



## Protectors

Protectors are increasingly seen as being a cornerstone of every carefully created trust and foundation structure. The responsibilities of the Protector are defined in the trust or foundation instrument and their role is to oversee the actions of the trustees and to ensure the terms of the trust are complied with.

### Features and Benefits

- ❖ Enables the settlor to withhold certain powers from the trustees
- ❖ Provides comfort to settlors and founders where there is concern that the trustees may not consider the wishes of the settlor sufficiently closely
- ❖ Assures settlors that after their deaths the affairs of the trusts and the interests of the beneficiaries will be overseen
- ❖ Provides useful guidance in times of change and during unexpected events (e.g. mental or physical incapacity, divorce, imposition of taxation or new laws, claims from illegitimate heirs)
- ❖ Ability to resolve disagreements between trustees and beneficiaries

### Examples of powers where the trustees must first obtain consent of the Protector

- ❖ Protectors can be granted negative or positive powers (or both) – i.e. where the protector's consent is required or where the protector can give instructions
- ❖ Approving the addition and removal of beneficiaries
- ❖ Approving proposed trust distributions to beneficiaries
- ❖ Amending the terms of the trust instrument
- ❖ Approving a change in the law governing the trust
- ❖ Terminating or approving the termination of the trust

### Powers a Protector can exercise without reference to the trustees

- ❖ Appointing replacement protectors
- ❖ Removing and appointing new trustees

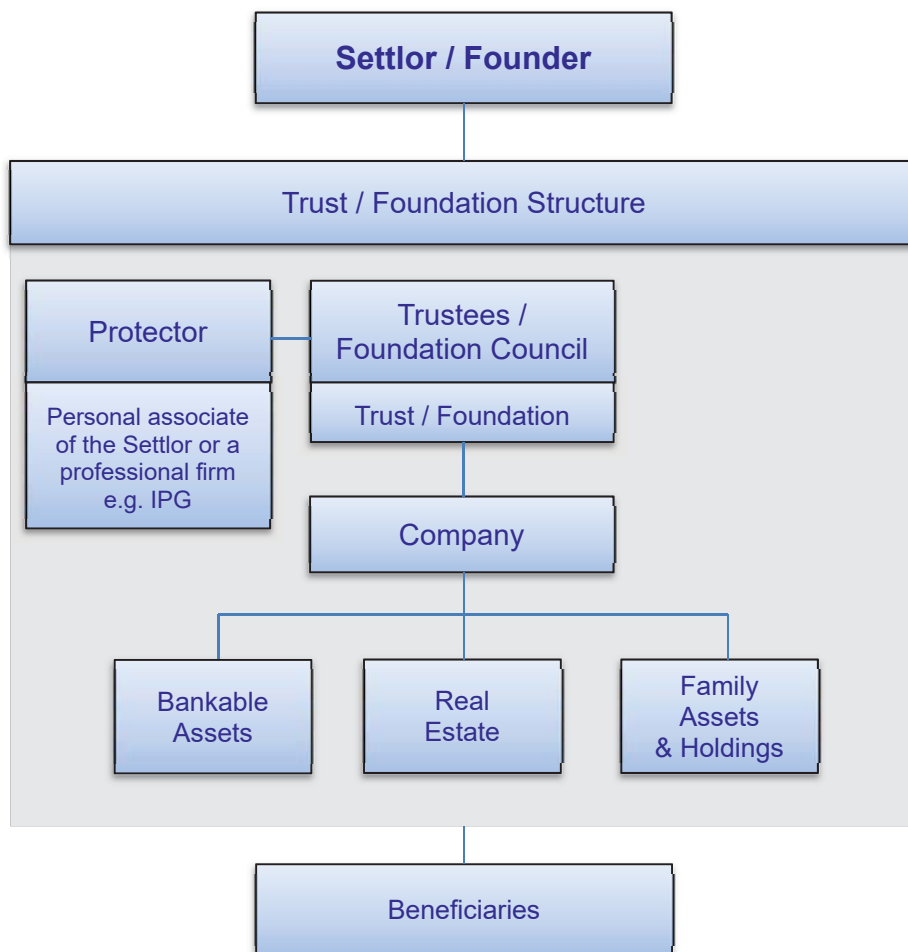
### Other activities which commonly involve the Protector

- ❖ Participating or overseeing investment review committees
- ❖ Approving the appointment of agents or professional persons
- ❖ Overseeing or approving trustees' remuneration
- ❖ Reviewing and safekeeping copies of official trust documents

## Professional Protector Services

- ❖ Carrying out the role of protector as prescribed in the trust deed
- ❖ Providing consent or otherwise to actions proposed by trustees
- ❖ Performing periodic reviews of trust activities
- ❖ Reviewing financial statements and other trustee documentation
- ❖ Attending trustee meetings and reporting to settlors and beneficiaries
- ❖ Becoming successor protectors to existing structures
- ❖ Advising other Protectors on the execution of their duties
- ❖ Acting as an authorised applicant or as an enforcer to purpose trusts

## Typical Structure with a Protector



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