

LETTER OF WISHES

EXAMPLE WORDINGS

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SUMMARY

When using a discretionary trust it is always desirable to record the Settlor's wishes. These are normally recorded in a letter addressed to the trustees, hence the name 'letter of wishes'. A letter of wishes is not binding on the trustees, and it is important to realise that the ultimate decision rests with the trustees. Please ensure that the letter is addressed to the chosen trustees. The following are example wordings of scenarios for use with a discretionary trust.

EXAMPLE WORDINGS

- › Assumes a single Settlor
- › Any specified beneficiary must be within the class of discretionary beneficiaries

The following wording should be included on all letters of wishes, no matter which scenario the Settlor is trying to address:

Although I know that I may not restrict the discretion of the trustees in any way, I would like the following wishes to be taken into account...

EDUCATION/MEDICAL FEES/DISTRIBUTIONS TO A BENEFICIARY DURING THE SETTLOR'S LIFETIME

The following wording can be used where the Settlor would like the trustees to consider a payment to be made to a particular beneficiary, in order to pay education fees/medical fees/distributions.

I would like the trustees to consider [a regular/one-off] payment of [amount] on [frequency of payment, ie monthly, yearly, actual date] to [beneficiary name] in order to pay for [reason for payment, ie education fees; medical fees; regular distribution to a beneficiary; one-off distribution to a beneficiary for say, a house deposit; on the beneficiary's 18th birthday, etc]

Details of the beneficiary

[Name, address, contact details, date of birth, relationship to the Settlor.]

ONE-OFF DISTRIBUTION TO BENEFICIARIES

The following wording can be used where the Settlor would like the trustees to consider a payment to be made to a particular beneficiary after the occurrence of a certain event, for example, marriage or the Settlor's death.

I would like the trustees to consider distributing [the event, e.g. after my death; on marriage of my daughter, Anne; on my grandson John's 21st birthday] the trust fund to the beneficiaries named and in the shares specified below.

Details of the beneficiary

[Name, address, contact details, date of birth, relationship to the Settlor and percentage share.]

If any one of the named beneficiaries predecease me, their percentage of the trust fund should be distributed equally amongst the other named beneficiaries.

FICTIONAL CASE STUDY EXAMPLES - ASSUMES A DISCRETIONARY TRUST IS DECLARED

Example 1

The Settlor would like the trustees to consider the fact that he would like his spouse to benefit from his discretionary trust fund after his death until such time as she remarries. The following example wording could be used:

Although I know that I may not restrict the discretion of the trustees in any way, I would like the following wishes to be taken into account:

I would like the trustees to consider a regular payment of £1,000 starting after my death and payable on a monthly basis to my wife Susan Jones in order to pay for her maintenance until such time as she remarries. If she remarries I would like the trust fund to be distributed in equal shares to my nephews Peter Smith and Paul Smith.

Details of the beneficiary

[Name, address, contact details, date of birth, relationship to the Settlor.]

Example 2

The Settlor would like the trustees to consider the fact that he would like his minor children to benefit from the trust fund payable on them becoming age 21. The following example could be used:

Although I know that I may not restrict the discretion of the trustees in any way, I would like the following wishes to be taken into account:

I would like the trustees to consider distributing the trust fund to each of my children named below when they obtain age 21. Monies should be distributed in the percentages specified below.

Details of the beneficiary/beneficiaries

NAME	ADDRESS AND CONTACT DETAILS	DATE OF BIRTH	RELATIONSHIP TO THE SETTLOR	PERCENTAGE SHARE
Judy Lane	1 Green Lane...	01/01/2002	daughter	50%
Richard Lane	1 Green Lane...	02/02/1999	son	50%

If any one of the named beneficiaries predecease me, their percentage of the trust fund should be distributed equally amongst the other named beneficiaries

Example 3

The Settlor would like the trustees to consider the fact that he would like to benefit from the trust fund until his 75th birthday, at which time he would like his grandchildren to benefit from the trust fund. The following example could be used:

Although I know that I may not restrict the discretion of the trustees in any way, I would like the following wishes to be taken into account:

I would like the trustees to consider distributing £1,000 a month to Henry Street, the Settlor of the trust, to the earlier of my death or 75th birthday (03/03/2017). After this date I would like the trustees to consider distributing the trust fund to my grandchildren named and in the shares specified below.

Details of the beneficiaries

NAME	ADDRESS AND CONTACT DETAILS	DATE OF BIRTH	RELATIONSHIP TO THE SETTLOR	PERCENTAGE SHARE
Lucy Street	2 Blue Lane...	04/04/1994	granddaughter	25%
Stephen Street	2 Blue Lane...	05/05/2005	grandson	25%
Mary Street	2 Blue Lane...	06/06/1996	granddaughter	25%
Elizabeth Street	2 Blue Lane...	07/07/1998	granddaughter	25%

If any one of the named beneficiaries predecease me, their percentage of the trust fund should be distributed equally amongst the other named beneficiaries

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