COLLAS CRILL

From deference to dialogue: Why transparency is now a trustee's strongest defence

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For decades, the relationship between trustees and beneficiaries was defined by quiet deference – beneficiaries trusted their trustees, accepted decisions, and rarely questioned how trusts were managed. That era is over.

Increasingly, the next generation of wealth holders and beneficiaries are financially literate, digitally connected and accustomed to instant access to information and, insofar as the stewardship of family wealth is concerned, they expect transparency, dialogue, and meaningful engagement with trustees. There is no place for blind trust. This cultural shift isn't just a trend – it carries real risks and trustees who fail to keep pace with these changing expectations risk misunderstandings escalating into costly disputes.

Bridging the transparency gap to beneficiaries

Litigation against trustees is nothing new; however, any perceived 'transparency gap' – the difference between what trustees disclose and what beneficiaries expect to know – can quickly turn small misunderstandings into costly and lengthy disputes.

Whilst beneficiaries are entitled to seek information about the trust in which they have an interest, this entitlement is not unlimited and trustees have a broad discretion about the information and documents to be provided. The scope and extent of a trustee's obligation to respond to requests for information must be balanced against the trustee's other duties, such as its duty to maintain the confidentiality of the trust and communications with other beneficiaries.

However, where secrecy tips too far, it becomes fertile ground for mistrust and challenge. Often, it is not poor decisions that spark claims, but a lack of explanation or open communication that has created suspicion.

What do NextGen beneficiaries expect from trustees?

When it comes to the next generation, although there is no 'one size fits all', certain expectations are now common. Broadly, they expect trustees to treat them as engaged stakeholders, not passive recipients and want:

1. **Financial clarity** - Clear, timely insight into investment performance, risk management, and to understand how trustee decisions align with the trust's stated objectives.

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2. **Active involvement** - They see trust assets as part of their personal financial future and expect to be included in discussions, not to control decisions but in order to help shape the future, a mindset reinforced by growing up in an era where direct feedback and participation are the norm.
3. **Values alignment** - Environment, social and governance (ESG) factors matter. Increasingly, an investment that is ethically misaligned or supports the wrong individual is as unacceptable as one that underperforms. Social media amplifies this sensitivity, moving influence into the public arena, where opinions are immediate and far-reaching. Trustees who ignore values risk reputational harm and strained relations.

This clear shift from quiet acceptance to active demand calls for a fresh approach from trustees – those who embrace the shift can build resilient relationships with the next generation. Those who resist, risk escalating tension.

Trustee strategies to reduce litigation risk

Transparency should be the standard, not the exception and there are a number of practical ways in which trustees can navigate this shift in order to reduce litigation risk:

1. **Know your beneficiaries** - Trustees should be aware of who the beneficiaries are. Create a profile for each beneficiary to include information such as background, values and preferred level of engagement, tailoring updates and approach accordingly. A young financial professional, for example, may want data-heavy updates, whereas another beneficiary may prefer high-level summaries.
2. **Establish a communication framework** - From the outset, agree on the frequency, format, and scope of updates. For example, a quarterly investment summary paired with an annual 'state of the trust' meeting can set clear expectations.
3. **Document everything** - Keep clear records of decisions, the reasoning behind them, and all material communications. Well-structured minutes and trustee memos not only aid internal governance but also form a defensible record if challenged.
4. **Seek early professional input** - Before issues escalate, bring in legal or financial advisers. Doing so signals to beneficiaries that the matter is taken seriously and can help cool the temperature.
5. **Leverage technology** - Make use of secure online portals and dashboards to give beneficiaries controlled access to valuations and investment updates, thereby meeting their expectations for instant, transparent access to information.
6. **Adopt an open documentation policy** - Decide in advance what information will be shared, when and in what format. Avoid "selective transparency"; sharing only favourable information can be more damaging than sharing no information at all.
7. **Integrate beneficiary values** - Where possible, align trust investments and philanthropy with stated beneficiary values, including ESG considerations. If alignment is not possible, explain why.

The benefits of getting it right for trustees

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Embedding transparency into trust administration (whilst still being mindful of the duty of confidentiality) will benefit both trustees and beneficiaries through:

- Stronger relationships: Informed beneficiaries are more likely to trust and co-operate with trustees, even when decisions do not align perfectly with their preferences.
- Fewer disputes: Open communication between trustees and beneficiaries will likely stop small misunderstandings turning into formal claims.
- Effective resolution: Where disputes do arise, comprehensive records and a clear history of engagement will likely make resolution smoother and less costly.
- Generational continuity: Transparency fosters a culture of trust that eases transitions between trustees and family generations.
- Operational efficiency: Clear, consistent communication reduces ad hoc queries and reactive administration, freeing trustees to focus on their core duties.

Conclusion: A new default for trusteeship

The shift from deference to dialogue is not a passing trend; it is a fundamental, permanent change in the wealth landscape. Trustees must adapt or risk losing the confidence of the very people they serve. The call for transparency is not about surrendering discretion or overloading beneficiaries with paperwork. Instead, it is about meaningful, consistent engagement that strengthens relationships and builds legacy. Trustees who move from a defensive posture to an open, more collaborative approach will not only reduce trustee litigation risk but, importantly, they will future-proof their role in an ever-evolving fiduciary environment.

In a world where beneficiaries are informed, wealth is mobile, and reputations matter more than ever, one truth stands out... transparency is the strongest defence.

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