

Trustee Turmoil? What to Do When Trustees Turn Hostile

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Trustee and beneficiary relationships can be complicated. When a trustee is acting in a hostile way towards beneficiaries, it can get in the way of properly running the trust. As a beneficiary, can you apply for removal of trustee if it seems like the trustee won’t treat you fairly?

The Court has the power to remove a trustee if it's necessary or desirable and it's difficult or impractical to remove the trustee without the Court's help. At the heart of any issue is the interests of the beneficiaries.

Difficult relationships between trustees and beneficiaries are not uncommon, so the Court won't remove a trustee any time there is some hostility with beneficiaries. Generally, hostility alone cannot be grounds for removal unless there is also some other kind of misadministration of the trust which is in breach of trust or isn't in the welfare of the beneficiaries.

Examples of where the court has removed a trustee are:

1. Where misconduct (bankruptcy) alone was not grounds for removal, but the addition of hostility weakened the trustee's position.
2. Where the trustee was so hostile as to ignore the interests of the beneficiaries.

Circumstances where the court has found hostility, but has not removed a trustee are:

1. Where the trustee was hostile but was otherwise acting properly.
2. Where hostility and other misconduct, namely conflict and impartiality, was present but did not impact the dealings of the trust.

Where a trustee is hostile towards beneficiaries, the ultimate question the Court will look at is whether the hostility puts the trust assets at risk, is impacting their administration of the trust, or is ultimately risking the beneficiaries' interests.

Article written by Esme Thomas, Summer Clerk 2025.