

MEMORANDUM OF WISHES

You have established a Family Trust or may be considering establishing a Family Trust. You may wish to consider preparing a Memorandum of Wishes which is a document that is held with the Deed of Trust. This Memorandum of Wishes can be in your own words and it actually records the reason for setting up the Trust and also sets out your wishes for distribution of the Family Trust income and assets.

These wishes can best be given effect through the Trust and you may also wish to set out your suggestions for the appointment of a new Trustee or Trustees in the event of your death or disability. The more information that is provided in the Memorandum the better the chances are that the Trustees will see that your suggestions and requirements are followed during the life of the Trust.

Without a Memorandum of Wishes the Trustees who are appointed on your death will not know what your wishes are for the distribution of the Family Trust assets after death. One of the advantages of the Memorandum is that it can be regularly updated as your wishes and requirements change and as the circumstances of your family may change. The further advantage is that there is no requirement to have a solicitor prepare the Memorandum and it does not need to be as legally precise as a Will. An example of a point that can be contained in a Memorandum of Wishes in your own words would be a direction to the Trustees to ensure that the Trustee's powers of advancement are used to ensure that the beneficiaries are maintained in a manner in which they were maintained during their lifetime. A Memorandum of Wishes could express that the Trustees should provide for educational, medical and other needs through the Family Trust.

The more input you have into the preparation of a Memorandum of Wishes, the better idea your Trustees will have of your requirements in relation to the administration of the Trust.

We recommend that each Family Trust should have a Memorandum of Wishes prepared to be read alongside the Trust Deed.

The above information is of a very general nature only and you should contact our firm regarding specific advice relating to the general information above.