pilgrim Theological College.

When a donor includes a condition – such as an annual scholarship or naming a congregation – then a Trust is created and a trustee must administer the account. When property is held on trust, it means a person holds the money, real estate or other assets for the benefit of other people or a cause. The entity or purpose that receives the benefit of the trust property is the beneficiary; the person holding the trust property is the trustee.



MANAGING TRUSTS
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Generous members of the Uniting Church in Australia ('the Church') donate money throughout their lives or by leaving a bequest in their Will for the benefit of a congregation or the wider Church, which may create a charitable trust. This brochure outlines the uses of charitable trusts, the legal and financial duties of a trustee, and the role of the Property Trusts in the Church.

DONATIONS, BEQUESTS AND GIFTS

Most donations and gifts are given unconditionally. For example, offerings made at congregation worship services or amounts paid for a fundraising event.

These donations and gifts go directly into a congregation's bank account or an account for the fundraising purpose. These funds are then spent at the direction of the congregation or the Church for general Church purposes.

A gift to the Church or a named institution in the Church (such as Uniting or AgeWell) can be paid to the institution directly, as long as there are no special conditions. Congregations cannot receive funds this way because they are not incorporated entities. The organisation might use this income to fund projects from an annual grant or help particular projects that are running.



DID YOU KNOW: A Charitable Trust can run forever?

Trusts benefitting relatives cannot run more than 80 years, but charitable trusts can grow perpetually. Australia's oldest continuing charitable trust is the Wyatt Trust, which provides support to South Australians experiencing poverty. It was established in 1886 with \$100,000 from the Estate of Dr William Wyatt and is now valued at close to \$100 million.

TRUST TERMS

All trusts are subject to many pieces of legislation, including the Trustee Act and the Charities Act in each State. These laws govern the administration of charitable trusts.

Trusts can be created by a person's Will, by a Deed made during their lifetime, and sometimes are created by Courts when they make decisions about Church property or funds that have required a judicial decision. Wills, Deeds, and Court decisions are all types of trust instruments. The trust instrument dictates who or what can receive the income.

This can only vary if the beneficiary changes. For example, when a congregation dissolves or merges with another congregation which requires the approval of the Supreme Court or Attorney-General of the State.

WHAT IS THE PROPERTY TRUST?

The trustee for all property gifted, donated or bequeathed to a congregation or any other part of the Church is the Property Trust and that trust is administered by the Synod's Trusts team. There is a Property Trust for Victoria and a Property Trust for Tasmania. The two Property Trusts administer over 800 charitable trusts, as at 2021.

The Property Trust is unable to delegate trustee duties to any other person, including congregations. A congregation cannot hold money given by a Will or other instrument.

When the Property Trust administers a trust, the beneficiary (which may be a congregation) will receive the benefit as intended but without the burden of managing the assets or funds.

WHAT TO DO IF YOUR CONGREGATION IS NOTIFIED OF A NEW TRUST OR BEQUEST

That is great news. All you need to do is to notify the Synod's Trusts team by phone on **(03) 9116 1432** or by email: **trusts@victas.uca.org.au**

The Synod's Trusts team will then liaise with the donor or the Estate's solicitors who sent you the notification and arrange to receive the money into the relevant Property Trust's account. The team will then establish a separate Trust fund in accordance with the terms of the trust instrument so that the money can be used by your congregation.

IF YOUR CONGREGATION RECEIVED A TRUST ACCOUNT

If a solicitor, the Synod, or other trustee transferred a trust account to the congregation then the management of that trust must be passed to the Property Trust. That includes trusts previously placed with your congregation by the Synod.

That arrangement was not valid and we need to reverse it. Your congregation cannot hold the trusteeship of any trust: it is illegal and there are financial risks involved. The Property Trust has protections in legislation when it acts as trustee – like a built-in insurance policy – but only because it is an authorised trustee.

WHAT TO DO IF YOUR CONGREGATION HOLDS EXISTING GIFTS OR BEQUESTS

The Property Trust is happy to help. Please contact the Synod's Trusts team by phone on **(03) 9116 1432** or send an email to **trusts@victas.uca.org.au** notifying the team of existing money that you are holding. The Synod's Trusts team will take steps to change the management of the trust. Your congregation will continue to benefit as per the terms of the trust instrument.



DID YOU KNOW: You can set up a charitable trust?

You may like to set up your own charitable trust or leave a donation, gift or bequest to the Church. If you would like to enhance the impact of your gift over many years, leave a lasting legacy, and inspire future generations by your generosity then consider creating a charitable trust now or as part of your Will. For more details, please visit the Bequests section of the Synod website [www.victas.uca.org.au/] or contact the Synod's Trusts team.

