HM Revenue & Customs Research Report 25

Research on Trusts: Experience of Setting up and Running Trusts

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HM Revenue & Customs

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Tables and Charts

Glossary

A&M	Accumulation and maintenance trust
CATI	Computer Assisted Telephone Interviewing
Corporates	Large corporate companies, in this report specifically major Banks
CGT	Capital Gains Tax
IHT	Inheritance Tax
Lay	Used interchangeably in this report with the term ‘non-professional’, indicates that the individual does not have a professional role in relation to trusts (i.e. is not an accountant, solicitor, etc.)
Professional	Professional is used within this report to indicate that the individual conducts the tasks as part of their job.
Property	Trust property can include: money; investments; land or buildings. Cash and investments are also called the ‘capital’ or the ‘fund’ of the trust, which may produce an income.
Mean	The mean is the average value of the data set, calculated by the summation of all the responses and divided by the number of respondents giving a response
Median	The median is the value halfway through the ordered data set
Qualitative Research	In-depth interviews with 30 settlors, 18 professional and lay trustees and three corporate trustees
Quantitative Research	Survey of 1100 trustees
STEP	The Society of Trust and Estate Practitioners

Settlor	Individual(s) who sets up a trust, placing property into it
Trustee	Individual responsible for management of trust
Beneficiaries	A beneficiary is anyone who could benefit from the property held in a trust.
Letter of wishes	A settlor may provide the trustees with a letter, commonly known as a letter (or memorandum) of wishes, which sets out the manner in which the settlor wishes the trustees to exercise their powers and discretions, but is not binding on the trustees
Prof	In tables, this is an abbreviation for professional trustees
Non-prof	In tables, this is an abbreviation for non-professional trustees
Corp	In tables, this is an abbreviation for corporate trustees
IIP	In tables, this is an abbreviation for interest in possession trusts
Discretionary	In tables and accompany text, A&M trusts fall into this category
High income trusts	Trusts with an income of more than £35,000 in either 2000/01 or 2001/02
Low/medium income trusts	Trusts with an income of £35,000 or less in both 2000/01 and 2001/02

I. Executive Summary

Background and Methodology

- Gfk Business was commissioned by HM Revenue and Customs (HMRC) to conduct a research study in order to provide a greater insight into the reasons for setting up trusts and how the current tax regime affects the decisions taken by both the settlor and trustees.

- The main objective of the study was to gather information on the setting up and managing trusts from both settlors and trustees. This involved exploring both the reasons for starting a trust and the processes undertaken, whilst additionally understanding the impact of the current tax regime on related decisions. One of the central aims was to understand the motivations of individuals from different socio-economic backgrounds holding assets in trust.

- The research involved a combination of qualitative and quantitative research: Gfk Business conducted qualitative in-depth face-to-face interviews with settlors (30 interviews), trustees (18 interviews), and corporate trustees (3), and quantitative interviews with trustees (1054 by phone and 46 paper based questionnaires). The fieldwork took place between July and October 2004.

- The response rate for this survey was rather low and therefore it is important to recognise that the resulting sample may have some deficiencies in terms of being representative of the total trust population.

Key findings

- This research found that the main motivation for setting up a trust related to having the ability to control assets. Examples of controlling assets included: passing them on to children or grandchildren; providing for a beneficiary in a particular way; withholding assets until children reach a certain age; and ensuring money stays within the ‘bloodline’.

- Tax tended to be a secondary motivating element for creating a trust.

- When asked specifically whether tax planning was an important factor in setting up the trust, trustees interviewed in the survey were equally divided (46% important, 49% unimportant).

Tax was more likely to be an important factor at set up for trusts with a high income (60% said it was important versus 29% said it was not important). For those that said tax was an important factor in setting up a trust, underpinning most factors was the ability to reduce tax liability – mainly Inheritance Tax.

- Tax was considered more important for trusts set up recently. It was an important factor for around a quarter of trusts set up between 1960 –1974, which are still in existence now. This figure has gradually increased to 48 per cent important for trusts set up between 2000 – 2002.

- The survey of trustees found that three-fifths of trusts (61%) contained a mixture of assets, including cash, stocks and shares and property. The median value of trusts when they were set up is £17,500 for those trusts set up between 1960-1974, whilst the equivalent figure for the most recent trusts (set up in 2000-2002) is £100,000.

- Approximately a quarter of trusts (23%) in the study were valued at more than £250,000 at the end of the financial year 2003/2004.

- The survey of trustees found that three-quarters of trusts generate an income and of these, just over two-thirds (69%) pay out all or some of the income and a third (33%) reinvest the income.

- Trustees in the survey of trustees were often unsure which type of trust they held and in the in-depth interviews trustees acknowledged that they would not have known which type of trust they had without checking first.

- HMRC, solicitors and accountants were trustees main sources of information on trusts. Approximately a third (31%) claimed to have had contact with HMRC and this was more likely to be so for professional trustees rather than non-professional trustees.

- The survey of trustees found that the majority of trusts had relatively few beneficiaries; over half (58%) had just one or two and they were mainly either the children or grandchildren of the settlor.

- Only very occasionally did cases arise in the in-depth interviews where a trust had been set up for a vulnerable person (that is, an orphan, or a person with a physical or mental disability). Respondents, however, tended to have a wider definition of ‘vulnerable’, including in this category, for example, all children under 18, people with a drug addiction, and the financially unreliable.

- The survey of trustees found that a quarter of respondents considered at least one of the beneficiaries of their trusts to be ‘vulnerable’. However, using a narrower definition (physical or mental disability, orphaned or other specified medical conditions), only 15% would actually be considered vulnerable.

- In terms of the processes and procedures involved in setting up and managing trusts, respondents in this study claimed overall not to have experienced any great difficulties. This was in many cases because they relied on professionals to manage the trusts, or because they themselves were professionals. Just under half of trustees (45%) said the cost of setting up the trust was less than £500.

- In the in-depth interviews, where given, examples of difficulties trustees experienced with managing trusts tended to focus on completing the tax return for the trust correctly. More fundamental concerns, however, were voiced regarding the ever-increasing complexities surrounding tax law, and in particular Capital Gains Tax.

- Around three quarters of trustees included in the survey of trustees were non-professional. Most had someone to advise them on tax-related issues.

- In the in-depth interviews, trusts tended to have one professional and (at least) one lay trustee, although in the survey of trustees three-fifths of trusts (62%) were managed solely by non-professionals.

- Findings from the in-depth interviews suggest that non-professional trustees and settlors tended to adopt a passive role in relation to trusts, and relied on professional trustees to carry out most of the management of a trust.

- Lay trustees and settlors were not unhappy with this passive role. They had every confidence in the professionals on whom they relied, and did not expect to have any greater involvement than they currently have.

- The survey of trustees found that just 18 per cent of trusts have a letter of wishes in place. A letter of wishes is more likely to have been set up for a discretionary trust (25%).

- Respondents who were professional trustees or settlors considered themselves well informed, aware of their responsibilities, and continued to keep themselves up to date with tax legislation.

- Just under half of trustees in the survey, reported that tax law had an influence on the running of the trust. Reasons given included the necessity of keeping up to date with tax law (usually professionals). Over a third of trustees (38%) claimed that managing trusts was now more expensive than when the trust was first set up. However, the main reason given for this was inflation. In the in-depth interviews settlors in general found the costs reasonable.

- The majority of respondents were unable to suggest any improvements which would make their life easier (they already found the process straightforward). The most common response to this question, where it was answered, related to a request for a simplification of tax laws in general, and the rules relating to Capital Gains Tax in particular.

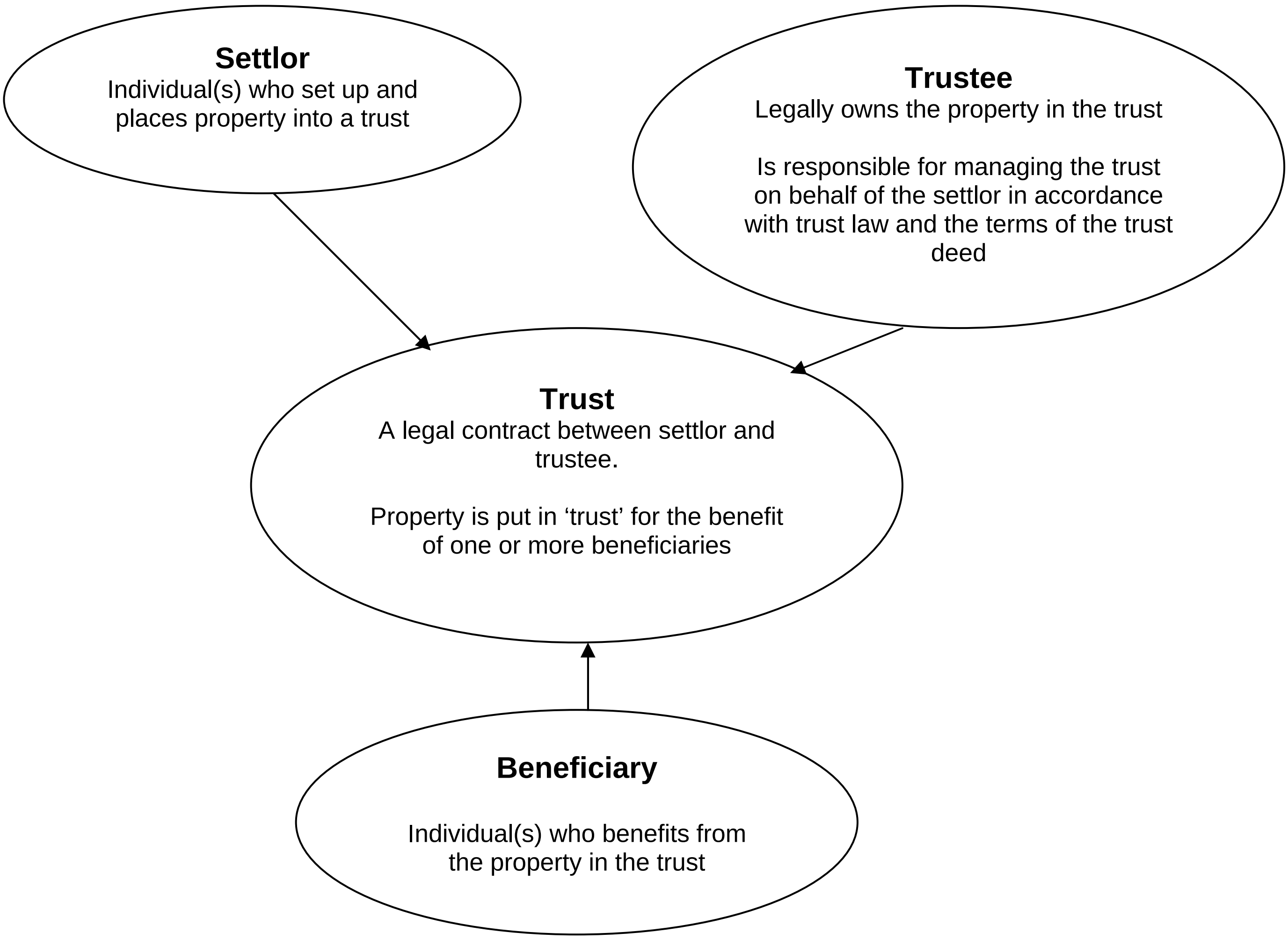
II Main Report

1. Background and Objectives

1.1 Background

HMRC identified the need to conduct a qualitative and quantitative research project amongst both individuals who set up trusts (settlors) and legal owners of trust property (trustees), in order to inform a programme of work on modernising the tax system. The research was commissioned to provide a greater insight into the setting up and management of trusts and how the current tax regime affects key decisions from the perspective of the settlor and trustee. This report contains the main findings from this research project.

The following information provides an overview of key aspects involved in the understanding of trusts:



We refer to three different types of trustees in this report, as follows:

Corporate trustees - Large financial institutions such as banks, which sell standard trust products to customers. Employees within these institutions often manage a large number of trusts (100 or more in many cases), which all have straightforward legal requirements.
Professional trustees - Those that manage trusts as part of their job. They are often lawyers and accountants who manage the trust on behalf of a client. They generally manage fewer trusts than corporate trustees, but often manage non-standard trusts which may have more complex legal requirements.
Non-professional trustees - Those who do not manage trusts as part of their job. Often they manage trusts on behalf of a family member or family friends. Usually they do not receive any payment for managing trusts.

Trust property can include: money; investments; land; or buildings. All these assets are also called the 'capital' or the 'fund' of the trust, which may produce an income.

The beneficiary of the trust may be more than one person (for example a group of people or an institution). Their rights to the trust property depend on the type of trust, and may be over trust income only, capital only or a combination of both. They may have no rights at all until the trustees exercise discretion in their favour.

In addition, there are a number of different types of trust including:

- Bare trusts
- Accumulation and maintenance trusts
- Interest in possession trusts
- Discretionary trusts
- Mixed trusts.

Different rules apply for different types of trust, which are also subject to different taxes. A brief and simple description of each type of trust is shown below:

A **bare trust**, also known as a 'simple trust', is one in which each beneficiary has an immediate and absolute right to their share of the trust property. The trustees of bare trusts are not generally required to make tax returns to HMRC; the beneficiaries must show their own income and capital gains on their personal tax returns.

A **discretionary trust** is one in which trustees generally have 'discretion' about how to use the assets of the trust.

An **accumulation and maintenance trust** is one in which the beneficiaries will become entitled to the property or at least the income when they reach a certain age (no more than 25). This is a type of ‘discretionary’ trust for income tax purposes, but is subject to different regulations under trust law and has different IHT implications.

An **interest in possession trust** is one in which a beneficiary has a current legal right to the income from the trust as it arises.

Trusts which generate income (or gains) may need to complete an income tax return under the HMRC system of Self Assessment, and may need to pay tax.

1.2 Aims and Objectives of the Research

The overall aims of the research as specified within the research brief were to:

- *Gather information on the reasons for, and processes of, setting up and managing trusts from the perspective of settlors and trustees, and the impact the current tax regime has on related decisions.*

The specific objectives of the research were as follows:

- Understand the motivations of individuals for setting up a trust
  - From different socio-economic backgrounds

- Identify the reasons people (settlors) set up trusts in terms of:
  - Their motivations for doing so
  - The importance of tax breaks and other factors
  - Factors other than tax that encourage people to set up trusts
  - Whether settlors have changed the way they set up trusts over time

- Explore the relationship between settlors and beneficiaries:
  - Who benefits from the property held in trusts
  - What are the beneficiaries’ entitlements
  - The level of influence beneficiaries have over the use and management of trusts

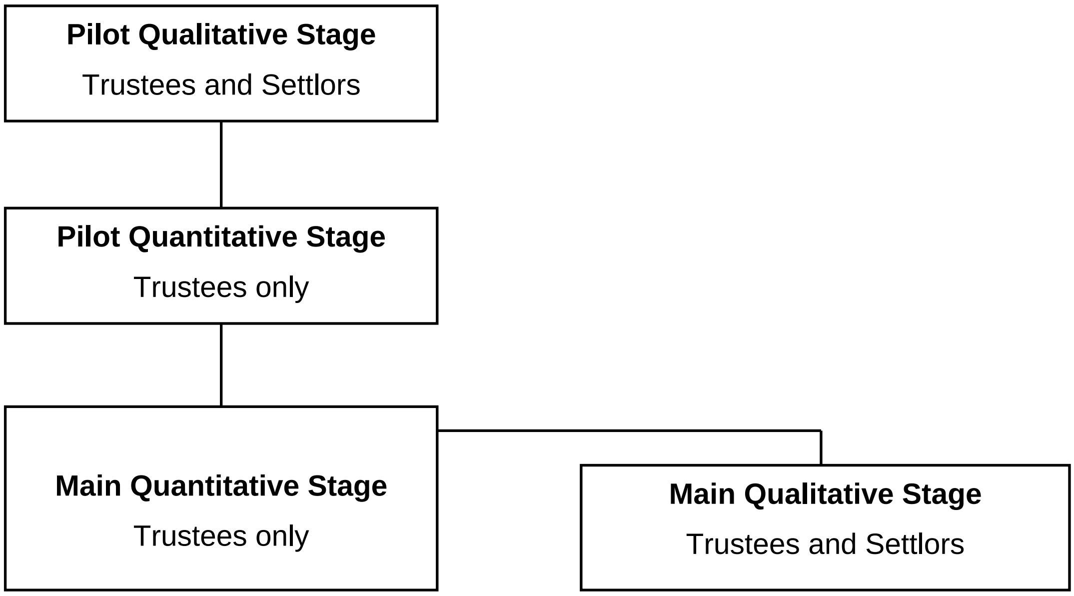
- Explore the relationship between settlors and trustees in terms of:
  - Settlor's confidence in the trustee's ability to deal with the trust in the desired way
  - The settlor's influence over, and management of, the trusts once they have been set up
- Gather information on trust property:
  - Value of property held in trust
  - Whether variations exist by trust type
  - The value of income and assets
  - How income from trusts is used

- Explore the costs of setting up and managing trusts in terms of:
  - Costs incurred through setting up and managing trusts
  - The variation in costs based on the different types of trust
  - Whether these differ depending on the type of trustee, size of the trust etc.

2. Methodology and Sample

2.1 Overall Research Design

The research was conducted for this project using both qualitative and quantitative research methods as follows:



2.2 Sample

The sample for this research was provided by HMRC. The sample was taken from HMRC records of trusts making a trust and estate tax return in the years 2000/01 and 2001/02. The personal representatives of estates making an SA return use the same form as trusts but were removed from the dataset, as were unauthorised unit trusts and non-resident trusts. Charitable trusts were also not included in the sample. Most bare trusts will not make a tax return and while those which do were included in the overall sample provided, they only represented one per cent of the total database and consequently the resulting interviews were too few to include in any separate analysis. In the data, the type of trust is divided into three categories – bare trusts, interest in possession trusts and discretionary trusts. Accumulation and maintenance trusts are classified within the data as discretionary trusts because they are treated as such for income tax purposes. However, it should be noted that these are two different types of trusts and are subject to different regulations under trust law. The information contained in the dataset on type of trust is taken from the details supplied by the trustee on the Trust and Estate Return.

Therefore the two main types of trusts reported on for this research, when using the sample definition, are interest in possession and discretionary trusts. The sample is based only on those trusts making SA returns to HMRC, so it excludes any trusts which do not generate taxable income.

A main sample and a reserve sample of both trustees and settlors were drawn for the research at the individual trust level. For the quantitative research, respondents were asked about the selected trust from the sample only. In the in-depth interviews, respondents were asked initially about the selected trust and then any others, if applicable.

The income levels of the trusts were based on the highest reported income in each of the two financial years stated above (2000/01 and 2001/02). These income levels are defined as follows:

- Low income – trusts where highest reported income is £1000 or less.
- Medium Income – trust income is greater than £1,000 and less than or equal to £35,000.
- High Income – where trust income is greater than £35,000

Sample data was drawn using a stratified random sampling procedure to provide a representative sample of trusts (making a return) for three main groups of trusts:

- High income trusts – trusts with an income of more than £35,000
- Low/medium income trusts - trusts with an income of £35,000 or less
- Corporate trusts – these were largely dealt with by HMRC's Manchester trust office. Sample only included trusts that were individually managed rather than an off the shelf package.

2.3 Telephone Matching and Opt-outs

For the high income and low/medium income trusts, the sample underwent a telephone matching exercise followed by sending out opt-out letters to all matched sample.

The trustee sample was matched for telephone numbers and, put through the 'deceased register' to remove any known deceased trustees. The matching achieved approximately 50 per cent match rate. The resulting sample after telephone matching was carried out was 1654 high income contacts, and 2331 'low-medium' income contacts for the main stage of interviewing.

The settlor sample that was supplied was incomplete in the vast majority of telephone number fields and addresses, and also named contacts. Only about 1200 contacts of the initial 6381 sample could be used for the telephone matching exercise as only their records had sufficient detail. The resultant usable sample after telephone matching and removal of any sample contained on the 'deceased register' was 246.

All potential respondents were sent letters allowing them to opt-out of the research if they wished within a two-week timescale. On the trustee sample this generated about a 15 per cent opt-out rate, on average, with some evidence that trustees of high income trusts were more likely to opt out. The opt-out process resulted in usable contacts at the main stage of the study of 1277 high income leads and 2126 'low-medium' income leads.

Table 1.2.1 shows the sample breakdown for telephone matching and opt-outs.

Table 1.2.1: Sample Breakdown

	High Income *	**Low/Med Income ***	**Total Sample**	**Corporate**
Total received	**3182**	**4183**	**7365**	**2787**
Matched with telephone number	1654	2331	3985	NA
% of total	*52%*	*56%*	*54%*	
Opt outs	377	205	583	NA
% of all matched with telephone number	*23%*	*9%*	*15%*	
Resulting sample	1277	2126	3403	NA
% of total	*40%*	*51%*	*46%*	

**High income – greater than £35,000, Low/med income– less than or equal to £35,000*

In the case of the corporate sample, it was decided that the most appropriate method of contacting organisations was for HMRC to initially contact each organisation and ask for their willingness to participate in the survey. Often there was just one main contact provided for all trusts being managed by a particular institution and therefore co-operation was required in asking for contact details of individual managers of the trusts.

2.4 Pilot qualitative stage

A total of nine cognitive interviews (three settlors and six trustees) were conducted at the beginning of this project to: give an indication of how successful recruitment would be for the main qualitative stage; evaluate how likely it was that respondents would share sensitive financial / family information; and gauge the feasibility of achieving the required sample size for the quantitative stage. Prior to using HMRC sample, NOP attempted to recruit respondents for this stage via its Omnibus survey, although success was limited to four respondents.

This qualitative stage found that there were major difficulties in recruiting settlors for the study and it was decided that it would not be feasible to interview settlors within the quantitative research. The main difficulty encountered was suspicion and refusal to take part. However, the quality and quantity of the settlor sample would have also made it extremely difficult to attempt to conduct a quantitative study of settlors.

Within the report, shaded boxes provide case study profiles of trustees and settlors from the qualitative research.

2.5 Pilot quantitative stage

A pilot of 25 telephone interviews using CATI (Computer Assisted Telephone Interviews) was conducted with trustees to test the quantitative questionnaire for appropriateness of question wording and length. The responses to the pilot were reviewed and amendments were made where necessary to the questionnaire prior to the main stage. This stage was conducted with non-corporate trustees.

2.6 Main quantitative stage

A total of 1100 interviews were achieved at the main quantitative stage amongst trustees. Interviewing took place July-September 2004.

All interviews with non-corporate trustees were conducted by telephone using CATI technology. The methodology for the corporate trustees is described later in this section.

Table 1.2.2 shows the breakdown of the sample in terms of responses for non-corporate trustees, at the fieldwork stage, along with the overall response rate.

Table 1.2.2: Breakdown of Interview Outcomes

	High Income*	Low/Med Income*	Total Sample
**Out of scope sample ** **	407	720	1127
In scope sample			
Refusals	413	515	928
Non-contact	77	271	348
Opt-outs	377	205	583
Interviews achieved	380	620	1000
Response Rate			
% of all in-scope sample	*31%*	*38%*	*35%*

**High income – greater than £35,000 Low/med – less than or equal to £35,000*
*** Out-scope sample includes the following interview outcomes: 'Unable to contact', 'Number busy', 'Wrong number/not in service', 'no eligible respondent' and 'already interviewed'.*

Overall response rates for this study were lower than usual, the main reason for this appears to be the nature of the topic, particularly in the case of high income groups. Many trustees opted out before the main interviewing started, often giving the reason that they were too old or too sick or were not directly involved in the running of the trust. Once interviewing had commenced, refusal rates were also higher than would normally be expected and given these factors, it was necessary to utilise both the main and reserve samples. Reasons for this higher refusal rate were again due to the nature of the topic or that the trustees were too elderly or ill to take part. Some respondents were also concerned about what the information would be used for.

In terms of corporate trustees, the employees running these work for large financial institutions and may run over 100 trusts and a lack of time was given as one of the main reasons for not participating. Many of the large banks refused to participate, of those that did agree to take part, trustees were only asked for information about up to five of the trusts they were responsible for to reduce the burden of taking part. In order to encourage participation amongst the corporate trustees, it was also decided to offer them a self-completion paper version of the questionnaire to allow them to complete the survey at their convenience. In terms of the corporate interviews, 54 were telephone interviews and 46 were completed on paper.

The initial sample size targets and achieved totals are shown in Table 1.2.3.

Table 1.2.3: Targets vs. Actuals

	Target	Achieved
High Income (£35k+)	500	380
Low/Medium Income (£35k or less)	500	620
Corporates	500	100

The targets were relaxed for high income and low/medium income trusts due to difficulties encountered in recruiting respondents in the high income category. The resulting sample achieved for the study was in the main a good representation of the HMRC database, according to the key trust demographics included on the dataset.

Analysis was conducted on the sample to determine how representative the resulting completed interviews were, in terms of the following four categories:

1. Completed interviews

Non-interview categories:

2. Refusals, including opt-outs
3. Out-of-scope
4. Non-contact

The analysis was limited to using the data provided on the original HMRC dataset. The main findings from this analysis were as follows:

- Of the high income trusts, a higher proportion of discretionary trusts were included in the completed interviews compared to refusals, non-contacts and out-of-scope sample (53% compared to 46% for each of the three non-interview categories).
- In the case of low/medium income trusts, a slightly lower proportion of discretionary trustees were interviewed (43%) relative to each of the other three categories of response (47% for each).

Given the low response rates on this survey, it is important to recognise that the resulting sample may have some deficiencies in terms of being representative of the total trust population over and above the analysis conducted on the sample data. We do not know whether the sample was deficient on any other unknown attribute and it could also be the case that respondents were more likely to be compliant in terms of their tax obligations, although of course there is no data to confirm or disprove this. Therefore these factors should be taken into account when using the results from this research.

For the corporate interviews we were reliant on a small number of companies answering for a large number of trusts and the initial target proved to be unattainable, as for example an individual running trusts as a corporate trustee may manage over 100 trusts. A total of seven organisations out of 15 took part in the research, with two organisations representing three-fifths of the responses. A total of 28 corporate employees took part in the research, providing responses on 100 trusts. It is therefore important to remember that the responses may not be representative of all corporate trustees and indeed all individual trusts due to the low response amongst this group of respondents.

2.7 Data Accuracy

Table 1.2.4 gives a guide to the accuracy of results. This shows the confidence intervals by sample size for 50 per cent and 10 per cent/90 per cent levels of observation.

Table 1.2.4: Confidence Intervals

		Total Sample Sizes			
Observed answer level	**Total**	**Income (including Corporates)**		**Type of Trustee**	
		High	Low/Med	Prof	Non-prof
Sample Size	**1100**	383	716	296	704
50%	**± 3%**	±5%	±4%	±6%	±4%
10%/90%	**± 2%**	±3%	±2%	±3%	±2%

In simplistic terms, this means if 50 per cent of a sample of 1100 gave a specific answer we would say with 95 per cent certainty that the true range is between 47 per cent and 53 per cent. Where sample sizes are below 100 for any reporting segment, we would advise that these results are treated with caution as the sampling error is high. Throughout the report in many cases mean scores do not provide a good representation of the overall data. This is due to a few very high value trusts, which have the effect of distorting the mean score. In all cases, the median is also provided and it is clear that this is, in general, a better reflection of the overall responses.

The data was weighted to reflect the overall sampled population of trusts, which was based on the main category proportions in the original sample data and then grossed up to the total number of trusts in the population, who made a return in 2000/01 and 2001/02 years.

The weighting applied was based on:

- Sample type (high income, low/medium income, corporate)
- Type of trust (bare, interest in possession, discretionary)
- Income of trust (high and low/med)
- HMRC office where the trust was administered (London, Edinburgh, Manchester, Nottingham and Truro).

The bases shown on all charts and tables are unweighted bases. Please note that although the bases are unweighted, all percentages in the text, charts and tables included in this report, are based on weighted data.

If the total sample size for any result is not sufficiently robust to segment the data, then no findings will be given in these cases. As a rule, no segment less than 50 will be reported on. Where any data has been shown with less than 50 respondents a warning has been given to note that this is a very small sample size and should be treated with caution.

When interpreting the data it should be noted that:

- The sum of any percentages, when a total of 100 per cent is expected, may not always amount to 100 on account of rounding
- Where more than one answer can be given to a question, the sum of the percentages may exceed 100.

Findings reported in the text are statistically significant at the 95 per cent confidence level, unless otherwise stated.

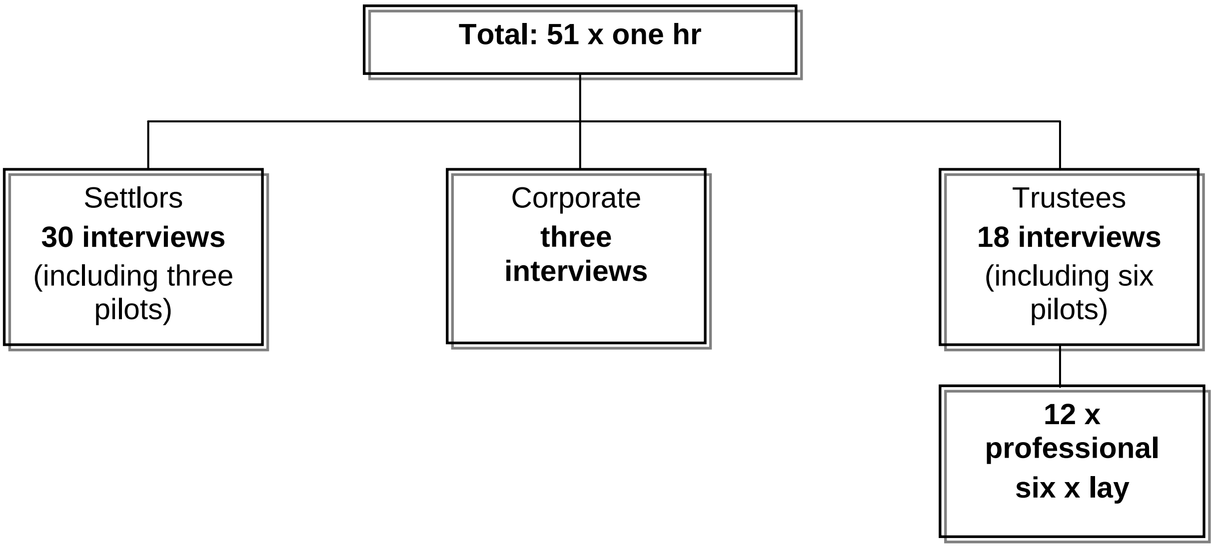
2.8 Main qualitative stage

A total of 42 one hour in-depth interviews were conducted for the main stage of the qualitative research as follows:

- 27 interviews with settlors
- 3 interviews with corporate trustees

- 8 interviews with professional trustees
- 4 interviews with lay trustees.

Given below is a summary of the numbers of qualitative interviews, including pilot interviews.



Most of the types of trust encountered were discretionary, followed by accumulation and maintenance. The breakdown of types of trust and respondent are given in table 1.2.5 and 1.2.6 (where respondents were able to provide the required information).

Table 1.2.5: Sample breakdown of in-depth interview: Settlors* (30 interviews)

Type of trust	
Discretionary	17
Accumulation and maintenance	8
Interest in possession	2
Bare	1
Mixed	2
Trust income	
High income	8
Low/medium	22
Respondent background	
Professional (e.g. Chartered Accountant)	6
Lay	19
‘Semi-professional’ (e.g. Stockbroker)	5

- Note: Sample was provided by HMRC, and the type of trust held was checked with respondents at the beginning of each interview.

When selecting respondents for interview, eight individuals were chosen because their trusts, according to HMRC records, generated £35,000 per annum or more. However, according to the respondents, only four of these trusts generated this amount of income.

Table 1.2.6: Sample breakdown of in-depth interview: Trustees (18 interviews)

Type of trust	
Discretionary	8
Accumulation and maintenance	3
Mixed	2
Interest in possession	2
Life interest	1
Didn't know	2
Trust income	
High income	7*
Low/medium income	9
Didn't know (free-found)	2
Respondent background	
Professional (e.g. Solicitor)	12
Lay	6

* Note: seven high income respondents according to HMRC records. Based on respondents' answers, three of these trusts generated incomes of £35,000 or more. Two respondents refused to give details, one did not know, and in one case income was significantly lower than £35,000.

Where respondents had experience of more than one trust, this was also discussed during the interview, and taken into consideration when preparing the qualitative findings for this report.

Fieldwork was spread across the UK and conducted between July and October 2004.

2.9 Benefits and usability of qualitative research

A qualitative approach proved to be crucial for this study, not only in terms of providing depth of information (particularly in relation to motivations behind setting up trusts), and illustrative detail to support the quantitative findings, but also as the only practical means of interviewing settlors. The nature of qualitative research means that the findings are derived from a small sample of specially recruited respondents and, as such, are not projectable in numeric terms to a larger population. They should therefore be considered indicative rather than conclusive.

As a general guide in qualitative research, any *one category* of respondent from which a wide range of responses is required should include a minimum of eight interviews. Once the number of interviews in that category reaches 20, virtually the whole range of responses are likely to have been elicited. Although in this study, for example, 30 interviews were conducted with Settlors, there were several different categories of respondent within those 30 interviews: for example by type of trust held, size of trust etc. It would, therefore, be inappropriate to suggest for this study that the range of responses obtained from the different types of respondent in the qualitative research achieved saturation. This point is particularly worth noting given the difficulties faced in recruiting settlors to take part in the research.

This report includes verbatim comments made by respondents during the in-depth interviews. These comments are given in italics and identify the type of respondent as follows:

- Settlor or Trustee
- Lay or Professional trustee
- Type of trust
- Interview number

Each interview was allotted a number according to type, so that:

- Interview numbers 1-27 denotes Settlors
- Numbers 28 – 39 denotes Trustees etc.

By including these numbers, it is possible to see within the report the range of comments from different respondents.

2.10 Trust Type

Throughout the report the analysis on the survey of trustees by trust type is divided into interest in possession trusts and discretionary trusts. Bare trusts have been excluded as there were too few to include in any separate analysis. Accumulation and maintenance trusts are classified as discretionary trusts in the text and tables.

3. Main Findings

3.1 A Profile of a sample of British Trusts

3.1.1 Key Findings

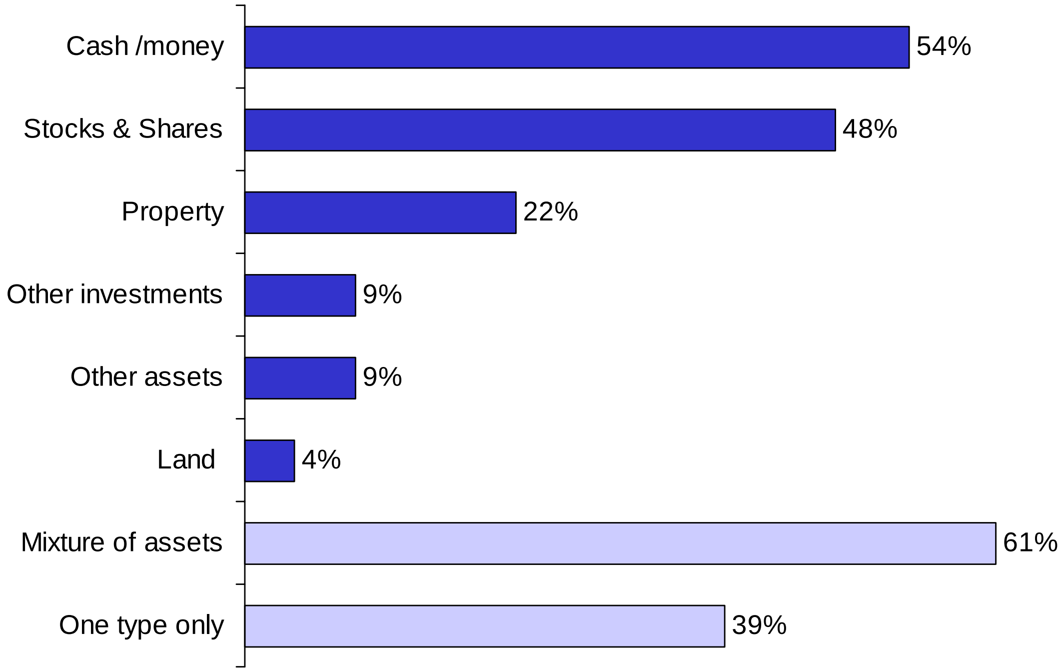
- **In the survey of trustees three fifths (61%) of trusts contain a mixture of assets, including cash, stocks and shares, and property**
- **The mid value (median) of trusts set up between 1960-1974 was £17,500 compared with £100,000 for trusts set up between 2000-2002**
- **Around four fifths (79%) of trusts had not had any further assets added to them since set up**
- **Approximately one quarter (24%) of trusts had a value of more than £250,000 at the end of the financial year 2003/2004**
- **Three quarters (76%) of trusts included in the research were generating an income**
- **Half of these trusts (50%) had an annual income of between £1,000 and £10,000**
- **Nearly two fifths (38%) had distributed income to beneficiaries ten or more times over the previous five years**

Please see section 2 for details of the robustness of results and likely problems due to response bias. All charts and tables are based on weighted data, unless otherwise stated.

3.1.2 Types of asset

In the survey of trusts, trustees were asked what types of assets were put into the trust when it was first set up, and what assets have been added since set-up. ‘Don’t know’ and ‘none’ responses were removed to show the types of asset that make up a trust.

Chart 1.2a: Types of asset in the trust



Base: All trustees excluding don't knows (1053) (multiple responses)

Over half of trusts (54%) in the survey held at least some cash while 48% of trusts held stocks and shares and one fifth (22%) held property. Just under two thirds (61%) of trusts contain a mixture of assets, while 39 per cent contain one type of asset only.

Table 1.2.7 shows the differences among the key groups – 'don't knows' have been excluded.

Table 1.2.7: Assets in the trust by key groups (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Cash / money	**54**	47	51	78	51	58	51	54
Stocks and shares	**48**	54	42	64	50	46	61	47
Other investments	**9**	6	10	9	9	9	4	10
Land	**4**	6	5	-	5	2	10	4
Property	**22**	24	23	12	24	20	36	21
Other assets	**9**	6	12	2	9	9	9	9
Mixture of assets	**61**	64	64	43	60	61	45	62
One type of asset only	**39**	36	36	57	40	39	55	38
Unweighted total	***1053***	*277*	*686*	*90*	*520*	*530*	*368*	*685*

Base: All trustees – excluding don't knows (1053)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
(multiple responses)

In terms of the type of trustee, corporate trustees are more likely to manage trusts holding cash (78%) or stocks and shares (64%). They are also most likely to hold only one type of asset (57%). In terms of the type of trust, the discretionary trusts are more likely to consist of cash (58%). High income trusts are more likely to contain stocks and shares (61%); they are also more likely to be made up of only one type of asset (55%). Of course, this doesn't tell us about the relative scale of the assets, only if particular asset classes are held.

In the in-depth interviews a range of types of asset was encountered, but the most common assets were any combination of cash, and stocks and shares. Less common examples included:

- Property (e.g. a house in France; two farms)
- Land (e.g. a field)
- Chattels (an item of movable personal property, such as furniture, cutlery etc.)
- Fine art
- Copyrights
- Aircraft.

Land, stocks and shares, cash, chattels. There are also things like copyrights. Agatha Christie apparently educated three generations of her family on the royalties of the Mouse Trap. (Trustee, Professional, Mix, Pilot 3)

A mix of assets

In one example from the qualitative interviews, a high value trust included a mix of assets. They consisted of very significant holdings in a family company, and a house which the settlor had bought for his retiring housekeeper and her husband to live in for the rest of their lives. In addition, the trust contained other stocks and shares, as well as some cash.

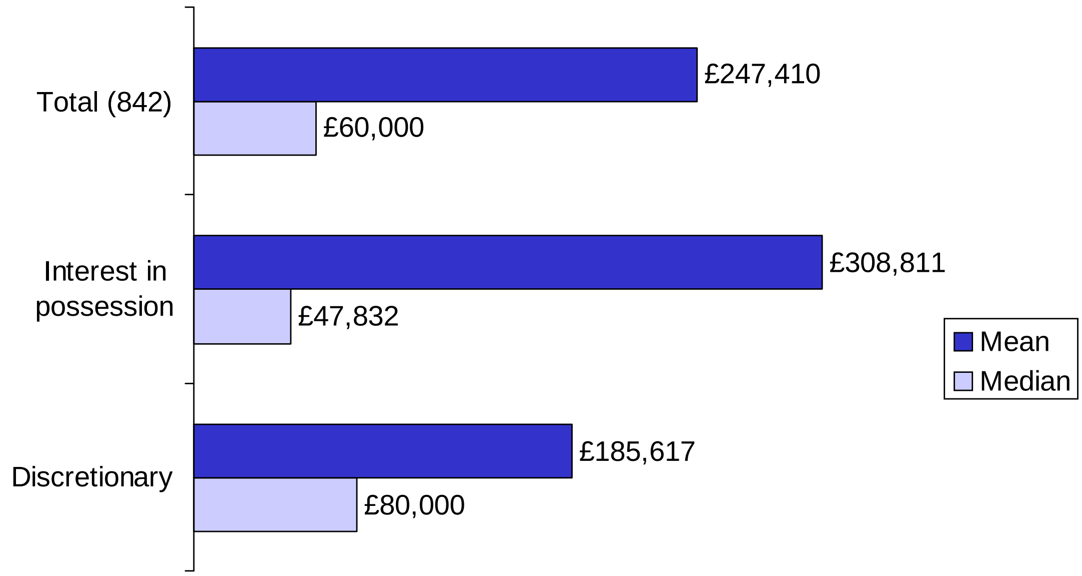
3.1.3 Value of assets at set up

In both the quantitative survey and in-depth interviews, trustees were asked what the approximate value of the trust was at set up. In the quantitative stage, those who said 'don't know' were removed so as not to skew the results. It is worth pointing out that a fifth of trustees did not know the value of the assets in the trust at set up.

Obviously these results need to take into account a time context as those assets placed in trusts a long time ago may have a significantly higher value than when they went into the trust. To begin with, the results overall are reported on, followed by the set up value over time.

In the survey the median value of trusts at set up was £60,000 and the mean value £247,410 (in the quantitative findings). 66 per cent of trusts were valued between £10,000- £249,000 at set up. Chart 1.3.a shows the mean and median values of trusts by type. It is clear that the mean value is far higher than the median and therefore in this case is not a good indicator of the overall responses, as a few very high values are significantly increasing the mean score.

Chart 1.3a: **Value of assets at set up**



Base: All trustees – excluding don't knows (842), Interest in Possession (394), Discretionary (445)

The differences in trust value at set up are shown in table 1.3.1

Table 1.3.1: Values of trust at set up by key segments (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Less than £25,000	**31**	27	30	49	37	26	21	32
£25,000 - £99,999	**30**	30	32	19	30	29	10	31
£100,000 - £249,999	**24**	23	24	24	17	31	20	24
£250,000 +	**15**	20	14	8	16	14	49	13
Unweighted total	***842***	*207*	*565*	*70*	*394*	*445*	*271*	*571*
Median	**£60,000**	£70,000	£60,000	£11,000	£47,832	£80,000	£240,000	£55,000
Mean	**£247,410**	£351,350	£247, 447	£67,968	£308,811	£185,617	£2,411,180	£148,071
Total of all trusts values (millions)	**37580**	10410	25267	1903	24156	13373	16076	21504

Base: All trustees – excluding don't knows (842)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

Trusts managed by respondents who were corporate trustees tended to be of lower value than non-corporate trusts at set-up.

Two thirds of interest in possession trusts had a value lower than £99,999 at set-up, generating a median value of £47,832. However, the mean value of £308,811 shows that there are some much higher value trusts, which are affecting the overall mean.

Discretionary trusts tend to have a higher value at set-up compared to interest in possession trusts. 45 per cent of discretionary trusts contained assets of £100,000 or more at set-up compared to 33 per cent of interest in possession trusts.

As would be expected, the value of the assets in the trust at set up is directly related to the time period in which the trust was set-up.

Table 1.3.1 also shows the total sum of all the initial trust values at set-up, which for the trusts surveyed, is estimated at £37590 million overall.

Table 1.3.2: Initial trust value by year of set up

		Year of Set up				
	Total	**2000-2002**	**1995-1999**	**1985-1994**	**1975-1984**	**1960-1974**
Unweighted total	***842***	*100*	*278*	*232*	*94*	*89*
Median	**£60,000**	£100,000	£90,000	£55,000	£36,000	£17,500
Mean	**£247,410**	£642,427	£267,852	£163,268	£100,626	£91,322
Total of all trusts values (millions)	**37580**	14462	12440	7021	1721	1307

Base: All trustees excluding don't knows – (842)

In the survey of trustees the mid value (median) of the assets in trusts set up between 1960-1974 was £17,500 compared with £100,000 for trusts set up between 2000-2002. None of the trustees who managed trusts which were set-up prior to 1960 knew the value of the assets in the trust at set up.

The summation of all trust values at set-up are shown in table 1.3.2 over time. It is estimated that those trusts in the survey set up between 1960 and 1974 had a total value of £1307 million compared to £14462 million for the most recent trusts (set-up in 2000-2002).

3.1.4 Whether or not assets had been added, and value of last addition

In the quantitative survey, most trusts (79%) had not had any assets added to them since they were set up. Table 1.4.1 shows the differences between key groups of interest.

Table 1.4.1: Assets added to trusts (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non- prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Cash / money	**9**	7	11	3	5	14	18	9
Stocks and shares	**7**	3	9	3	4	10	15	6
Property	**3**	2	5	-	2	5	10	3
All others	**5**	4	7	-	4	6	7	5
None	**79**	84	74	95	86	71	63	80
Don't Know	**1**	2	*	1	1	1	1	1
Unweighted Total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

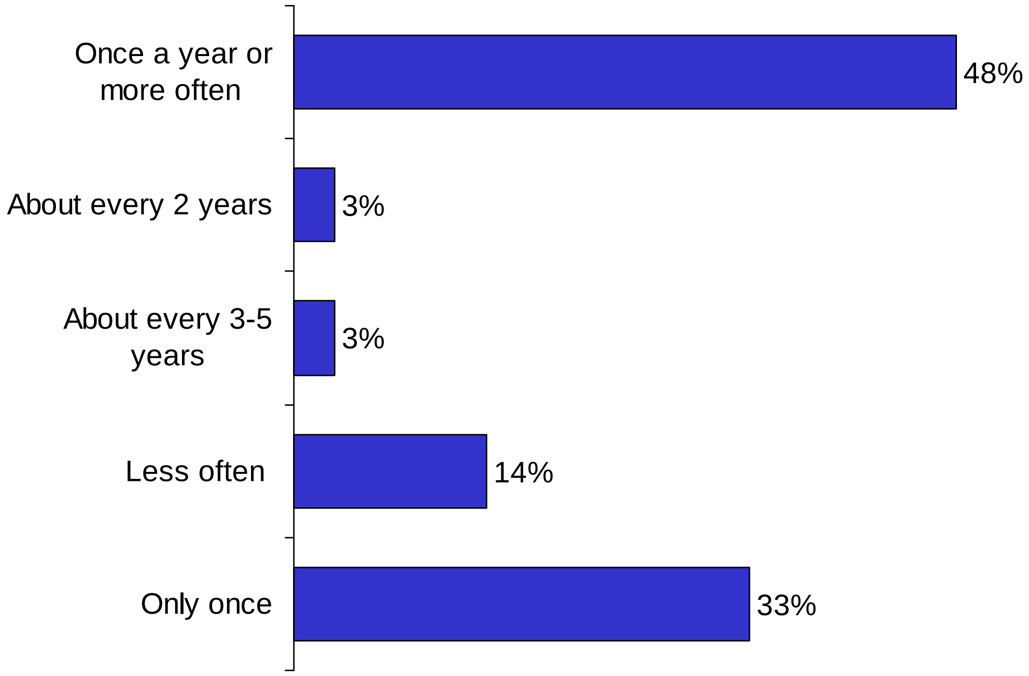
Base: All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
(Multiple responses)

Trusts that are more likely to have had assets added to them are:

- High income trusts (36%)
- Discretionary trusts (28%)
- Those run only by non-professional trustees (25%).

Respondents who said assets had been added to the trust they managed were asked how often assets were added. Of these, 48 per cent stated that assets were added every year. One third said that assets had only ever been added once since set-up and one-fifth (20%) answered that assets were added every two years or less.

Chart 1.4a: How often assets have been added to the trust



Base: All trustees whose trust has been added to since it was set up – excluding don't knows (238)

Table 1.4.2 shows the differences between the key groups in terms of the regularity with which assets were added. Trusts with an income of less than £35,000 were more likely to have had assets added annually than higher income trusts (50% compared with 20%). Over half of all trusts with a high income (52%) had assets added only once.

Table 1.4.2: How often assets had been added to the trust by key segments (percentages)

		Type of trustee responding		Trust type		Income level*	
	Total	**Prof**	**Non- prof**	**IIP**	**Discretionary**	**High**	**Low/med**
Once a year or more often	**48**	41	51	47	48	20	50
About every 2 years	**3**	7	2	3	2	4	2
About every 3-5 years	**3**	1	4	1	5	5	3
Less often	**14**	12	15	21	10	20	13
Only once	**33**	39	29	28	35	52	31
Unweighted total	***238***	*52*	*183*	*82*	*156*	*105*	*133*

Base: All trustees whose trust has been added to since it was set up – excluding don't knows (238)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

Table 1.4.3: When was this trust last added to? (percentages)

		Type of trustee responding		Trust type		Income level*	
	Total	**Prof**	**Non- prof**	**IIP**	**Discretionary**	**High**	**Low/med**
2000 – 2004	**59**	57	61	64	55	36	61
1995 – 1999	**18**	20	15	14	20	32	17
1990 – 1994	**3**	3	3	5	2	6	3
Before 1990	**10**	17	8	10	11	14	10
Don't Know	**10**	4	12	7	12	12	10
Unweighted total	***238***	*52*	*183*	*82*	*156*	*105*	*133*

Base: All trustees whose trust has been added to since it was set up – excluding don't knows (238)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

Of trusts that have ever had assets added to the fund by a settlor, three fifths (59%) were last added to in the past four years (2000 – 2004). Trusts with a low or medium income level are more likely to have had assets added by a settlor in the past four years (61%) compared with just 36 per cent of high income trusts. Two-thirds (64%) of interest in possession trusts that have had assets added to the fund by a settlor, have done so in the past four years.

In the in-depth interviews, assets had been added to some of the trusts in varying amounts. Instances where additions had been made included some of the small number of high income trusts.

> *I never waste the permission that I'm allowed so if I haven't got anything else to do with it, it goes into the trust, about £3,000 a year I think.*
> *(Settlor, discretionary, 9)*

> *Yes, some of the capital had to be added later when it could be done without tax being levied; some of it has been added when the individual required more assets. Certainly hundreds of thousands of pounds have been added. (Trustee, Professional, interest in possession, 12, High Income)*

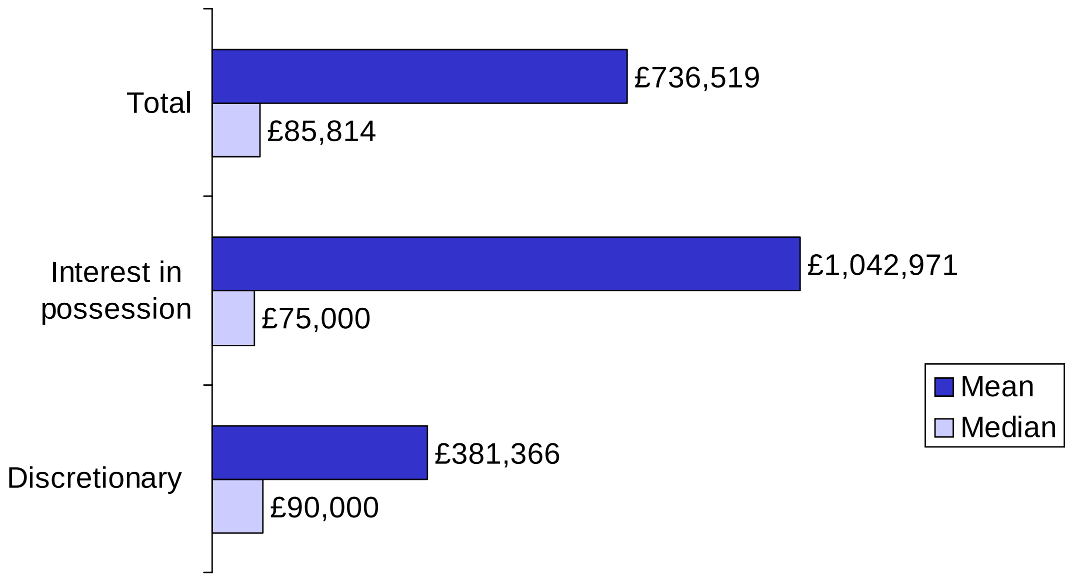
Respondents occasionally equated selling shares held in trust – and then returning the cash to the trust – with adding to the trust.

[My wife] put her shares from her father's brewery into the trust and then we sold the brewery so now it's in the form of cash in there. (Settlor, discretionary, 25)

3.1.5 Current value of assets

Trustees in the survey of trustees were asked what the approximate value of the assets was at the end of the financial year 03/04. The total median was £85,814 with over half of trusts (53%) being valued at less than £100,000. A quarter of trusts (24%) had assets valued between £100,000 - £249,999, while 23% of trusts had assets valued at more than this.

Chart 1.5a: Value of assets in the trust



Base: All that did not refuse to give value of trust at set up –excluding don't knows (899), Interest in Possession (447), Discretionary (449)

Table 1.5.1 shows the difference between various key groups.

Table 1.5.1: Values of assets in trust by key segments (percentages)

K = thousand	Total	Type of trustee responding: Prof	Non-prof	Corp	Trust type: IIP	Discretionary	Income level*: High	Low/med
Less than £10k	**16**	10	20	9	18	14	6	17
£10k, up to £49k	**23**	22	20	37	23	24	6	24
£50k, up to £99k	**14**	8	15	19	15	12	3	14
£100k, up to £249k	**24**	25	24	22	22	27	10	25
£250k+	**23**	35	21	13	24	22	75	20
Unweighted total	***899***	*251*	*553*	*95*	*447*	*449*	*311*	*588*
Median	**£85,814**	£150,000	£80,000	£61,743	£75,000	£90,000	£750,000	£80,000
Mean	**£736, 519**	£1,212,714	£440,069	£1,214,441	£1,042,971	£381,336	£6,944,137	£428,065
Total value of all trusts (millions)	**£117833**	**£41990**	**£43418**	**£32425**	**£90457**	**£27318**	**£52590**	**£65242**

Base: All who did not refuse to give the value of the trust when it was first set up – excluding don't knows (899)

**High income – greater than £35,000, Low/med – less than or equal to £35,000*

Most trusts in the survey contain assets that were valued at less than £250,000 (77%). However, of trusts that had an annual income greater than £35,000, three quarters (75%) had a total asset value over £250,000 at the end of the financial year 2003/04. Professional trustees are also more likely to manage higher value trusts with more than half (60%) managing trusts with assets worth over £100,000. The overall mean calculated for the value of assets was £737k. The median figure for this question is £86k and is therefore a better indicator of the overall responses than the mean, which is affected by higher value trusts.

Table 1.5.2 Current Value of Trust by Year of Set up

	Total	Year of Set up: 2000-2002	1995-1999	1985-1994	1975-1984	1960-1974	Earlier than 1960
Unweighted total	***899***	*87*	*273*	*232*	*102*	*120*	*67*
Median	**£85,814**	£73,400	£90,000	£80,000	£63,500	£87,000	£75,000
Mean	**£736,519**	£508,404	£397,434	£804,323	£428,920	£2,083,676	£581,798

Base: All trustees who gave the value of the trust when it was first set up – excluding don't knows (899)

Table 1.5.2 show the current value of the trusts surveyed by year of set up. Trusts with stocks and shares and property tend to have a higher value than those that do not contain these assets (refer to section 3.1.2). Trusts set up between 1995 – 1999, are less likely to have either of these assets relative to trusts set up in other years which may be why the mean value of trusts set up at this time is lower than for other years.

3.1.6 Value of income, if generated

When asked if the named trust generated an income, three quarters (76%) of trustees in the survey of trustees said ‘yes’, and 23% said ‘no’ (table 1.6.1. Trusts managed by professionals and corporates were most likely to say ‘yes’ (84% and 97% respectively) compared with those with lay trustees (69%). Nine out of ten high income trusts generated an income in the past year (2003/04) compared to low/med income trusts in which only 76% generated an income (table 1.6.1).

Table 1.6.1: Whether income generated from trust (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Yes	**76**	84	69	97	76	78	91	76
No	**23**	15	30	3	23	22	9	24
Unweighted Total	***1100***	*296*	*704*	*100*	*267*	*428*	*383*	*717*

Base: All trustees (1100)
**High income – greater than £35,000 Low/med – less than or equal to £35,000*

Trustees who managed a trust that generated an income were asked what the approximate income from the trust was in the financial year 2003/04. Chart 1.6a shows the mean income and median income levels for each trust type. Note those who said ‘don’t know’ were excluded.

Chart 1.6a: Mean and median income, if generated

Base: All trusts that generate an income, excluding don't knows (735), Interest in Possession (364), Discretionary (370)

The overall mean income for trusts is £10,426 and the median £5,000. Income levels range from between less than £500 to over £100,000, however half of these trusts (50%) have an income of between £1,001 and £10,000.

Most trust types have an income of around £5,000 producing a similar median score for both interest in possession and discretionary trusts. However, interest in possession trusts are slightly more likely to have had an income of over £10,000 in the past year than discretionary trusts (23% and 19% respectively).

Table 1.6.2 shows the differences between key segments.

Table 1.6.2: Value of income, if generated (percentages)

		Type of trustee responding			Trust type		Income level*	
k = thousand	**Total**	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
None	**4**	4	5	1	5	3	1	4
Up to £500	**17**	9	19	19	15	18	4	17
£501 - £1k	**8**	10	6	12	7	9	1	8
£1,001 - £10k	**50**	47	48	59	49	51	20	52
£10,001-£20k	**12**	16	13	3	13	11	12	12
£20,001-£35k	**4**	7	3	2	4	3	12	3
£35,001-£50k	**3**	3	2	4	3	2	17	2
£50,001- £100k	**2**	2	3	1	2	2	16	1
More than £100k	**1**	2	1	-	1	1	15	-
Unweighted total	***735***	*218*	*437*	*80*	*364*	*370*	*276*	*459*
Median	**5,000**	5,500	5,500	1,950	5,000	5,100	35,000	5,000
Mean	**10,426**	12,155	11,373	5,400	11,728	9,013	51,368	7,966

Base All trusts that generate an income - excluding don't knows and refused (735)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

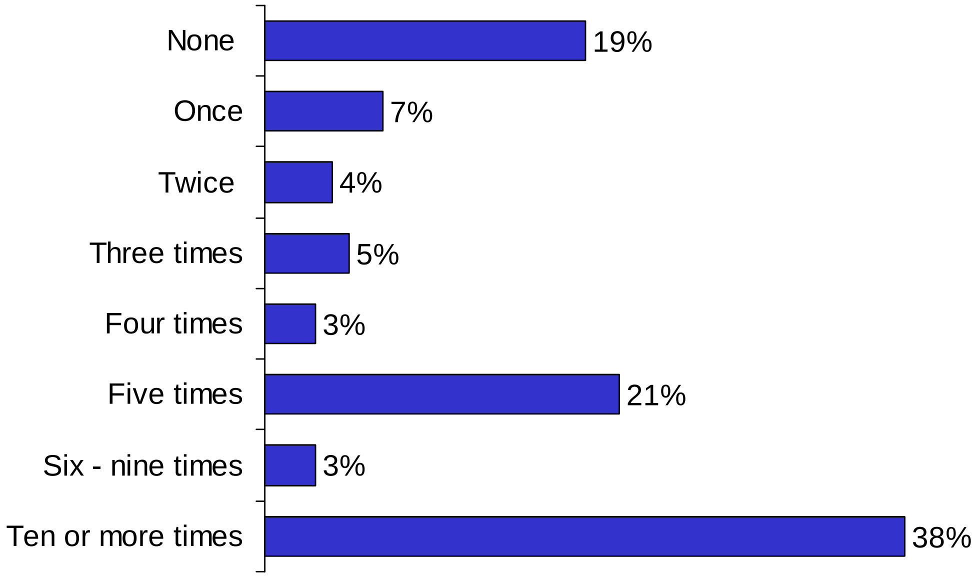
It is interesting to note that half of trustees for high income trusts reported the trust has an income of £35K or less. The definition for high income trusts for this survey was trusts receiving an income of more than £35,000 in either 2000/01 or 2001/02. This question was specifically about income in 2003/4 and therefore suggests that many of these trusts receive variable annual income rather than fixed income.

Trusts whose assets included land were likely to generate the highest incomes (median £9,000 and mean £24,611), while trusts whose assets included cash were likely to generate a lower income (median £4,000 and mean £8,428).

3.1.7 Number of times income has been paid out in the last five years

Trustees who manage trusts that generate an income were asked in the survey of trustees how many times income had been paid out in the past five years. Chart 1.7a shows the frequency with which these trusts paid out each year.

Chart 1.7a: Number of times income was paid out in the last five years (1999 – 2004)



Base: All trustees whose trust generates an income excluding don't knows (810)

Most trusts pay out an average of at least twice a year (38% paid out ten times in the past five years), or once a year (21% paid out five times in the past five years). One fifth of trusts (19%) have not paid out any income in the past five years.

Table 1.7.1 shows the number of times the key groups have paid out in the past five years (1999 – 2004).

Table 1.7.1: Number of times income has paid out in the last five years by key segments (1999 – 2004) (percentages)

		Type of trustee responding			Trust type		*Income level	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
None	**19**	13	21	19	10	29	11	19
Once	**7**	8	8	3	7	7	5	7
Twice	**4**	6	4	-	4	4	4	4
Three times	**5**	4	6	1	5	4	4	5
Four times	**3**	2	4	1	3	3	1	3
Five times	**21**	29	22	8	18	26	29	21
Six to nine times	**3**	2	5	-	2	5	1	4
Ten or more times	**38**	36	30	69	51	23	43	38
Unweighted total	***810***	*242*	*484*	*84*	*224*	*303*	*319*	*491*

Base – All trustees whose trust generates an income excluding don't knows (810)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

Trusts that are most likely to have paid out ten or more times in the past five years are: corporate (69%) and interest in possession (51%) and high income trusts (43%).

Trusts that are most likely to have paid out at all in the last five years are those that:

- Generate an income through land and property (93%)
- High income trusts (89%)
- Have a total value of £100,000+ (88%).

In some instances in the in-depth interviews, the frequency with which income was paid out varied, for example, when requirements depend on the needs of beneficiaries (e.g. funds for a holiday, paying school fees).

> *When [the children] want anything they go and ask Mum. The interest in possession is theirs, although I actually keep it and put the money on deposit if they want it. They just say: "Can we have the holiday money, Dad?" and that is it because it is theirs. The discretionary ones, I don't know quite how it works. That is not quite true. The daughter who has got the*

smaller house draws a monthly income. The rest seems to depend on whether they want new cars and that sort of thing. (Settlor, interest in possession, Pilot 10)

In other cases, the income was accumulated and reinvested.

The dividends on the shares as far as possible are reinvested. There's a very small amount each year paid out on the shares, and the unit trusts are set up so that any income is automatically reinvested. So any income that's generated is reinvested. (Trustee, Lay, A&M)

Where income was paid out, respondents generally believed that the whole amount was paid out, although there were a few given where some funds were held back.

Initially it was accumulated and then we have been paying it out helping with the education of the grandchild. It's all been paid out, we had to spend a lot on the property as well. (Trustee, Professional, discretionary, 9)

The income is split between the five beneficiaries. But they pay an insurance policy, which takes up £661 per month. It's term insurance on my life so a lump sum is then provided on my death. . . . I also keep back 22% as it's liable for tax at 22%. Plus a contingency fund because the five children again own a house in France. Trust revenue is kept back to feed a maintenance figure for that house. Plus they keep back a contingency sum for solicitors' fees and anything else that might arise, accountancy fees. [Leaves approximately £10,000 for the children after all these elements have been accounted for.] (Settlor, discretionary, 8)

When to pay out?

One professional trustee talked of the apparent complications that can occur in the area of distributing income. In deciding whether to distribute dividend income there are a number of factors. First, according to the respondent, from an inheritance tax point of view his advice is always to accumulate the income because then it is in a fund that is free of inheritance tax on the second death. You have to pay the rate of tax for the trusts which might be more than an individual is paying but, he explained, you are saving inheritance tax so it may be worthwhile doing it and particularly if you are a higher rate taxpayer. The other factor this trustee referred to is that if you actually pay out dividends then you cannot pay out all your dividends because then you are hit with an additional trust tax and therefore you have to do "extremely complicated" calculations as to how much dividend income you can pay out without having to pay excess tax. In his view, it is a lot easier not to bother and just accumulate it all.

3.1.8 Changes over time

Certain differences noted in the survey of trustees related to the time at which the trusts were set up:

- Trusts set up after 1985 are more likely to contain cash (60%) than those set up before 1985 (40%). They are also more likely to contain more than one type of asset (65%) compared with those set up later (51%) (69% of surveyed trusts were set up after 1985).
- Those set up before 1985 are more likely to contain stocks and shares (61%) (31% of surveyed trusts were set up before 1985).
- Trusts set up prior to 1985 are more likely to have paid out in the past five years (95%) (20% of surveyed trusts were set up before 1975).

The initial value of trust by the year the trust was set up is shown in table 1.3.2 of this section and differences in the current value of trusts by year set up are shown in table 1.5.2.

3.2. Knowledge and Awareness of Trusts

3.2.1 Key Findings

- **The survey of trustees suggests that there was some uncertainty about the type of trust managed, particularly when responses were compared with trust categories in the sample.**
- **For example, fewer than half of trustees managing interest in possession trusts according to the HMRC dataset claimed to have an interest in possession trust when asked in the quantitative research, although this was still the top response amongst these trustees. A further fifth of these trustees thought they had a discretionary trust.**
- **Lay settlors and trustees in the in-depth interviews tended not to actively seek information about trusts, relying instead on advice from their professional adviser**
- **Professional settlors and trustees in the in-depth interviews, however, used a wide variety of sources of information, including trade publications, professional bodies (particularly STEP), a company research team, and the Internet**

The survey of trustees found:

- **Approximately one fifth of respondents mentioned spontaneously that they had sourced information from HMRC, accountants or solicitors**
- **Professional trustees were more likely to have had contact with HMRC compared to non-professional trustees and corporate trustees had the highest propensity to contact HMRC, with over four-fifths having had contact in the last two years**
- **In general, respondents who have used HMRC as a source of information tend to give positive ratings. Professional trustees tend to give more positive ratings**
- **Telephone contact achieved the highest ratings with 78 per cent of those that have used this service rating it as good.**

Please see section 2 for details of the robustness of results and likely problems due to response bias. All charts and tables are based on weighted data, unless otherwise stated.

3.2.2 Awareness of type of trust set up

In both the in-depth interviews and the quantitative research, respondents were asked what type of trust the specified trust was and this was compared to the information provided on trust type on the original sample. The information contained in the sample on type of trust is taken from the details originally provided by the trustee on the Trust and Estate Return and not classified by HMRC.

However, the respondent may not be the same trustee who submitted the Trust and Estate Return. It is clear from the responses obtained on awareness of the type of trust set-up, as detailed in the following paragraphs, that respondents are often not aware of the type of trust they are managing, until they access the documentation.

In the in-depth interviews, whilst respondents were generally aware of the type of trust that had been set up, some acknowledged, however, that they would not have been able to answer this question had they not prepared for the interview. Some had searched out the relevant paperwork in advance, in order to have it to hand during the interview. Some, when unable to answer a particular question, had looked for the paperwork (and in particular the trust Deed), during the interview. A few respondents explained that they had contacted a professional adviser (e.g. financial adviser or professional trustee) before the interview to find out more about the trust.
The fact that those taking part in the in-depth interviews were aware of the type of trust they had is explained by their willingness to either look the answer up in advance, or check it during the interview. In the quantitative survey, a slightly different picture emerged. In order to understand trustees' awareness of the type of trust they managed, they were asked if they knew what type of trust the named trust from the sample was. A record of the type of trust being asked about was contained on the original sample allowing a comparison to be made between trustee perception and the sample data.

The spread of responses obtained from the survey, in terms of type of trust, are shown in table 2.2.1 and are compared with the information contained on the sample. It should be remembered that within the sample, accumulation and maintenance trusts were classified as discretionary trusts and therefore cannot be separated out.

Table 2.2.1: **Trust type identified by trustees compared with trust type on HMRC database (percentages)**

	Trust type on original sample	Trust type identified by Trustees in survey
Bare	*	7
Discretionary/accumulation & maintenance	50	53
Interest in possession	50	26
Mixed	-	6
Other	-	5
Don't know	-	4
Unweighted total	*1100*	*1100*

** = < 0.5%*
Base All Trustees (1100)

Whilst 50 per cent of the sample provided by HMRC were interest in possession trusts, just 26 per cent of trustees actually thought the specified trust was in this category. In addition, a higher proportion of trustees claimed to have bare trusts than was specified as such in the sample (7% compared with less than 1%).

Four per cent of trustees were not aware of the type of trust they managed and five per cent stated a type of trust, which was not in any of the specified categories.

The HMRC database did not distinguish between the different types of discretionary trust in the sample provided, including accumulation and maintenance trusts (accumulation and maintenance trusts are not a category of discretionary trust, but a separate category of trust which pays tax at the same rate as discretionary trusts). When respondents' answers to a prompted question about the type of trust they held are looked at together, the results for discretionary and accumulation and maintenance trusts are in fact similar to the total for HMRC's 'discretionary' category (approximately 50%).

In table 2.2.2 and table 2.2.3, the HMRC's information on trust type is shown in relation to the responses on trust type given by trustees.

Table 2.2.2: **Trust type identified by trustees amongst 'interest in possession' trusts according to HMRC database (percentages)**

	Interest in possession trusts According to original sample			
		Type of trustee responding		
Responses given by Respondent	**Total**	**Prof**	**Non-prof**	**Corporate**
Bare Trust	**9**	5	11	6
Accumulation & maintenance	**9**	4	13	1
Interest in possession	**44**	54	26	85
Discretionary	**22**	14	31	5
Mixed	**6**	10	5	3
Other	**7**	6	10	-
Don't know	**4**	6	4	2
Unweighted total	***548***	*160*	*307*	*80*

Base: All interest in possession trusts (548)

Less than half of trustees (44%) who managed an interest in possession trust, according to original sample data, thought that this specified trust was an interest in possession trust. Professional trustees interviewed were more likely to be aware that a trust was an interest in possession trust, compared with non-professional trustees. Just over half (54%) of professional trustees managing an interest in possession trust according to original sample data also gave this response when asked in the survey, compared with the equivalent of a quarter for non-professional trustees (26%). As would be expected, knowledge of the type of trust is highest amongst corporate trustees, with 85% of trustees correctly claiming the trust was an interest in possession trust.

Table 2.2.3: Trust type identified by trustees amongst trusts discretionary/accumulation and maintenance trusts according to HMRC database

	Discretionary/Accumulation & maintenance trusts according to original sample		
Responses given by Respondent	**Total**	**Professional Trustees**	**Non-professional Trustees**
Bare Trust	**5**	4	6
Accumulation & maintenance	**24**	20	24
Interest in possession	**4**	6	2
Discretionary	**57**	50	60
Mixed	**6**	20	3
Other	**2**	*	3
Don't know	**3**	*	3
Unweighted total	***549***	*136*	*394*

* = <0.5%

Base: All trustees with discretionary trusts (549)

A higher proportion of trustees managing a discretionary trust correctly identified the trust type compared to the interest in possession trusts. In total, four-fifths of respondents specified the named trust as a discretionary trust (either discretionary or accumulation and maintenance), in accordance with original sample data.

Table 2.2.3 also shows this information by professional and non-professional trustees. Awareness of type of trust was actually higher amongst the non-professional trustees interviewed in relation to professionals for discretionary trusts (84% relative to 70%, discretionary and accumulation and maintenance combined).

3.2.3 Sources of information used

In the in-depth interviews with settlors and trustees, respondents' sources of information varied according to their professional / non-professional status. Lay settlors and lay trustees in general did not actively seek information relating to trusts on a regular basis, or attempt to keep up to date on the subject. On the occasions where queries had arisen related to the trust, they relied mainly on "trustworthy" professionals, that is, their solicitor, accountant, Independent Financial Advisor (IFA) or a professional trustee for the trust, if there was one. Otherwise, these respondents generally assumed that their solicitor or accountant would contact them if it were necessary to do so.

> *I would rely on the accountant if there were any changes on the HMRC requirements. He would get in touch with me. There hasn't been any change in trust law that I know about – presumably solicitor trustees would know about it before me and contact me. (Settlor, Lay, discretionary, 8)*

> *I haven't used any sources recently, and I wouldn't know where to go apart from my solicitor. (Settlor, Lay, A&M, 19)*

Other sources of information mentioned by lay respondents in the qualitative in-depth research were less common, for example: financial sections of newspapers; booklets from the bank; Age Concern; National Farmers' Union; and the internet.

Some professionals were of the opinion that the less lay settlors / trustees knew about trusts the better, and that they should rely on the experts for help and advice.

> *I would recommend that they read absolutely nothing because a little learning is a dangerous thing. Also that they make sure that they have got at least an accountant and at best a lawyer as a co-trustee . . . because without that you are in trouble. (Trustee, Professional, Mixed, Pilot 3)*

> *I just give them the information they want. In effect, I'm their source of information. (Trustee, Professional, Pilot 4)*

> *On the whole if you're completely illiterate on the subject, which most people are, I'd say trust your solicitor. (Trustee, Professional, discretionary, 11)*

Professional trustees / settlors kept themselves up to date via a variety of sources, for example:

- Trade publications (Law Society Gazette, Taxation Magazine, Butterworths' Annotated Statutes, Tolley's Tax Handbook, STEP journal, Legal Week, Trust and Estate Monthly, etc.)

- Membership of professional bodies (e.g. STEP includes an ‘on-call group’ for queries)
- In-house meetings
- Articles identified by their company research team
- Colleagues
- Lectures, conferences
- The internet.

We have monthly in-house seminars. We are fortunate in having people who devote their time to checking out changes in the law and then disseminating their knowledge on a monthly basis. (Trustee, Professional, Mix, Pilot 3)

HMRC was not a widely used source of information amongst those who took part in the in-depth interviews, and was rarely referred to spontaneously. It had not occurred to some that HMRC might be a possible source of information because it was thought that HMRC could not offer advice.

No, [I wouldn’t consult HMRC]. It probably wouldn’t be something I would see them offering that’s a service. (Trustee, Lay, Did not know trust type, 6)

I don’t think the Revenue would know the answer [to a query about beneficiary’s rights]; I think it’s a legal matter, the rights of the beneficiary, I don’t think the Revenue would give me legal advice, I wouldn’t expect them to. (Settlor, A&M, 26)

On occasion, professional respondents believed that HMRC would not necessarily be able to tell them any more than they themselves already knew about trusts. Some professionals had a less than complimentary view of the abilities of HMRC staff:

It would be hard to find someone sufficiently knowledgeable at the HMRC. (Trustee, Professional, interest in possession, 12)

I don’t read any of the HMRC rubbish if that’s what you mean. It’s either too complicated or too dumbed down. There’s got to be a halfway house between the dumbed down stuff and the complicated stuff, which is plain straightforward Queen’s English. (Settlor, Professional, discretionary, 22)

Even so, when prompted, some respondents claimed that they had in fact used HMRC as a source of information. In these cases the outcome of the enquiry appeared to be satisfactory overall, and HMRC staff had been easy to deal with.

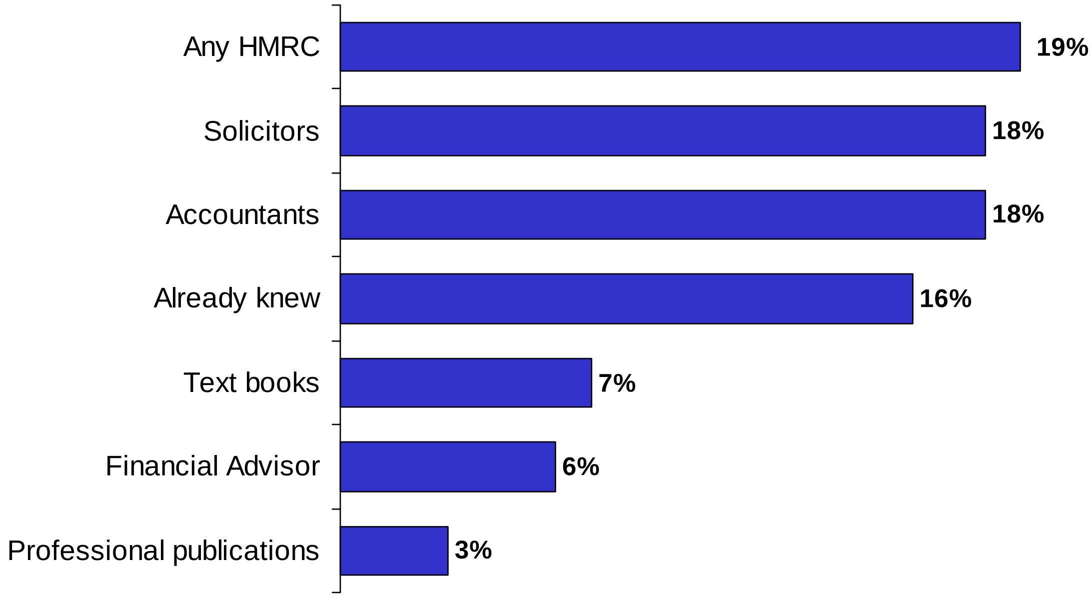
> *I've found HMRC to be very helpful on more than one occasion. Whenever I've contacted an inspector of taxes he's been more than helpful and if I wanted to think again about things like trusts and the effects they would have on our tax status I may well think of talking to HMRC or hope that they might have a publication that would help me. If I go to a lawyer it's going to cost me money. (Settlor, discretionary, 15)*
>
> *I've only [contacted HMRC] in terms of how I should present things in the return. They sent a thing showing the tax position which made it look like there was no tax due and then a few months later they sent me a thing charging me interest for not paying tax due so I rang them up and eventually they said 'yes it was misleading' and they cancelled the charged interest, so I felt they were being co-operative. (Settlor, A&M, 13)*

At the time the trust was set up, settlors on the whole felt that they had been told enough about trusts to make an informed decision, although when asked why a particular type of trust was chosen, they usually answered that it was what the professionals had advised, and they trusted that advice.

> *I wasn't sure which trust I wanted but I knew what I wanted it to do. (Settlor, discretionary, 25)*

In the survey of trustees, trustees were asked spontaneously which sources of information they had used to find out about trusts in the last two financial years.

Chart 2.3a: Sources of information used in last two financial years: Spontaneous



Base: All trustees (1100) (multiple responses)

Approximately equal proportions of trustees claimed to have sourced information regarding trusts from HMRC (19%), solicitors (18%) and accountants (18%). 16 per cent of trustees claimed to already know their responsibilities, and as would be expected this was much higher amongst respondents who were professional trustees compared with non-professionals (31% compared to 14%). Non-professional trustees interviewed were also more likely to seek advice from solicitors (22%) and accountants (24%) relative to professional trustees (14% and 7% respectively).

Trustees who had not mentioned HMRC spontaneously as a source of information were then prompted with a question specifically asking if they had consulted HMRC in the last two financial years about trusts or being a trustee.

In total, combining spontaneous and prompted mentions, approximately a third of trustees (31%), claimed to have had contact with HMRC.

Non-professional trustee respondents were more likely to have had no contact with HMRC than professional trustees (70% compared with 57%). Amongst professional trustees, corporate trustees had an even higher propensity to have been in touch with HMRC, with over four fifths (83%) having had contact in the last two years.

3.2.4 Contact with HMRC for information

Respondents in the qualitative in-depth research who had contacted HMRC provided some examples of reasons for the contact: looking for manuals online; queries relating to Inheritance Tax (IHT); issues relating to the tax return for the trust; and unspecified “technical points”. Such contact tended to be by telephone.

> *I was in touch with the capital taxes office the other day about how to do a one year anniversary – they were very helpful actually. (Trustee, Professional, discretionary, 8)*
>
> *I consulted the Revenue about two or three years ago. I think the situation was that my accountant was very unwell, so I transferred to another firm . . . I think I rang the HMRC and they were very helpful with a view to the point I mentioned earlier about paying such a sum that would enable me to recover the tax that had been paid to the HMRC, and the lady in question was quite helpful in telling me the documents to get and the address in Plymouth where one had to write to, from my son-in-law’s [and trustee’s] point of view. (Settlor, A&M, 5)*

Trustees in the quantitative survey who had had contact with HMRC were asked to specify what type of communication that had involved, if they had not already indicated this spontaneously. Trustees were most likely to say that documentation was the type of contact they had had with HMRC, mentioned by one fifth of trustees.

As far as the survey of trustees was concerned, professional trustees claimed to have had more contact with HMRC across all types of contact methods compared with non-professionals, as shown in table 2.4.1.

Table 2.4.1 Types of HMRC sources of information used (spontaneous and prompted) (percentages)

	Total	Professional trustees	Non-professional trustees	Corporate trustees
Documentation	**20**	27	19	15
Telephone	**14**	20	12	10
Website	**7**	11	6	6
Face to face	**1**	3	1	0
None	**69**	57	70	83
Unweighted total	***1100***	*296*	*704*	*100*

Base: All trustees (1100) (multiple responses)

Table 2.4.2 below shows the proportion of trustees using each contact method. Overall two thirds that have contacted HMRC have used documentation (63%). Nearly half (44%) have contacted HMRC by phone to source information and a quarter (23%) have made a face to face visit.

Table 2.4.2: **Types of HMRC sources of information used among users (spontaneous and prompted) (percentages)**

	Total	Professional trustees	Non-professional trustees
Documentation	**63**	61	61
Telephone	**44**	46	41
Website	**4**	7	3
Face to face	**23**	24	21
Unweighted total	***306****	*100*	*187*

Base: All trustees who have used HMRC as a source of information (306), (multiple responses)

** including corporate trustees*

Trustees were then asked to rate HMRC on each contact method that had been used in the last two years.

Table 2.4.3 shows the ratings given by trustees for each type of contact used, with the exception of face-to-face contact where the base is too small to report on. However, it should be mentioned that virtually all trustees who had had face-to-face contact with the HMRC considered it to be good.

The ratings for all types of HMRC sources of information tend to be positive, with telephone achieving the highest scores. Approximately one in ten trustees, with experience of each type of HMRC contact point, rated that type of contact as poor.

Table 2.4.3: **Ratings of HMRC sources of information (percentages)**

	HMRC sources used		
	Documentation	**Telephone**	**Website**
Total Good	**68**	**78**	**74**
Total Poor	**10**	**12**	**12**
Very Good	21	46	40
Fairly Good	47	32	34
Neither good nor poor	16	11	13
Fairly Poor	8	10	12
Very Poor	2	1	-
Don't know	6	0	1
Unweighted total	*192*	*133*	*66*

Base: All trustees that have used each method of contact

3.3 Setting up Trusts

3.3.1 Key findings

- **The main motivation for setting up a trust appears to be related to control of assets, rather than tax planning as found in both the in-depth interviews and the survey of trustees**
- **While tax planning is important for some, it is usually cited second, and in relation to organising a person's affairs most efficiently, rather than as the main reason for setting up a trust**
- **Reasons given in both types of research included:**
  - **to pass assets on to children or grandchildren**
  - **to provide for a beneficiary in a particular way (for example, education, or support for a vulnerable individual)**
  - **to ensure children do not receive money before a certain age**
  - **to keep family money within the 'bloodline' (for example in the case of divorce and remarriage)**
- **Where tax is mentioned, the ability to reduce tax liability was the major consideration, particularly IHT**
- **When asked specifically in the survey if tax planning was important in setting up the trust, approximately half of trustees claimed it was important and half felt it was unimportant. However, trustees for high income trusts claimed tax was an important factor to a greater extent (60%)**
- **Tax was thought to be a more important factor in deciding which type of trust to choose amongst non-professional trustees interviewed (44%) relative to professional trustees (36%)**
- **Tax appears to be becoming increasingly important when setting up trusts. One fifth of trustees (19%) for trusts set up after 1975 mentioned tax as the original motivation for setting up the trust compared with only five per cent for trusts set up before 1975.**
- **Settlors in the in-depth interviews generally relied on advice from professional advisers when deciding upon the type of trust to set up**
- **Over half (56%) of trustees in the survey of trustees said they were**

involved in setting up the trust to some or a great extent

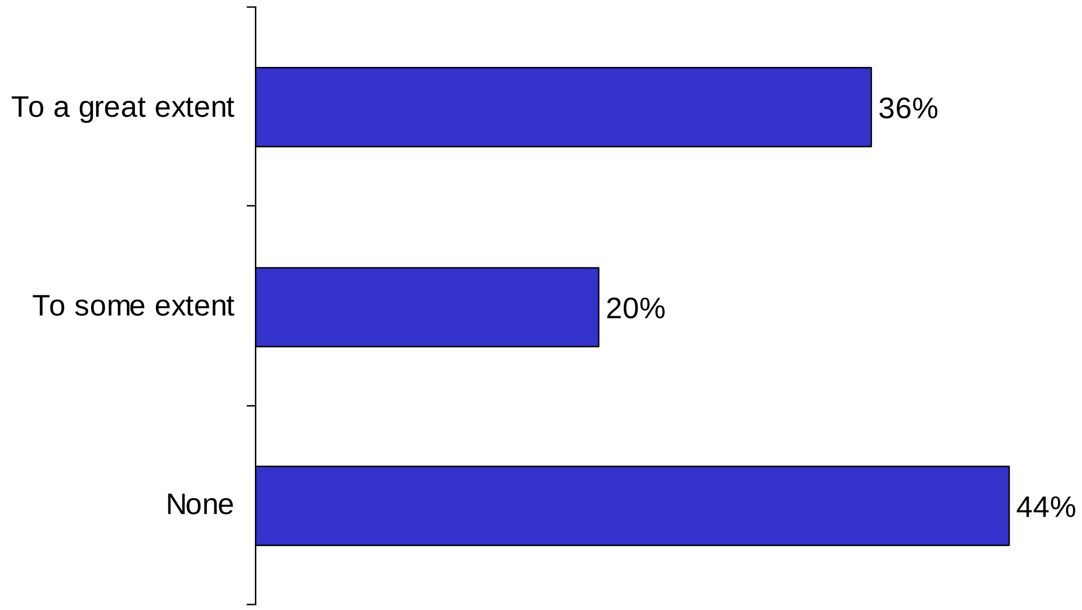
- **In three quarters of cases in the survey of trustees, no letter of wishes had been written - it was slightly more likely amongst discretionary trusts. In the qualitative study, some professional trustees would like to have seen letters of wishes for all trusts**
- **Over half the trusts were set up between 1985 and 1994**
- **Of those who were able to answer, 45% of trustees said the cost of setting up the trust was less than £500.**

Please see section 2 for details of the robustness of results and likely problems due to response bias. All charts and tables are based on weighted data, unless otherwise stated.

3.3.2 Extent of trustee involvement

Trustees in the survey of trustees were asked to what extent they were involved in setting up the trust. More than half of trustees (56%) were involved to a great or some extent in the setting up of the trust, while 44 percent said they were not involved at all.

Chart 3.2a: Extent of trustee involvement



Base All trustees (1100)

Table 3.2.1 shows the main differences among the key groups in the survey of trustees.

Table 3.2.1: Extent of Trustee involvement by key segments (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
To a great extent	**36**	40	38	21	28	46	36	36
To some extent	**20**	17	23	9	18	21	19	20
None	**44**	43	38	70	53	33	46	44
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

Corporate trustees were the least likely to have been involved with setting up the trust (30% involved) while non-professional trustees were most likely to have been involved (61%).

In terms of trust type, trustees who set up discretionary trusts were more likely to have been involved (67%). In terms of the income level of the trust there were no real differences.

In the in-depth interviews, and from the settlor's point of view, the extent of trustees' involvement at the time the trust was set up varied. Some trustees - more professional than lay - were very much involved in that they attended meetings, reviewed documents, and gave advice. Often, the professional responsible for drawing up the trust for the settlor was also a trustee. In addition, some settlors themselves claimed to be trustees and were therefore obviously involved in setting up the trust.

> *My solicitor and I . . . thrashed it out and decided what the age would be when [the children] would receive what was left. Then we talked to [one of the trustees – a friend and judge] to see if she agreed or not. (Settlor, discretionary, 17)*

> *[The trustees were involved] chapter and verse, dotted the 'I's and crossed the 'T's. Went through every line of the trust deed with the lawyer and had some influence on its drafting. (Settlor, discretionary, 15)*

Other settlors explained that the trustees had not been involved at all in setting up the trust.

[No, not involved. The trustee] is that much of a friend that I'd told him what was happening and the amount, what was going in, he'd know all that; he'd have had to sign as a trustee. (Settlor, discretionary, 10)

Yes [they were involved] in the sense that they had to sign the documents but I did all the organisation. (Settlor, A&M, 14)

Some professional trustees were closely involved in creating the trust, for example, being responsible for setting up the trust, deciding on the type of trust, and providing advice on the most tax efficient approach. Other professionals had assumed the trusteeship on the retirement of another trustee in their firm.

I was to act as trustee. I was also responsible for analysing her assets and seeing how we could transfer assets into the trust without undue tax being levied on the occasion of transferring them into the trust. (Trustee, Professional, interest in possession, 12)

Some lay trustees taking part in this qualitative in-depth research explained that they had had some involvement in setting up the trust, for example, they were also the settlor, or they were an executor of a will where provision had been made for a trust, and they were identified as a trustee. They had thus found themselves in a position where they had to take decisions relating to how the assets of the trust would be invested.

I think my main role and the main role of the other trustees was really to discuss what sort of investments we wanted to put the money into under the umbrella of the trust, whether we felt we should go for high risk investments or medium or a good spread. (Trustee, Lay, discretionary, Pilot 2)

3.3.3 Original motivations for setting up trusts

In the in-depth interviews, respondents gave a variety of motivations - and often a combination - for deciding to set up trusts. Overall, settlors in this sample found themselves in a position where they wished to take action in order to determine what happened to their assets in the future, and usually in the most tax efficient manner. Based on professional advice, and previous experience for some, a trust was deemed the most appropriate vehicle for meeting their requirements. In effect, a trust allowed these respondents a degree of control over their wealth in the future. Underpinning most factors was the ability to reduce tax liability, mainly inheritance tax (IHT).

I was fairly conscious of inheritance tax, both my parents died young and my sister and I were hit very hard by very high death duties so I wanted to pass some on, and I wanted to have some protection from [my daughters] just frittering it away, being three young girls. . . I reached a period in my career when I was starting to earn quite substantial amounts of money and getting large bonuses and I also reached the age of 50 and one starts to think about it. (Settlor, Professional, A&M, 13)

Of importance to these respondents was the concept of protecting their assets to allow for future financial provision for certain family members. Grandchildren, nieces and nephews were often identified as the beneficiaries, with funds to be provided for their education, or when they reached a certain age.

I've made a bit of capital over the years which I've tried to protect as best as I can, mainly for the benefit of the family going forward. (Settlor, discretionary, 22)

I suppose primarily it was with inheritance tax in mind because at the moment as things stand I would be fairly vulnerable. And also I've got a lot of nephews and nieces who are my heirs and I thought I'd maybe help them while I'm still around by distributing money from this trust to them to help pay for school fees. (Settlor, discretionary, 6)

Within this aim of providing for the family in the future, some respondents were motivated to set up trusts in order to withhold assets from minors until they were old enough to spend the money sensibly. This again demonstrates the control trusts offer to settlors.

At the time we didn't want the children just to inherit that money. Because at 18 they would have got it and you hear stories of kids buying Maseratis and stuff or going off and blowing the whole lot. . . . We really wanted to guide where it went . . . and we would have had to pay tax on it [if they had not chosen a trust]. (Settlor, discretionary, 17)

I think the first reason was it's a good way to give young children some cash with control, and of course the other angle was that the cash that goes into this trust is free of inheritance tax. (Settlor, A&M, 4)

Another common motivating factor for setting up a trust was to ensure that the assets stayed within the family and the "bloodline". For example, some settlors were wary of (potential) spouses of their children claiming part of the inheritance should there be a divorce. In a more extreme case of keeping assets in the family, one respondent had been under great pressure to give money to her own parents-in-law when she was very ill, so she had set up a trust to "ring-fence" money for her own daughter. There was also a desire to ensure that 'family' money did not end up in the hands of step-children or step-grandchildren.

The real driver was my parents-in-law demanding money. If I hadn't been ill I might not have thought about it much but because I was very ill, I had to do something. I knew that if I died, they'd be on my husband like a dose of salts. The object was to protect my child. (Settlor, A&M, 26)

They are all set up in one way or another to try and protect the capital against any possibility of future divorces so a) the children always have a house to live in and b) eventually as much as possible goes to our grandchildren rather than somebody else's grandchildren. (Settlor, interest in possession, Pilot 10)

Settlors on occasion acknowledged that the sole reason for setting up the trusts was to reduce tax liability. Inheritance Tax was often the main concern, and occasionally Capital Gains Tax (CGT).

We were building a successful company and potentially would have high inheritance tax so obviously the idea was to take some of the shareholding, give it to my sons who were working in the business, or about to work in the business, and thereby save the inheritance tax that would be payable if the shares were valued on our death. (Settlor, discretionary, Pilot 9)

It was a view to evading, well not evading because it's lawful, with a view to preventing my family from having to have an excessively onerous [IHT] burden on my demise, and after seven years it would be out of my estate – that's the reason. (Settlor, A&M, 5)

Having paid enormous amounts of tax all my life, if there are opportunities to avoid paying tax legitimately, then I think you have a responsibility to yourself and to the people who are going to benefit from your will to make sure you do that. (Respondent had also set up trust of his own.) (Trustee, Lay, discretionary, Pilot 5)

Some of these settlors resented having to pay via IHT what they believed was a second tax on money they had earned. A trust, for these respondents was their way of avoiding this 'second tax' on wealth for which they had worked hard.

[The reason for setting up the trust was] to try get round inheritance tax. In my view it's one of the most iniquitous taxes there is, unless it's inherited wealth, which in our case it wasn't, it was earned wealth. You've already been taxed on it once and I fail to see the reason why we should pay tax on it again. And it's one of the taxes which I will do all in my power to avoid, to leave as little money as possible to a certain Gordon Brown. (Settlor, discretionary, 1)

When discussing the reasons for setting up trusts, trustees echoed the thoughts expressed by settlors, that is, that while tax planning was part of the motivation, control of the assets into the future was often more important:

Beneficiaries should not be having large sums of money at a young age. That is one of the overriding factors of setting up a trust, to provide for a family and to give trustees flexibility in the future to decide whether now is a good time or not to give young people a large sum of money or not. Of course tax planning is part of it but it isn't and tax should never be the overriding concern. (Trustee, Professional, Mix, 10)

There are always two elements to it. You have got the tax planning side. This client is getting on a bit and obviously he is conscious of his potential liabilities and also the other side is keeping the funds away from the beneficiaries until later in their lives. He has got a slight problem with one of the wives and he doesn't want the family's wealth being dissipated in the event of a break-up. (Trustee, Professional, discretionary, Pilot 6)

No settlors in the in-depth interviews had set up trusts for vulnerable beneficiaries. Section 3.5.4 gives details of examples of vulnerable groups provided by trustees.

Other motivations for setting up trusts are given below, and were isolated examples in the qualitative research:

- A settlor came into a large amount of money from selling land through which a motorway would pass. He took professional advice on how best to invest the money, and financial advisers recommended he set up a trust
- The unexpected death of an adult son whose assets passed to his parents. They did not wish to take possession of his assets (as they saw this as in some way 'benefiting' from a loved

son's death), so instead they set up a trust to benefit their grandchildren – his nephews and nieces.

- A settlor's sudden illness prompted him and his family to consider the future

  We set it up just after my husband had his heart attack because we didn't know what the future held and we decided we would make a will. What we really wanted to do was to protect our interests and our daughters. (Settlor, discretionary, 3)

- A way in which a "rich spinster" could provide for herself in old age, having experienced the difficulties of looking after her own mother. In addition, according to this trustee, the settlor was concerned that she might face "litigation" in the future in relation to "alleged professional negligence", which was an additional influence on the decision to set up the trust. The (professional) trustee declined to give further details about this client.

The extent to which tax played a role, therefore, could vary. On occasion, tax had not been a factor at all in setting up the trusts. In some of these cases, respondents stated that the value of the trust was below the IHT threshold, which in their minds did not make the issue of tax relevant.

> *We didn't think of tax implications at the time. Then inheritance tax was £250,000 so there was no way that would affect us. (Settlor, discretionary, 3)*

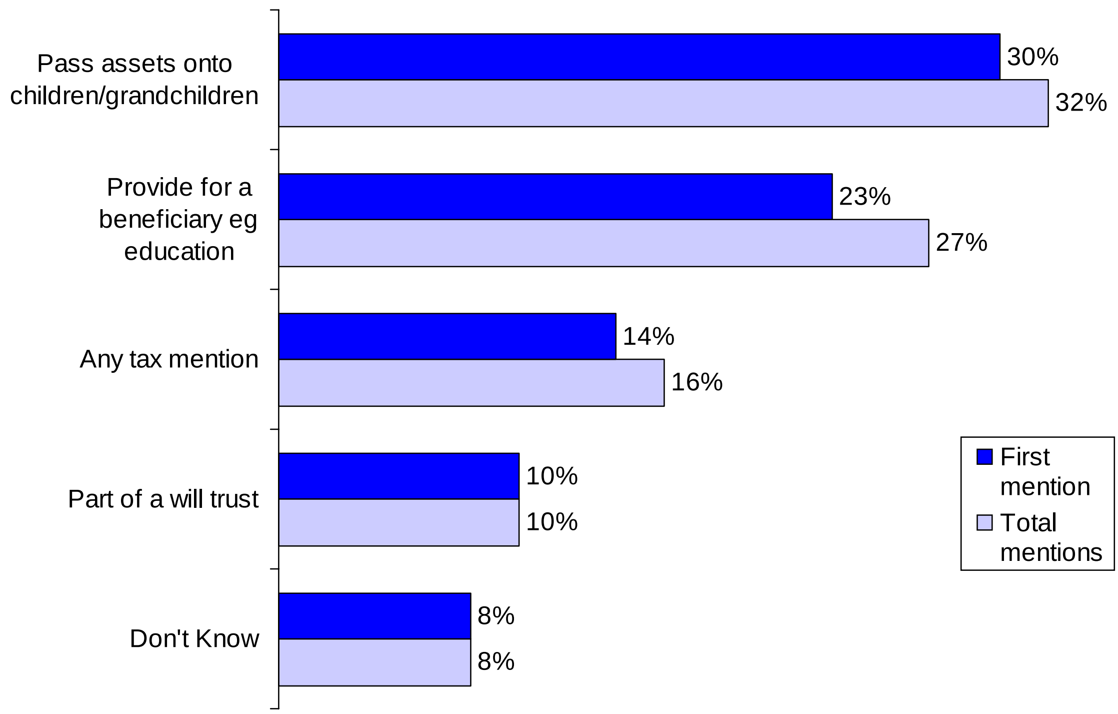
> *It's a really standard non-tax driven trust where the deceased person wanted his widow to benefit from the income and he wanted to preserve the capital for the son. (Trustee, Professional, Life interest, 7)*

The philanthropic uncle

The settlor, who was a bachelor, was anxious to set up a vehicle which would hold predominantly shares in a family controlled company and he wanted to use the trust as the vehicle. He wanted to use the income mainly for charity donations and, to a lesser extent, for his immediate family. In addition to charities, the beneficiaries included a large number of members of his family (nephews, nieces, cousins) and also various employees and ex-employees. The timing might have been tax driven but the reason for setting up the trust was not. He might have waited until he died and done it in his will if it was not for the fact that by doing so he would have been caught by death duties. So to that extent it was tax driven but the settlor wanted to do it anyway.

The survey of trustees findings largely reflected the motivations, which emerged from the qualitative in-depth research for setting up trusts. When trustees in the survey of trustees were asked what they thought the original settlors motivations for setting up the trust might have been, it became clear that tax planning or avoidance was not the main expressed motivation for setting up trusts.

Chart 3.3a: Motivations for setting up trusts – First and Total Mentions



Base All trustees (1100) (multiple responses)
All mentions of 3% or more shown

The answer achieving the highest proportion of responses, as to the motivation for setting up a trust, was to pass assets on to a child or grandchild (32%), or to provide for something specific for the beneficiary, such as an education (27%). Less than one in five (16%) mentioned tax.

Table 3.3.1 shows the motivations for setting up trusts by key groups.

Table 3.3.1: **Original motivation for setting up trusts – Total mentions (percentages)**

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
To pass assets onto children /grandchildren	**32**	33	38	8	29	36	40	32
To provide for a beneficiary e.g. education	**27**	27	30	13	23	32	24	27
Any tax mention	**16**	22	16	10	14	20	18	16
Part of a will trust	**10**	10	6	30	13	6	4	10
Others	**9**	3	8	19	9	8	7	9
Don't know	**8**	8	7	13	10	6	12	8
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
(multiple responses)

Non-professional trustees interviewed were most likely to say the trust had been set up for the purposes of passing assets on to children or grandchildren (38%). High income trusts (40%) and discretionary trusts (36%) were also most likely to have been set up in order to pass assets on to children or grandchildren.

Trusts managed by corporates were, according to the trustee, the most likely to be set up as part of a will trust (30%). The types of trusts most likely to have been set up for tax reasons were those set up with professional trustees (22%) and discretionary trusts (20%), according to respondents.

3.3.4 Role of tax in setting up trusts (survey of trustees)

a. Importance and reasons

When asked if tax was an important factor at the time of setting up the trust 38 per cent of trustees in the survey of trustees stated that it was, and 40 per cent said that it was not an important factor. However, 18 per cent of trustees were unable to answer this question, particularly corporate trustees. A high proportion of trustees managing low/medium income trusts also gave a response of 'don't know' to this question. Excluding the don't knows then, trustees were equally split on whether tax was important at the time of setting up the trust or not. (46% compared with 49%).

Table 3.4.1: Importance of tax at the time of setting up trusts (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Very important	**22**	21	23	19	13	33	32	22
Fairly important	**16**	15	18	3	11	22	20	16
Neither	**4**	3	4	6	4	4	10	4
Not very important	**9**	7	10	7	9	10	9	9
Not at all important	**31**	40	33	19	40	20	16	31
Don't know	**18**	15	12	46	23	12	14	18
IMPORTANT (excluding don't know)	**46**	42	47	41	31	62	60	46
NOT IMPORTANT (excluding don't know)	**49**	55	49	48	64	34	29	49
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
N.B. Figures in top part of table include don't knows, figures in bottom part of table exclude don't knows.

Tax was more likely to be considered an important factor for discretionary trusts (62%) and high income trusts (60%).

Tax was also an important factor for trustees whose trust assets included stocks and shares and other investments, compared with those managing trusts with assets that included cash or property.

Table 3.4.2 shows the importance of tax at the time of setting up the trust among trusts that hold assets in excess of the value of the IHT threshold (£255,000 in 2003/04). Nearly half (49%) of this group say tax was important compared to 38 per cent of all respondents.

Table 3.4.2: Importance of tax at the time of setting up trusts among those trusts with significant assets (assets of £255,000 or more) (percentages)

		Type of trustee responding		Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**IIP**	**Discretionary**	**High**	**Low/med**
IMPORTANT (excluding don't know)	**49**	41	55	40	61	64	46
NOT IMPORTANT (excluding don't know)	**48**	55	43	57	37	28	52
Unweighted total	***306***	*127*	*171*	*156*	*150*	*190*	*99*

Base: All that qualify for the IHT (306)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
N.B. Figures do not sum to 100 as 'neither important nor unimportant' option is excluded from table.

Tax was less likely to be a factor in cases where there is a vulnerable beneficiary (i.e. orphans under 18, and those with a physical or mental disability): 78 per cent not important versus 20 per cent important.

Of those who said tax was an important factor, most (74%) said that Inheritance Tax was of particular importance when the trust was set up.

b. Importance of tax on deciding which type of trust to choose

When asked if tax was an issue in the type of trust which was chosen, less than a third (30%) of trustees in the survey of trustees thought that it was. However, three in ten also felt unable to answer this question. Table 3.4.3 shows the differences among the key groups in the survey of trustees.

Table 3.4.3: Importance of tax in deciding which type of trust to choose (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Very important	**16**	12	18	12	12	21	27	15
Fairly important	**14**	17	14	11	10	19	18	14
Neither	**6**	2	7	6	5	5	8	5
Not very important	**11**	13	10	7	10	11	9	11
Not at all important	**25**	37	23	19	31	19	13	26
Don't know	**29**	20	28	45	32	24	26	29
IMPORTANT (excluding don't know)	**42**	36	44	42	30	53	60	41
NOT IMPORTANT (excluding don't know)	**50**	62	46	47	60	40	30	52
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
N.B. Figures in top part of table include don't knows, figures in bottom part of table exclude don't knows.

Tax was considered more likely to be an important factor in deciding which type of trust to choose amongst non-professional trustees interviewed (44%) relative to professional trustees (36%). It was also thought to be more likely to be important in setting up a discretionary trust (53%) or a high-income trust (60%).

Tax was also an important issue for trusts:

- That had a value of £100,000+ at set up (55%)
- Where the trustee was also a settlor (64%)
- That had assets that included stocks and shares (49%)
- That did not have a vulnerable beneficiary (48%)
- That had two or more beneficiaries (49%)

3.3.5 Deciding on type of trust

The in-depth interviews also looked at how the decision was reached in terms of the choice of type of trust. Settlors generally relied on advice from professional advisers in terms of deciding upon the type of trust. In the main, they felt that they had been given enough information at the time the trust was drawn up, and some stated that they had already known there were different types of trust or at least were aware of the principles of trusts (through reading or hearing about them, through previous trusts set up, or through their professional training).

Probably sufficient [knowledge] but nothing like all. I knew sufficiently what I was getting ourselves into but I didn't know all the intricacies. I must have just scratched the surface of what really is available underneath it all. (Settlor, discretionary, 1)

I knew about trusts and it seemed the best way to protect against inheritance tax and [protect my children's] share of the business . . . I used my company lawyer at the time who is now an old friend of mine. His firm also had a trust specialist working there. I wasn't sure which trust I wanted but I knew what I wanted it to do. (Settlor, discretionary, 25)

Discretionary trusts often appeared familiar to settlors. Respondents who occasionally claimed to be knowledgeable about trusts at the time their own was drawn up associated discretionary trusts with flexibility and control. Some of these were high-income trusts and had been set up by (semi-) professionals.

One of the advantages of a discretionary settlement is you can distribute the money to whoever you want really and you don't have to name them in the settlement deed or anything like that. So that gives you quite a lot of flexibility too. (Settlor, discretionary, 6)

I thought about an off shore trust – but was told it didn't work any more. I thought about an A&M trust but that didn't address the control I wanted. I thought about setting up a type of trust that gave me different powers of discretion but I settled for the one I've got which gives me the maximum amount of control should it be necessary . . . Yes I did consider others and it came down to what I thought was best. (Settlor, discretionary, 22)

Others acknowledged that they were not aware of the different types of trust but did not feel it was necessary for them to have this amount of information. They were happy to trust the professional recommendation of their adviser(s). In addition, they generally felt that they did not know anything now that they would like to have known at the time they set up the trust - they had confidence in the professionals advising them.

It's a huge field and I don't know much about other trusts, and in fact given the vast choice there is whether I've actually done the right thing. But the lawyers think I have so I'm trusting them. (Settlor, discretionary, 15)

It was all solicitor's recommendations. We're ignorant of all these things. (Settlor, A&M, 19)

What was most important was that the trust would enable the settlors to fulfil their requirements.

[I didn't know] a lot. I was fairly OK with it but the mere fact that I could release hard-earned money to children and grandchildren was my prime mover. (Settlor, bare, 20)

I wouldn't say we had a wide knowledge of all the trusts that were available but the advice we had was this discretionary trust might be the answer for us. (Settlor, discretionary, 10)

Examples were given where respondents thought that they perhaps should have known more about trusts at the time: they felt they either should have found out more themselves, or should have been given more information by the professionals responsible for creating the trust. Areas where these respondents had wanted more information were: the tax implications of the trust; guidance on the trustee's role; and complete information on the annual costs associated with running the trust. One respondent - with hindsight - wished that she had obtained written rather than oral responses to her queries. However, these issues were only raised by a small number of respondents.

I'd wish it were much more straightforward simply to understand the implications of tax on the trust which wasn't clear at all and not a topic ever raised . . . We didn't realise there were all these differential tax rates from 10%, 20% etc. The tax side of the trust we didn't understand at all. (Settlor, A&M, 27)

I think I was probably misled on the annual running costs, they've always been much more expensive than I thought. (Settlor, discretionary, 18)

3.3.6 Letter of wishes

Where a trust document gives the trustees very wide powers and discretions, a settlor may provide the trustees with a letter, commonly known as a letter (or memorandum) of wishes. This letter principally sets out the manner in which the settlor wishes the trustees to exercise their powers and discretions, but is not binding on the trustees. All binding requirements must be contained in the trust document.

It should be noted that for interest in possession trusts the trustees do not have any discretion over what happens to the income of the trust (it belongs to the beneficiary as it arises), but may still have discretion over which investments to place the trust funds in and hence the amount of income the trust generates.

Some respondents in the in-depth interviews thought that a letter of wishes had been drafted for the trust, although they could not remember what the letter contained. More commonly respondents believed that no letter existed. Where respondents were able to remember elements of the contents of the letters, they stated that they outlined the reasons for setting up the trust, and how it should be used, for example how an estate should be divided between the beneficiaries.

I think the lawyer advised us; he felt that it would be better that there was something in writing - so that if anything happened to both of us and he was left as the sole trustee - as to what to do with the funds. (Settlor, discretionary, 1)

I had a particular desire that [my daughter] doesn't get the capital until she's about 30 because I've seen a lot of people, including my husband, blow their trust money at 21; it's a very common scenario. (Settlor, A&M, 26)

The memorandum would have gone on to say how when they have both died the estate should be divided between the children or the Trust should be wound up and divided between the children if it is going to be wound up at all. (Trustee, Professional, discretionary, Pilot 4)

Reasons for not having a letter of wishes included the following points:

- According to a few professional trustee respondents, it was something they had tried unsuccessfully to address with the settlor; they felt that a letter of wishes provided clarification, and would guard against difficult decisions in the future were the settlor / other trustees to die. Although seen as desirable by these professional trustees, it was clear from the in-depth interviews that a letter of wishes often did not exist.

  For many years I tried to get him to do it and he never did and he then died. I have got ideas from discussions with him as to what he wanted done but I have to rely on my recollections of his verbal wishes rather than written wishes. (Trustee, Professional, Mixed, Pilot 3)

It should have [a letter of wishes] but it doesn't in the sense that had there been another grandchild then we should have put one in place; the fact there was only one [grandchild] and the fact the settlor is still alive means we've all been very lazy. . . . We're looking for guidance from the letter of wishes [which they have not written yet]; the one thing I would hate is that I was the only trustee remaining and no one had told me what to do and I then had to make some decisions. (Trustee, Professional, discretionary, 9)

- The will made it clear what was to happen with the funds

There wasn't a letter of wishes as such but the will said my mother wanted my father to be the main beneficiary during his life. (Trustee, Professional, discretionary, 11)

- Unofficial documents stating the settlor's wishes had been placed with the trust Deed over time by the settlor. The example provided below gives an idea of the kind of views that trustees may have to take into consideration:

He said that if anybody became involved with the theatre they weren't to benefit at all. He was a very strict Victorian sort of person who strongly disagreed with anything theatrical, so if any of the grandchildren were involved in anything theatrical they wouldn't benefit. (Trustee, Professional, discretionary, 8)

- The settlor was still very much active in deciding what to do with the trust (discretionary)

I presume [there's no letter] because he is still active in deciding what essentially happens within the trust. While I am a trustee, obviously I look to see what he is doing and at the moment he is just paying school fees for his grandchildren so I don't have a problem with it. (Trustee, Professional, discretionary, Pilot 6)

- There was no need because all parties (settlor and trustees) had been involved in the set-up discussions and knew the settlor's wishes
- The Deed contained all the necessary information.

We had a meeting where I expressed what I needed, [the lawyers] drew up a draft [Deed] and they expressed that in the draft and then we had another meeting to discuss that. (Settlor, discretionary, 22)

The very small number of corporate trustees interviewed for this study strongly recommended (and in often cases insisted upon) a letter of wishes being drafted for every trust. For them, the letter could often be their only guidance as to the settlor's intentions in setting up the trust. As they were often the only trustee, they felt a strong need to have more than just the trust Deed, particularly for the time after the settlor's death.

> *Absolutely, [we recommend a letter of wishes] because that is our guidance, as trustees, as to what the settlor actually wants, as to whether the intention is to use it for school fees. If it is potentially a tax planning type of thing for inheritance tax, we are very keen to actually stress: 'Anything that you do put into trust, unless you retain an interest in the trust then you have got absolutely no call on it at all as a settlor but it has the advantage that doing that makes sure you strip it out of your estate for inheritance tax purposes as well. We can be guided by what you want but it doesn't necessarily mean as trustees we will follow that but obviously we don't know the family as well as you do in terms of what you want'. (Corporate, 1)*

The survey of trustees showed that the more recently the trust was set up, the more likely it was to have a letter of wishes, for example, 28% of trusts set up between 2000 and 2002 had a letter of wishes whereas only 15% of those drawn up between 1985 and 1994 included a letter.

As a reflection of this finding, the point was made in the qualitative in-depth individual interviews that a letter of wishes might not have been used so regularly in the past, with trustees instead relying on assumptions, but that it was becoming more common practice to include a memorandum.

> *I think the legal profession has been very good in making sure there are letters of wishes, whereas previously it was implicitly known. A letter of wishes is putting colour into what otherwise would be a very black and white statement. (Trustee, Professional, Life Interest, 7)*

Even so, just as trusts discussed in the individual in-depth interviews often did not have a letter of wishes, according to the respondents, so it was that, in most cases (73%) in the quantitative survey, there was no letter of wishes at the time the trust was set up. Table 3.6.1 shows the differences between key segments.

Table 3.6.1: Whether a letter of wishes was written by key segments (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Yes	**18**	14	19	17	11	25	20	18
No	**73**	81	68	82	80	65	70	73
Don't know	**9**	5	13	1	9	10	10	9
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base: All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

A letter of wishes was most likely to be written for discretionary trusts (25%).There were no real differences between income levels of trusts.

3.3.7 Length of time trust had been set up

When asked 'In what year was this trust set up?' it is possible to see from table 3.6.1 that over half of trusts (54%) in the survey were set up between 1985 and 1999. Less than one in ten trusts were set up earlier than 1960 (8%), this is possibly due to trusts set up at this time being wound up.

Table 3.7.1: **Year trust was set up by key segments (percentages)**

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
2000-2002	**13**	8	16	7	11	16	6	13
1995 – 1999	**27**	23	30	19	20	34	24	27
1985 -1994	**27**	28	30	13	20	35	30	26
1975 - 1984	**11**	10	9	19	14	7	10	11
1960 - 1974	**11**	17	7	19	18	4	16	11
Earlier than 1960	**8**	5	5	23	13	1	10	8
Don't know	**3**	8	2	0	3	3	4	3
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base All trustees (1100)
**High income – greater than £35,000, Low/med –less than or equal to £35,000*

In terms of trust type, discretionary trusts were more likely to have been set up after 1985 (85%), compared with interest in possession trusts (51%) in the survey.

Before 1985 there was a higher proportion of interest in possession trust set up (45%) than discretionary trusts (12%).

Prior to 1985 a higher proportion of trusts were set up which were managed by corporate trustees (61%). However, post 1985 saw more trusts set up which were managed by non-professional trustees only (76%).

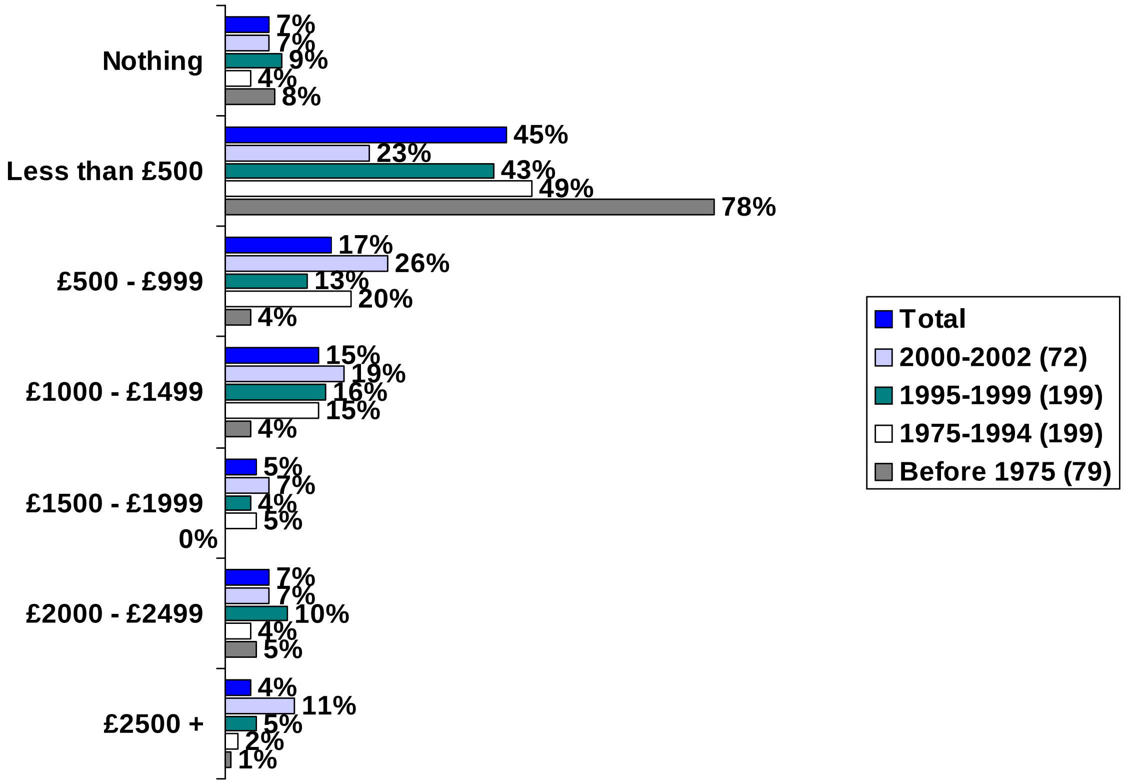
3.3.8 Costs of setting up trusts

In the survey of trustees, trustees were asked approximately how much it cost initially to set up the trust. Half of trustees (49%) did not know how much the trust cost to set up. Awareness of set up costs was higher amongst those trustees who were also a settlor; two-thirds of these trustees were able to say how much the trust cost to set up. As would be expected, trusts set up a long time ago had a much higher proportion of non-response for this question.

Chart 3.8a below shows the costs provided by trustees for setting up trusts by the period in which the trust was set-up. A quarter of trustees claimed that trusts set up between 2000-2002 cost less than £500 compared with over two-fifths in the previous five years (1995-1999). Over three-quarters of trustees claimed trusts set up prior to 1975 cost less than £500.

One in ten trustees claimed trusts set up in the most recent years (2000-2004) had cost more than £2,500.

Chart 3.8a: Cost of setting up trusts



Base All trustees excluding don't knows (549)

In the in-depth interviews with settlors and trustees respondents, who were able to, gave a wide range of figures for the costs involved in setting up a trust. In the main, however, costs were thought to be below £2,000. It should be noted that the trusts discussed in the in-depth interviews tended to be of a higher value than those covered in the quantitative stage. These costs covered accountancy and legal fees, although it was difficult for respondents to separate out the costs precisely. On occasion, respondents pointed out that the cost was buried amongst many other non-trust related tasks the lawyer / solicitor / accountant was undertaking.

> *I couldn't give you that figure because the solicitor was dealing with 101 other things as well. It was in his bill. I suppose if I fished the bill out I could probably separate it out but it would be quite difficult and I certainly never identified it at the time. (Settlor, discretionary, 8)*

The more complex the trust and larger the value, the greater the set-up costs tended to be.

I can't really but I guess the set up costs are something like £30,000 to £40,000; . . . I would think 75% of the fee was [name of firm] and 25% for the offshore in Guernsey. (Set up value £1m, Settlor, discretionary, 18)

Occasionally, financial advice on investments was given as part of this cost, or, for example, the cost of having a property valued that was to go into the trust.

£1,500 in lawyer's fees. . . £600 or £700 to have property valued by an independent valuer which was the basis of the valuation agreed with HMRC. (Settlor, discretionary, 15)

Both types of respondent in the in-depth interviews felt that the set up costs were, on the whole, quite reasonable.

I've forgotten [the exact amount], but it wasn't as much as I expected, it was actually a pleasant surprise. (Settlor, A&M, 14)

Yes, we were told what the costs would be. We've dealt with the firm over a long period of time and felt confident. I don't know whether we could have chased around and gone to other people. We were told at the first interview, which was free of charge, they told us what the charge would be per hour subsequent and because of our confidence in the man and the firm itself we were okay with that. (Settlor, A&M, 24)

3.3.9 Changes over time

For the most part, respondents in the in-depth interviews for whom the question was relevant did not think that set-up costs had changed significantly over time, although views differed slightly in relation to annual costs, discussed later in this report (section 3.8.6).

It's a very competitive business. Their standard charge for looking after a trust is about 0.6% and that's not likely to change. (Settlor, discretionary, 6)

In terms of cost differences over time, in the survey of trustees the median cost of trusts set up between 2000-2002 was £850 compared to £500 for those trusts set up between 1985-1994. Earlier trusts had very high levels of non-response.

The survey of trustees also found that tax had become increasingly important when setting up trusts, especially for those set up after 1975. One fifth (19%) mentioned tax unprompted as the original motivation for setting up the trust compared with only five per cent who mentioned this for trusts set up before 1975.

This trend becomes more evident when respondents are specifically asked about the importance of tax in the decision to set up the trust. Tax was considered an important factor for approximately a quarter of trustees managing trusts set up between 1960-1974 and able to provide a response. This percentage gradually increases to 48 per cent for trusts set up between 2000 – 2002.

A high proportion of trustees of trusts set up prior to 1975 were unable to provide a response to this question, as they were unaware of the original reasons for setting up the trust. However, when looking at the overall responses, just 15 per cent claimed tax was important, 41 per cent unimportant and 37 per cent could not answer, which therefore indicates that where they could answer they were most likely to say tax was unimportant.

3.4 Settlors

3.4.1 Key findings

- **Most trusts (85%) had one settlor, as found in the survey of trustees and supported by the in-depth interviews. A small number had two, often husband and wife**
- **Over half of trusts (57%) in the survey of trustees had no settlors who were still alive**
- **Non-professional trustees tended to be family members, or close family friends**

The in-depth research found that:

- **The level of settlors' influence over the running of trusts varied, from none at all, to undertaking all aspects of the management**
- **Nearly all the settlors claimed that setting up the trust had been quite straightforward because they had received professional advice, with which they were satisfied**
- **Most settlors were also trustees for the trust they set up**
- **Settlors who took part in the research were mostly aged 50+ and retired.**

The survey of trustees:

- **Found a very similar demographic profile amongst the 14 per cent of trustees who were also settlors**
- **Two fifths of settlors (40%) managed a trust where the value at set-up was £100,000 or more, which was a higher proportion than for the rest of the trustees. However, this is likely to be a result of these trusts being set up later, given that many settlors are no longer alive.**

Please see section 2 for details of the robustness of results and likely problems due to response bias. All charts and tables are based on weighted data, unless otherwise stated.

3.4.2 Number of settlors

In the individual in-depth interviews, each trust tended to have only one settlor, but there were some which had two, usually husband and wife. Occasionally, respondents mixed up the terms settlor and trustee. Some were not initially familiar with the word 'settlor', but had been reminded of the term when looking at trust documents in preparation for the interview.

In the survey of trustees, trustees were asked ‘How many people put assets into this trust when the trust was set up?’.

Most trusts (85%) had one settlor, and 13 per cent had two settlors. In over half the cases (57%) none of the settlors are still alive. Corporate trustees were more likely to be managing a trust on behalf of a deceased settlor (79%).

From the perspective of type of trustee, the number of people who had put assets into the trust when the trust was set up was as follows:

- 99 per cent of trusts with only professional trustees had one settlor
- 78 per cent of trusts with only non-professional trustees had one settlor, and 18 per cent had two settlors
- 87 per cent of trusts with a mix of professional and non-professional trustees had one settlor and 11 per cent had two settlors.

Using ‘type of trust (from sample)’ as a basis for comparison, the breakdown, by number of people who had put assets into the trust at set up, was as follows:

- Interest in possession – 88 per cent had one settlor, and 8 per cent had two settlors
- Discretionary – 82 per cent had one settlor, and 17 per cent had two settlors.

Using ‘income level’ (from sample) as a basis for comparison, the breakdown by the number of people who had put assets into the trust at set up is as follows:

- High income – 80 per cent had one settlor, and 17 per cent had two settlors
- Low/Med income – 85 per cent had one settlor, and 12 per cent had two settlors.

3.4.3 Relationship to trustee

Settlors in the in-depth interviews chose as trustees people in whom they had complete confidence and trust. They more often than not included a professional amongst the trustees, for example an accountant or solicitor who might also have been responsible for setting up the trust. Settlors saw these individuals as providing an impartial view on the trust as well as professional judgements and guidance in managing the trust. In some cases, the relationship between the settlor and professional trustee was a longstanding friendship.

I chose my accountant and my lawyer at the time. Both of them were old friends and I trusted them. My accountant is now dead and so the finance manager of my company is now a trustee. I chose him because he knows me and the business better than anyone. (Settlor, discretionary, two trustees, 25)

[Our lawyer is included as a trustee] In case anything happens, because my wife and I travel on holidays and if something happens, there is one person left who's independent from the family who can administer the trust in the event of our death. (Settlor, discretionary, 1)

Some settlors named (lay) family friends as trustees because they felt that it was vital that a trustee should know the family well but still be able to maintain impartiality if the need arose.

I could guarantee that he was straight down the middle, a loyal and trusted friend. (Settlor, discretionary, three trustees: settlor, wife, friend, 10)

[My godson has] a basic knowledge as acquired in his Bar final examinations . . . He's out of the family so he wouldn't be gunning for one daughter over the other. He's impartial. (Settlor, A&M, two trustees: wife and godson, 5)

In the in-depth interviews, settlors in the main claimed also to be trustees for the trust they set up. Although they did not make the point at this stage of the discussion, some of these trusts were discretionary, allowing the settlor to maintain some control over their assets.

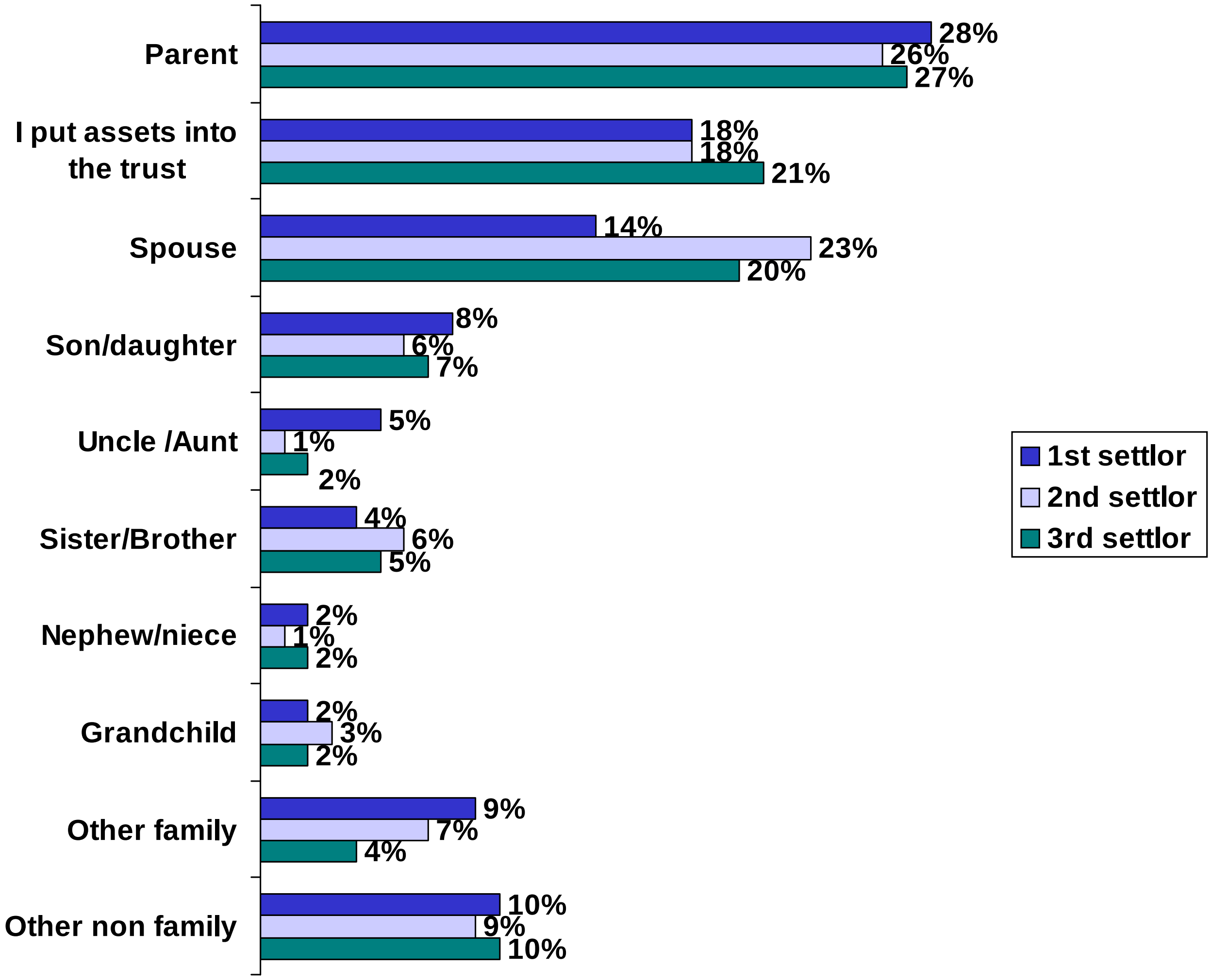
Family members were frequently included as trustees because, settlors thought, they knew the family best and would be able to make the right decisions as and when necessary.

At the time [the trust was set up, my sister - and trustee -] was very close to [my sons]. We're reasonably close. She would have inherited some of that money if the boys hadn't got it. She was family and she was my only sister. . . . I felt she would know whether the boys' needs are genuine or not. (Settlor, discretionary, 17)

The survey of trustees approached the relationship issue from the point of view of all non-professional trustees. They were asked 'What, if any, is your relationship to the people who first put assets into the trust?', in the context of the first, second and third settlors respectively.

Chart 4.3a shows the most frequently occurring relationships between non-professional trustees and the various settlors - first, second and third.

Chart 4.3a: Relationship of Settlors to Trustees



Base: All non-professional trustees (701): 1st settlor (651), 2nd settlor (266), 3rd settlor (201)

28 per cent identified the first person who put assets into the trust (i.e. the settlor) as their parent. A further eight per cent describe this person as being their son / daughter. Given it is more common for parents to set up trusts for their offspring than vice versa, it is highly likely that these respondents have misunderstood the question and are describing their own relationship to the settlor (son/daughter) rather than the settlor's relationship to them (parent).

In terms of the relationship between settlors and trustees, there are no noteworthy differences in relation to types of trustee, types of trust or income level.

In order to determine which individual/s have influence over the use and management of the trust, trustees were first asked the question 'How many of the people who have put assets into the trust are still alive?'.

Table 4.3.1: Number of settlors who are still alive (percentages)

		Type of trustee responding			Type of Trust		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
None	**57**	67	49	79	67	44	51	57
1	**30**	23	35	15	24	37	33	29
2	**10**	3	13	5	6	14	14	10
3	**1**	2	1	0	1	1	1	1
Don't know	**2**	5	2	2	2	3	1	2
Unweighted Total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

Fifty seven per cent of trustees replied that no person who had put assets into the trusts was still alive. The next largest group of trustees were those where one person who had put assets into the trust was still living (30%), followed by those with two people still living (10%).

In cases where none of those placing assets into the trust were still alive, the proportion of professional and corporate trustees managing the trust is much higher.

Most non-professional trustees were related to the settlor in some way. In a fifth of cases (20%) the trustee was also a settlor.

3.4.4 Level of influence of settlors in running trust

Settlors in the qualitative in-depth research were happy with the extent of their influence in running the trust. Settlors who were also trustees tended to have some involvement with the trust. At the less influential end, this could consist of "keeping an eye" on the trust, for example the performance of investments. Those more actively involved concerned themselves with tasks such as administration (e.g. record-keeping), or dealing with the maintenance of a property held in the trust. Some settlors (who were also trustees) made decisions relating to paying out income to beneficiaries.

I send the quarterly payment slips to [the professional trustee's] office and it's filed away and I also send the copies of bank statements of the trust's bank account so they can follow what's going on, on a quarterly basis. (Settlor and trustee, Lay, discretionary, 8)

Settlors were occasionally involved in all aspects of managing the trust, especially if they were professionals themselves.

I keep copies of all bank statements and all contract notes and at the end of each year I do a tax return and distribute the income. I do it all myself, I don't use an accountant at all. (Settlor and trustee, Professional, A&M, 13)

In contrast, there were some settlors, who were also trustees, who claimed to have very little involvement with the trust because there was nothing for them to do.

We do very little: we open an envelope each month and see how much is in it. That's all we do. Obviously in the future, if money is to be distributed, it's our responsibility to decide how it is distributed and how much. (Settlor and trustee, Lay, A&M,19)

The settlors who were not trustees either had no involvement in running the trust or else still managed to undertake certain tasks, e.g. distributing income or managing investment portfolios.

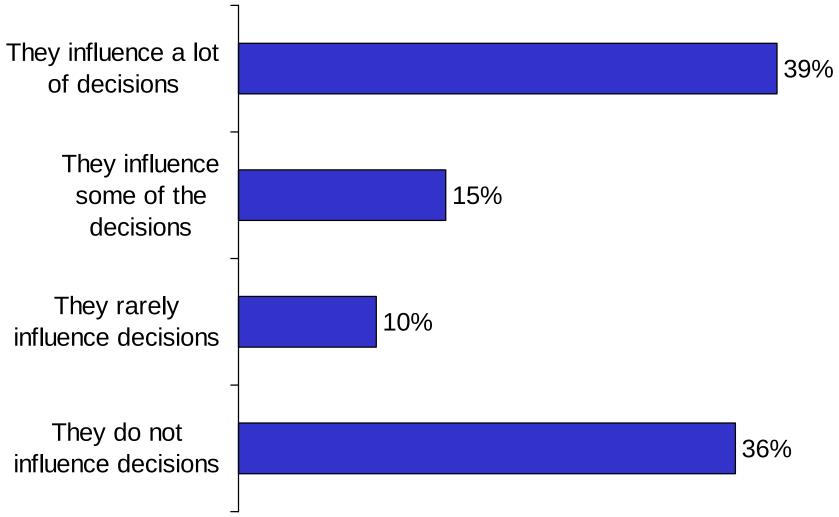
We don't do anything, it's just there, [the tax return] is the only thing we've been involved in and we don't get that anymore. (Settlor, discretionary, 3)

These different levels of settlor involvement were reflected by the views of trustees taking part in the in-depth interviews: where the settlor was also a trustee, their influence was thought to be greater, while settlors who were not trustees usually had less influence, e.g. occasionally making suggestions as to how money might be used. Some settlors of trusts discussed by trustees had died.

> ***Role reversal: an active settlor with an inactive trustee***
>
> This chartered accountant explained that, technically, his role as trustee was to ensure that the funds are administered in accordance with the trust deed. However, to all intents and purposes this trust was managed by the settlor, a retired engineer, who was *not* a trustee. The settlor looked after the investments and kept all records. The professional trustee explained that he would not have accepted the trusteeship if he had not had confidence that the settlor would manage the trust properly because he acknowledged that ultimately the responsibility lay with him. In addition, he did not want to become involved with "fiddling about writing cheques for school fees". He therefore met with the settlor every quarter to discuss the trust (as well as other financial issues).

According to trustees in the survey of trustees, 66 per cent of settlors who were still alive had at least occasional influence, and of these over half (54%) had a lot or some influence over decisions.

Chart 4.4a: Level of influence of settlors in running trust



Base: All trustees where at least one settlor is still alive (484)

In keeping with the in-depth interview findings, settlors most likely to have some or a lot of influence over the running of the trust were those who were also a trustee (66%) or a trustee and beneficiary (71%).

Table 4.4.1 shows 'influence' in decision-making in the management of trusts where some settlors are still alive, cross-tabulated with 'type of trustee', 'type of trust' and 'income level'.

Table 4.4.1 Influence of settlors by type of trustee/type of trust and income level (percentages)

		Type of trustee responding		Type of trust		Income level*	
	Total	**Prof**	**Non-prof**	**IIP**	**Discretionary**	**High**	**Low/med**
Yes, they influence a lot of decisions	**39**	32	42	38	40	32	39
Yes, they influence some decisions	**15**	18	15	14	16	21	15
Yes, but rarely	**10**	10	10	12	7	9	10
No influence	**36**	37	33	35	36	38	36
Don't know	**	2	0	1	0	0	**
Unweighted Total	***484***	*107*	*362*	*176*	*306*	*179*	*305*

Base: All trustees where at least one settlor is still alive (484)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
***** = less than 0.5%***

The degree of influence exercised by settlors did not vary substantially on the basis of trust type. Irrespective of whether the trust type was interest in possession or discretionary, similar proportions of settlors were thought to exert 'a lot' of influence (38% and 40% respectively) or 'some' influence (14% and 16% respectively) in the survey of trustees.

There was no substantial variation in the degree of influence exerted over trust management on the basis of income level. The proportions of settlors exerting no influence are very similar across the two income level measures – 38 per cent for high income and 36 per cent for low/medium income (up to £35k). In keeping with this, the combined totals for exerting influence over either 'some' or 'a lot of decisions' are 53 per cent for high income and 54 per cent for low/medium income.

3.4.5 Difficulties experienced by settlors

Overall, settlors in the in-depth interviews thought that setting up the trust had been quite straightforward because they had received professional advice, with which they were satisfied.

> *Easy, you just go to a good lawyer who knows about trusts; I wouldn't go to a general solicitor, I would go to a specialist . . . and they do it for you. The actual settlor doesn't need any brainpower. (Settlor, A&M, 4)*

[The company I use] are very practised at it. I had good advice. It might have been more tricky if I had been doing this through a small time country solicitor. (Settlor, discretionary, 6)

Similarly, they thought overall that they had experienced no difficulties related to being a settlor. The following issues were mentioned on occasion, but tended to be isolated cases and not a significant difficulty for the respondent:

- Taking the decision in the first place (whether or not it would be of benefit; having to 'sign over' own assets to the trust)
- Understanding exactly how the different types of trust worked, when this was explained by a professional
- The complexities involved in valuing a property for a trust
- The unexpectedly high costs of managing the trust
- Concern over the perception that the beneficiaries could, if they wanted to, alter the terms of the trust
- Having to deal with complex, foreign tax legislation when assets included property overseas (a house in France)
- Losing the original trust Deed, which meant that, for example, shares could not be sold (the bank would not accept a photocopy of the Deed)
- Removing an elderly trustee, who is also a beneficiary, because she was not acting in the interests of the trust

The real problem is my mother-in-law is a trustee; she's a very difficult woman . . . and there is no way that anybody can get her off as a trustee because she's a beneficiary; the law is the beneficiaries can remove a trustee, but it has to be all the beneficiaries so if you are a beneficiary you can block it. She sold the house without telling the other trustees. . . . We're stuck with a woman who's barking mad. (Settlor, A&M, 26)

- A few settlors who were also trustees complained that the tax return forms were difficult to understand.

3.4.6 Demographic profile of settlors

Settlors who took part in the in-depth interviews were mainly aged 50+ (often they were in their 70s and the oldest was 91 years old), and retired. The types of job they had previously held included: chartered accountant; company owner; engineer; banker; stockbroker. In general, settlors had set up either one or two trusts, and few of those taking part in the in-depth interviews had plans for further trusts. Some had appointed at least one professional trustee for their trust. (*It should be remembered here that qualitative research does not provide a representative sample and that therefore this demographic information from the in-depth interviews should not be used to make generalisations.)*

Trustees in the survey of trustees were asked whether they themselves had put assets into the trust, and 14 per cent of the total sample did, in fact, claim to be a settlor.

It should be noted that the quantitative sample of settlors interviewed for the study may not be representative of the total population of settlors, given that they are also trustees. Both their demographic profile and their opinions may well differ from those settlors who have no trustee responsibilities, although with no research data to either back this up or disprove, there is no way of knowing whether this is a correct assumption. However, it is interesting to analyse their demographic profile.

Table 4.6.1 shows the demographic profile of settlors by key attributes collected in the study.

Table 4.6.1 Demographic profile of settlors (percentages)

Age		**Social Grade**		**Gender**	
Under 44	4	AB	65	Male	80
45-54	15	C1	23	Female	20
55-64	27	C2	6		
65-74	33	DE	4		
75+	22				
Unweighted total	***159***	*Unweighted total*	***159***	*Unweighted total*	***159***

Base: All settlors(159)

Settlors interviewed were most likely to be:

- Over 55 years (82%)
- Male (80%)
- AB social grade (65%).

Only four per cent of settlors were under 44 years of age, and just under a quarter were 75 or older (22%).

In terms of social grade, just one in ten settlors were classified as C2DE social grades, according to the occupation of the chief wage earner in the household.

97 per cent of these settlors had children and three-fifths (60%) had grandchildren. This is reflected in the relationship of settlors to beneficiaries, in that trusts managed and set up by these respondents were far more likely to have children and grandchildren as beneficiaries than other trusts surveyed.

Half of settlors (50%), who were also trustees, were educated to degree level or higher (degree or post graduate degree).

The value of the trust at set up was higher amongst this group of respondents (those who were both settlor and trustee) than where the respondent was a trustee only. Two-fifths of the settlors (40%) interviewed in the survey of trustees managed a trust where the value at set up was £100,000 or more compared with 28 per cent amongst the rest of trustees.

Tax planning was considered a more important reason for setting up a trust amongst settlors who were also trustees, compared with other trustees. Nearly two-thirds of these settlors (63%) claimed that tax planning was very or fairly important when setting up the trust relative to a third (31%) of trustees who had not put assets into the trust. It is reasonable to assume (as was found to be the case in the qualitative in-depth research) that settlors have a greater awareness of the reasons for setting up a trust than trustees.

3.5 Beneficiaries

3.5.1 Key findings

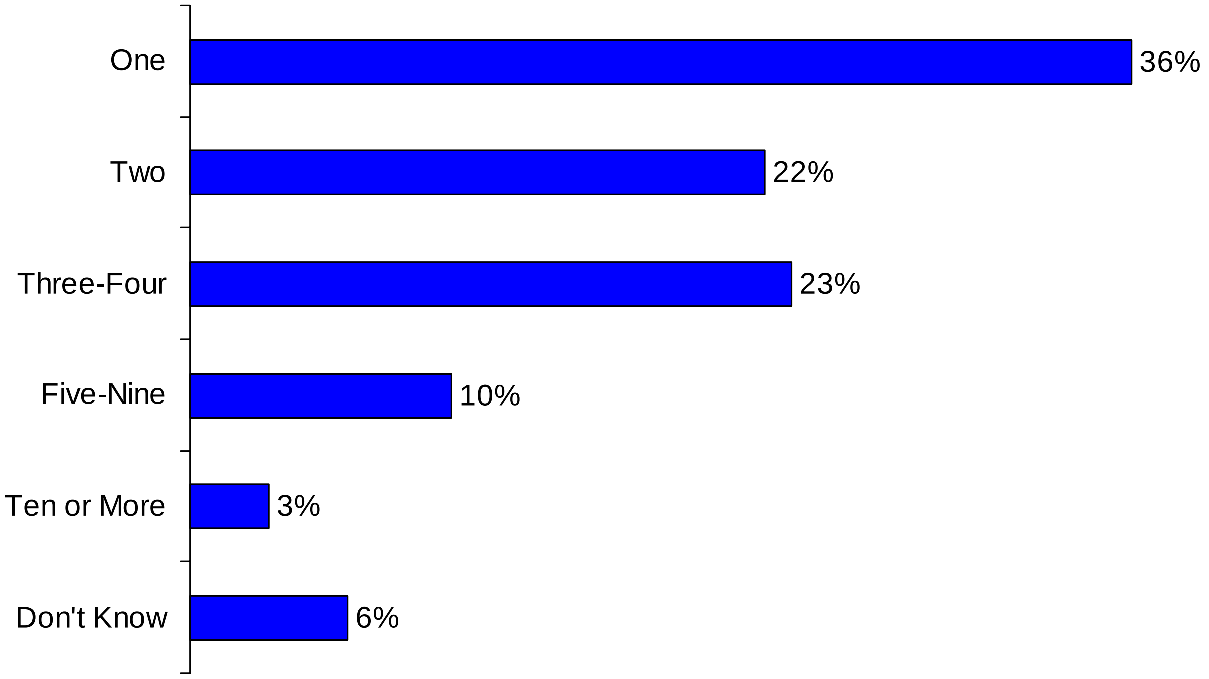
- **The majority of trusts had relatively few beneficiaries: over half (58%) had just one or two as found in the survey of trustees**
- **16 per cent of non-professional trustees interviewed in the main survey were also a beneficiary**
- **The main beneficiaries were either the children or grandchildren of the settlor**
- **A quarter of respondents (26%) in the survey of trustees considered at least one of their beneficiaries to be 'vulnerable', although less than one fifth of beneficiaries (15%) would be considered vulnerable according to the HMRC definition (see 3.5.4)**
- **A wide range of 'vulnerable' categories were described by those taking part in both types of research including:**
    - **People with a mental or physical disability**
    - **The elderly**
    - **People with drug addictions**
    - **Those suffering from chronic illness**
    - **People who were unreliable with money**
    - **Orphans**
    - **Abused children**
    - **All children under 18**
- **Approximately three quarters of trustees claimed that beneficiaries exerted no influence over the running of the trust**
- **The qualitative in-depth research suggests that the younger the beneficiary, the less influence is exerted**
- **A quarter of trusts in the survey of trustees were set up to pass assets on to the beneficiaries when they reached a specific age**

Please see section 2 for details of the robustness of results and likely problems due to response bias. All charts and tables are based on weighted data, unless otherwise stated.

3.5.2 Numbers of beneficiaries

In the survey of trustees, trustees were asked how many beneficiaries there were for the named trust.

Chart 5.2a: Number of beneficiaries



Base: All trustees (1100)

The majority of trusts had relatively few beneficiaries. Over half (58%) of trusts had just one or two beneficiaries. The mid point of all answers (median response) was two beneficiaries per trust, although it is interesting to note that the average number of beneficiaries was seven, indicating that some of the trustees interviewed are managing trusts for a large number of beneficiaries. Examples of the numbers of beneficiaries mentioned in the in-depth interviews ranged from one to 18.

Interest in possession trusts were more likely to have a smaller number of beneficiaries compared with discretionary trusts. Two thirds (67%) of trustees managing interest in possession trusts had one or two beneficiaries relative to 47 per cent of discretionary trusts.

Table 5.2.1 shows the number of beneficiaries in trusts overall, by type of trustee, type of trust and income level.

Table 5.2.1: Number of Beneficiaries by key segments (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
1	**36**	39	33	47	45	25	23	37
2	**22**	18	25	15	22	22	21	22
3-4	**23**	22	23	23	20	26	27	23
5-9	**10**	9	11	7	6	14	16	9
10-14	**2**	2	2	-	1	3	4	2
15-19	**-**	-	-	1	1	-	1	-
20 or more	**1**	2	1	-	-	2	4	1
Don't know	**6**	9	5	6	5	8	5	7
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base: All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

The proportion of single beneficiary trusts was highest in the context of corporate trustees (47%). Trusts managed solely by professional trustees were more likely to only have one beneficiary compared with those trust managed only by non-professional trustees (46% compared with 35%). Interestingly those trusts with a mix of professional and non-professional trustees were the least likely to have only beneficiary (25%).

3.5.3 Relationship to settlors/trustees

The main beneficiaries in the in-depth interviews were generally either the settlors' children or grandchildren. On occasion, the nephews and nieces of the settlor were the named beneficiaries and, in a few other cases, more distant relatives and friends (although these were nearly always given a lesser priority than immediate family members). The number of children named as beneficiaries in any one trust ranged from one to five, grandchildren two to 18, and nieces and nephews six to eight.

In several cases, respondents stated that the beneficiaries were not specifically named; instead the definition of beneficiary was extended to include anybody in the settlor's 'bloodline'.

It mentions my [four] children but not individually. It's for anybody in our bloodline [wife is a settlor as well]. It's my children or anybody, grandchildren. It's fairly wide and it's at my discretion. It could be my parents or my brother. (Settlor, discretionary, 23)

Some settlors named beneficiaries beyond the immediate family (in the possible event of premature deaths of close relatives), for example, the accountant.

The main beneficiaries are the children, grandchildren and descendants of [the settlor]. He also put in quite a few named people who were to have benefited had the children been wiped out. These include his accountant who he wanted to put in but later never wanted him to benefit. So there are a number of oddbods who haven't been beneficiaries but who have been named as such. (Trustee, Professional, discretionary, 8)

In the case of an elderly lady without close relatives, the settlor and the beneficiary were the same person - the elderly lady herself.

In the in-depth interviews, settlors were often also trustees, so the relationship between beneficiaries and trustees was the same as between beneficiaries and settlors. In some instances, especially where grandparents were the settlors, and their grandchildren the beneficiaries, the parents of the latter were the trustees. Other relationships included:

- Aunt/uncle as trustees and nieces/nephews as beneficiaries
- Godparents as trustees and godchildren as beneficiaries.

The survey of trustees looked at the topic of the relationship of beneficiaries to a) settlors, and b) trustees.

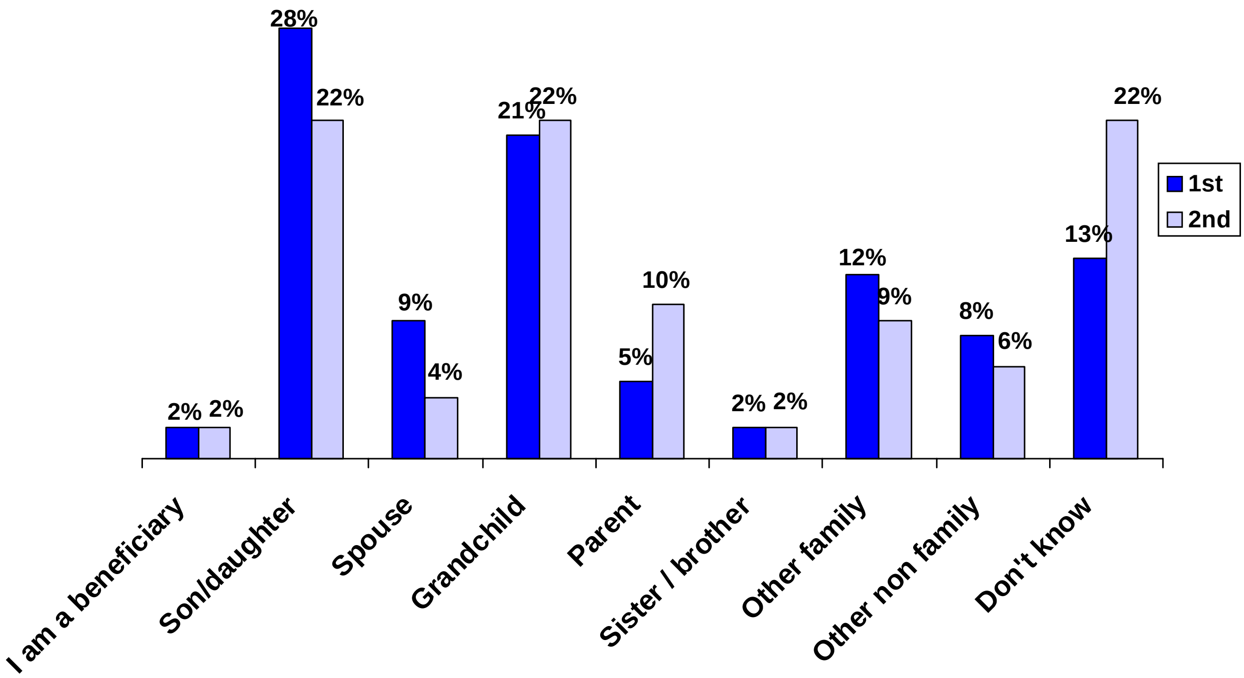
a) Settlors

A frequently occurring situation was one in which trusts had been set up by parents for the benefit of their children, which was in keeping with the findings from the in-depth interviews. Following this, the most common relationship in the survey of trustees was where grandparents were settlors and had set up trusts for grandchildren.

Overall, including first, second and third beneficiaries, the most common relationship between beneficiary and settlor was between sons/daughters as beneficiaries, and parents as settlors. The next most frequently occurring relationship between beneficiary and settlor, was between grandchild as beneficiaries and grandparent as settlor.

Approximately a quarter of trustees (28%) cited son or daughter as the relationship of beneficiary to settlor for the first beneficiary and a fifth (22%) stated grandchild. If the trust had more than one beneficiary the relationship also tends to be a family relationship, however if there are three beneficiaries the third beneficiary was more likely to be 'non family'.

Chart 5.3a: Relationship between beneficiary and settlor



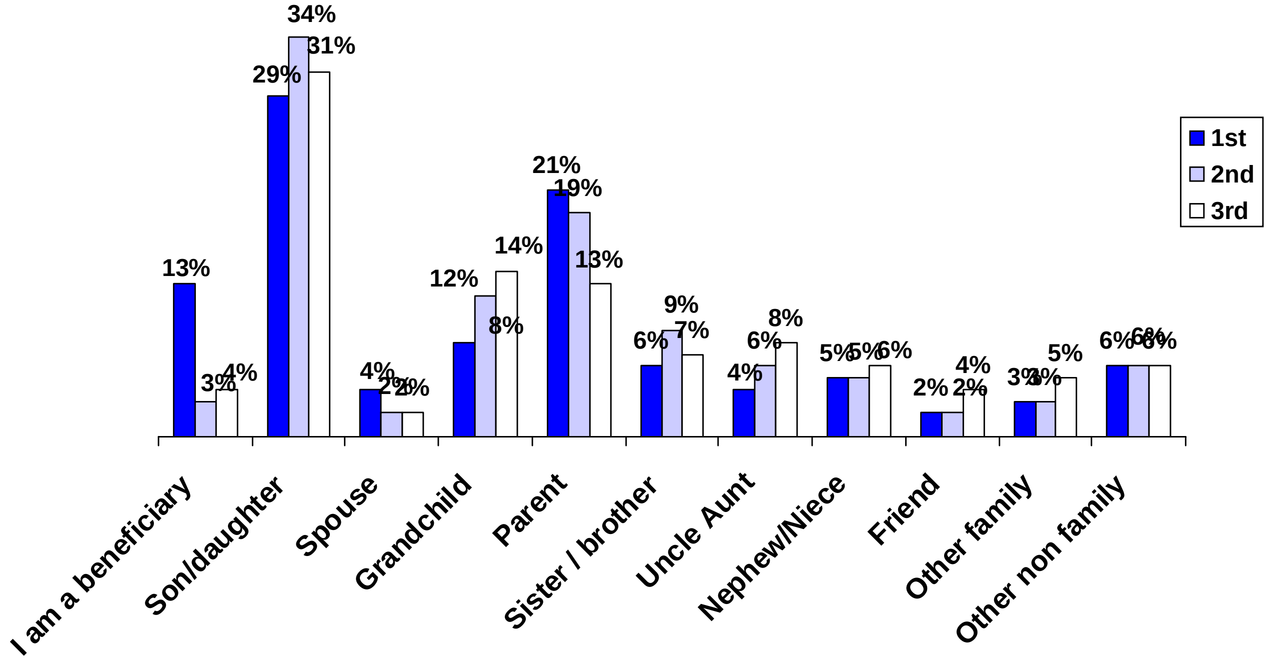
Base: All trustees with each number of beneficiaries: ***: 1st (1100), 2nd (168)***

b) Trustees

Non-professional trustees were then asked what the relationship was between themselves and the beneficiary. In total 16 per cent of non-professional trustees (taking into account first, second and third mentions) said that they were a beneficiary as well as a trustee.

There were no noteworthy differences between types of trust and income level and the relationship between the person who first put assets into the trust and the trustee.

Chart 5.3b: Relationship between beneficiary and trustee



Base: All non-professional trustees with each number of beneficiaries (704): 1st (666), 2nd (471), 3rd (304)

3.5.4 Vulnerable groups

In the in-depth interviews, none of the settlors had experience of setting up trusts for vulnerable groups, although a few believed that their beneficiaries (as minors) could be vulnerable because they could not look after their own affairs.

> *She's [settlor's daughter] not vulnerable in the sense of having a mental illness or having an accident or being born with a terrible disability; she's not that vulnerable in that classic sense of the word but she was potentially vulnerable with me very ill and my parents-in-law thinking that every penny that I owned belonged to them. (Settlor, A&M, 26)*

Vulnerable groups were thought to include:

- People with a mental / physical disability
- The elderly
- People with drug addictions
- Those suffering from chronic illness
- People who were unreliable with their own / other people's money
- Orphans
- Abused children
- All children under 18.

Trustees were able to provide a number of examples where a person's vulnerability had motivated the settlor (often the beneficiary's parent) to create the trust. These settlors were keen to make provision for the beneficiaries after they had died. Professional trustees sometimes referred to these arrangements as "protective trusts". Examples included:

- A parent who, having looked after his adult daughter who has the mental age of a five year old, decided in old age that he could not continue with the responsibility. He therefore set up a small trust in order to pass the responsibility on to his son. The son was reluctant to take on the burden given his already hectic life. The greatest headache has been with the Department for Work and Pensions (DWP) who regularly enquire about the trust, arguing that the beneficiary should not be receiving all her disability benefits. The respondent (trustee) was tired of explaining the situation to the DWP time and again
- Parents who set up a trust for their only son who is severely epileptic; the trustee interviewed (professional) was concerned about how the trustees would manage when the beneficiary's parents died
- Parents who set up a trust for a son who has a mental disability:

> *The parents weren't wealthy but they just saved because they knew they had to make provision for this young lad. (Trustee, Professional, discretionary, 11)*

- A woman with a drug problem who is now pregnant, and was due to receive £25,000 from her trust in December 2004 when she reaches the age of 25. The corporate trustee sees her outlook as bleak.
- A settlor, on realising that he was becoming ill, set up a trust for himself so that others would be able to look after his finances in the future; the professional trustee felt that such arrangements can lead to difficulties, with the trustee having to decide what is in the best interests of the beneficiary, when the beneficiary might disagree
- A child with a disability whose parents died unexpectedly; the solicitor advised that the inheritance should be placed in trust
- Children damaged by vaccines and whose parents 'cannot be trusted' with the Government award
- Anyone receiving an award made by the Criminal Injuries Compensation Board.

Vulnerable?

An older father had a relatively young daughter who had a drug problem. In his will he left half his estate to his son, and the other half was placed in trust for his daughter. In a letter of wishes he asked the trustees to protect her in whatever way they could, because of her particular vulnerability. After the father had died, the trustees decided the best thing they could do was to make it as difficult as possible for the girl to buy drugs using money from the trust fund. They therefore paid directly for the girl's accommodation, and for her other bills, even giving her Tesco vouchers to enable her to buy food. From time to time the girl would approach the trustees with plausible reasons why they should give her a cash amount from the trust, but in all cases they refused, and offered to pay any bills direct. The trustees felt an enormous responsibility to the settlor to carry out his wishes and protect the girl as far as they were able.

Income from such trusts could be used for “additional comforts”, “a new bed”, specialist equipment, holidays, and care costs.

> *A small amount of money eked out over the years can make a positive difference in terms of providing additional comforts such as additional holidays and equipment. (Trustee, Professional, A&M, 1)*

The point was occasionally made that tax relief should be available in instances where a trust is providing for a vulnerable person.

> *All you're trying to do is make sure that the person is cared for but a side effect of that is that you're relieving the state of having to do it. So there's a commercial justification for saying we want some tax relief on this. (Trustee, Professional, Life interest, 7)*

A slightly different type of vulnerability was described by some trustees where the beneficiary had no medical disability, but was not considered sufficiently financially aware to be entrusted with their money:

- A parent who wanted to ensure that her grandchildren had money for their education because she felt her daughter was unreliable with money
- A son who set up a trust for his elderly mother to ensure she did not give the money away under persuasion:

Not vulnerable in terms of losing her marbles but vulnerable in the sense that she's a 90 year old woman, frail, who can be influenced. (Trustee, Lay, Did not know trust type, 6)

Financially able?

A husband died and left part of his assets in a trust for his widow. The widow came under the influence of a man who, the professional trustee felt, was 'really milking her'. She was going through her own money rapidly, and wanted access to the capital in the trust. When she sold her own house, the trustee persuaded her to place the money from the sale in a trust. She has now purchased another house in France, and placed it in the new partner's name. The trustee has asked that the house be transferred back into her name. The partner has agreed, but taken no action. The trustee will not provide money from the trust for improvements to the French house until the house is in her name.

Trustees in the survey of trustees were asked whether they considered any of the beneficiaries for the trust to be from a vulnerable group and approximately a quarter of trustees responded 'yes' to this question (26%).

Where trustees considered the beneficiary to be vulnerable, it was more likely that there was only one beneficiary to the trust. Half of trusts (52%), where trustees considered any beneficiaries to have vulnerability, had just one beneficiary compared to a third amongst the rest of trusts.

Trustees who responded positively to the question on vulnerability were then asked what type of vulnerability the beneficiary had. The highest responses were as follows:

- Aged under 16 (36%)
- Old age (17%)
- Mental disability (15%)
- Aged 18-25 (12%)

- Physical disability (7%).

All trustees were then prompted with a list of possible vulnerabilities and asked to say whether the beneficiaries fell into any of these categories.

In total, 15 per cent of trusts had beneficiaries that would be considered to be from a vulnerable group, if the following HMRC definitions were used

- Physical disability
- Mental disability
- Orphaned
- Other chronic medical condition.

Approximately one in ten beneficiaries aged under 25 had a vulnerability according to one of the above definitions. In addition two-fifths of trustees (38%) who stated that a beneficiary fell into the old age category pointed out that the same beneficiary also had some kind of disability, either physical or medical.

3.5.5 Level of influence of beneficiaries in running trust

The in-depth interview findings showed that where beneficiaries were minors (under 18 years old), they had very little influence over the trust and tended not to put in requests for the trustees to review. In the instances where minors received income from a trust, this was to meet educational needs. Younger beneficiaries, some respondents claimed, often had no knowledge of, or influence over, the trust, and this was considered a positive decision from the settlors' point of view.

> [*No influence] whatsoever. My son doesn't even know that he's got it. We wanted to have control of the money; we didn't want to hand it over just like that. (Settlor and trustee, Professional, A&M, 14)*

> *My son has very little influence. He'll come up with ideas and we'll discuss it. But he has no more influence over the trust than he would do over any family money . . . I could have given it directly to my son, but again to protect him maybe from himself I put it into the trust so he doesn't have the money directly as he would squander it on fast cars, loose women and whisky! (Settlor and trustee, Lay, discretionary, 22)*

In the case of a trust where the beneficiary had mental disabilities, the trustee (sister of the beneficiary) explained that it was not possible for her sister to have any influence over the trust.

> *My sister doesn't have any access to it and as trustees we decide how to spend it. (Trustee, Lay, discretionary, 2)*

Parents of younger beneficiaries sometimes put in requests on their behalf. These included requests for assistance with:

- Educational expenses
- Play equipment
- Holidays
- Computers.

Some settlors (also trustees) with older children (also beneficiaries) were trying to encourage more active involvement in the trust from the beneficiaries.

> *Yes, if they wanted to have influence on it [they could]; I keep offering them [the chance] to get involved. (Settlor and trustee, Lay, discretionary, 11)*

> *We talk about it and we decide what to do. I try to involve him at that stage so he grows up with business and financial experience. (Settlor and trustee, Lay, discretionary, 22)*

> *She's increasingly involved – I use it as a financial management exercise, to make her aware of managing money. (Settlor and trustee, Lay, A&M, 26)*

However, settlors on occasion found that their beneficiaries did not want greater involvement in running the trust even when they were given the opportunity, claiming it was difficult to get them interested.

Some older beneficiaries already exerted a substantial level of influence in the running of the trust. This was particularly the case where the original set of beneficiaries (the children) were now adults, and grandchildren were reaching an age where they too would be able to benefit. One example was given where the settlor, trustees and beneficiaries (aged 23 and 25) met to discuss how the income was to be used. If anyone deemed the outcome unfair, the parties involved would discuss again how the income was to be used.

It depends which beneficiaries you mean; the original beneficiaries are very much involved in it but their children are not involved at all because they're too young. They very much influence it: we have regular meetings with them about what needs to be done and the way forward and in consultation with their own affairs as well. (Trustee, Professional, Mixed, 10)

Not all older beneficiaries, however, wanted to exert any influence over the trust. This was particularly the case were beneficiaries were becoming elderly, mentally frail, or had fewer financial needs.

[*The beneficiary] wasn't really interested, he was getting old. He'd had a rough two or three years because [his wife] had senile dementia and I think when she died he gave up himself so he didn't want to be bothered. (Trustee, Professional, discretionary, 11)*

As might be expected, the majority of older beneficiaries (18 plus) tended to put in more requests to the trustees, depending on their particular needs at a given time. Examples of reasons for requests for additional income/capital included:

- Purchase of property
- Home improvements
- Travel expenses (long-haul travel)
- Purchase/set up of a business (a nightclub, a nursery)
- Educational expenses (including scholarships)
- Loans
- Bill payments (including mobile phone bills).

Requests were usually administered informally, as the trustees were often related to the beneficiaries.

Requests are a casual arrangement, they just phone their dad and ask him. (Settlor, discretionary, 17)

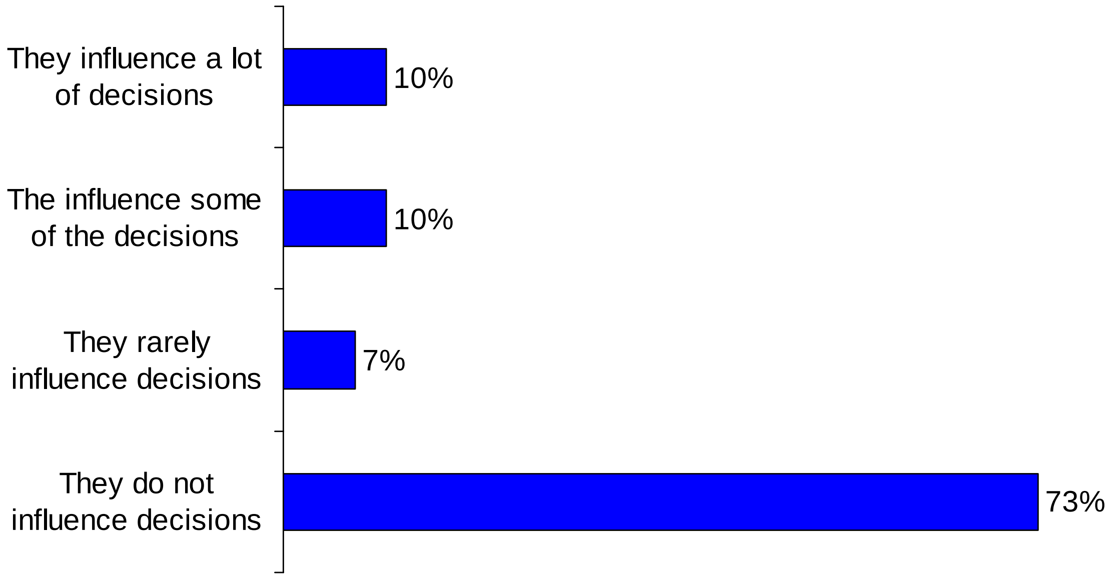
Requests were made more frequently when the settlors, who were also trustees, were the parents of the beneficiaries. Where settlors were more distant relatives (grandparents, aunts, uncles etc.), income was distributed at their discretion, rather than at the request of beneficiaries.

Settlors (who were close family relatives of the beneficiaries) often felt that their beneficiaries would submit an increasing number of requests as they became older and as their financial needs became greater. Some beneficiaries automatically received the capital from their trusts at a certain age (usually 25 or 30) or upon marriage, at which stage the trusts would cease to exist.

Other settlors felt that the older their beneficiaries became, the less need they would have of support from the trust and that this support would then probably be passed to their children (i.e. the settlors' grandchildren).

In most cases in the survey of trustees, the beneficiary did not have any influence over the running of the trust (73%), according to trustees. They were even less likely to have an influence on corporate trusts. However, if they were also a trustee, or a trustee and a settlor, they were more likely to influence decisions.

Chart 5.5a: Level of influence of beneficiaries



Base: All trustees (1100)

The relative influence of beneficiaries over decisions affecting the trust is fairly similar amongst non-professional (72% of beneficiaries do not influence any decisions) and professionally managed trusts (70%). However, where the trustees are from a corporate organisation, the proportion of beneficiaries who exercise influence over the decision making process is even smaller (84% exercise no influence).

The degree of influence exerted by beneficiaries in decisions affecting the trust tend to be more significant in the context of interest in possession type trusts (33% influence decisions at some point), as distinct from discretionary trusts (20% influence decisions at some point).

The proportion of beneficiaries having some degree of influence was around ten per cent greater in the context of high-income, than low/medium income, trusts.

Table 5.5.1: Level of influence of beneficiaries by key segments (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Yes, they influence a lot of decisions	**10**	9	12	1	12	7	12	9
Yes, they influence some decisions	**10**	16	9	7	12	7	12	10
Yes, but rarely	**7**	6	7	9	9	6	12	7
No influence	**73**	70	72	84	67	80	64	74
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

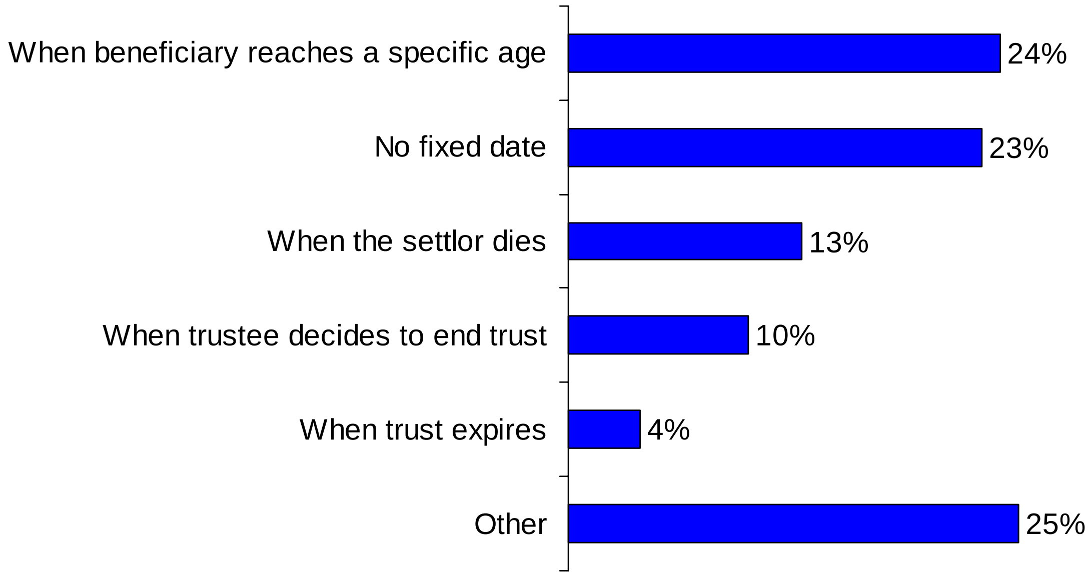
Base: All trustees (1100)

**High income – greater than £35,000, Low/med – less than or equal to £35,000*

3.5.6 When will beneficiaries be entitled to receive assets?

A quarter of trusts (24%) in the survey of trustees were set up to pass assets onto the beneficiary when they reach a specific age, while 23 per cent did not have a fixed date when the beneficiaries would receive the assets. Approximately ten per cent said that the beneficiary would receive the assets when the settlor dies and a similar proportion when the trustee decides to end the trust.

Chart 5.6a: When will beneficiaries be entitled to receive assets?



Base: All trustees (1100)

In terms of the 'other' responses the main answers were as follows:

- On the death of a life tenant
- On the death of the current/income beneficiary
- Will never receive the assets
- When member of family (e.g. widow/daughter) dies
- Already do
- On retirement
- On death of trustee

Where type of trust was concerned, the differences were more marked. In the context of interest in possession type trusts, significantly more respondents were of the view that beneficiaries were entitled to receive assets 'when the person who set up the trust dies' (20%), as distinct from five per cent in the case of discretionary trusts. Conversely, respondents stated that 14 per cent of beneficiaries were able to receive assets 'when the beneficiary / beneficiaries reach a specific age' in the context of interest in possession trusts, as opposed to 36 per cent for discretionary trusts. There was sizeable variation in the proportion of 'other' arrangements in the context of interest in possession (35%) as distinct from discretionary (13%).

Table 5.6.1: **When will beneficiaries be entitled to receive assets by key segments? (percentages)**

		Type of trustee responding			**Trust type**		**Income level***	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
When the person who sets up the trust dies	**13**	16	12	14	20	5	10	14
When the beneficiary(ies) reach a specific age	**24**	18	28	17	14	36	20	24
When the trust expires	**4**	5	4	4	3	6	7	4
When the trustee decides to end the trust	**10**	12	9	11	6	14	18	10
No fixed date	**23**	24	26	10	22	25	27	23
Other (specify)	**25**	26	20	45	35	13	18	25
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base: All trustees(1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

3.6 Trustees

3.6.1 Key findings

- **Approximately one quarter of trustees interviewed were professionals in the survey of trustees**
- **Approximately eight in ten trusts have either two or three trustees, as found in the survey of trustees**
- **Trusts tended to have one professional and (at least) one lay trustee in the in-depth interviews, although in the survey of trustees three-fifths of trusts (62%) were managed solely by non-professionals**
- **The in-depth research found that there was a gulf in awareness of responsibilities and tax obligations between lay and professional trustees:**
    - **Professional trustees considered themselves to be fully aware of their responsibilities**
    - **Lay trustees tended to know very little, and to rely on their professional co-trustee**
- **In the survey of trustees around half of lay trustees claimed to be aware of the tax obligations associated with trusts and workload levels tended to be as trustees expected**
- **The in-depth interviews found that lay trustees reported few difficulties (with being a trustee), as they tended to leave the management of the trust to their professional co-trustee, although managing the investments of the trust caused some difficulty**

The survey of trustees found:

- **Three quarters of non-professional trustees interviewed have someone to advise them on tax related issues**
- **Just over half of trustees interviewed claim they have some influence over the distribution of income to beneficiaries**
- **Overall, of the trusts generating an income, two thirds (69%) paid out all or some of the income to the trustees, and a third (33%) reinvested the income**
- **Very few respondents had any experience of offshore trusts.**

Please see section 2 for details of the robustness of results and likely problems due to response bias. All charts and tables are based on weighted data, unless otherwise stated.

3.6.2 Types of trustee

Trustees from the main quantitative survey were asked whether they were a professional trustee or non-professional (i.e. 'is being a trustee part of your paid job?'). Corporate trustees were interviewed as a separate group and the data combined to give a total.

Table 6.2.1 shows the types of trustees interviewed.

Table 6.2.1: Types of trustee (percentages)

		Total excluding Corporates	**Trust type**		**Income level***	
	Total		**IIP**	**Discretionary**	**High**	**Low/med**
Professional	**22**	26	26	17	38	21
Non-professional	**64**	74	56	72	53	64
Corporates	**15**	-	18	11	9	15
Unweighted total	***1100***	*1000*	*548*	*549*	*383*	*717*

Base: All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

Around three-quarters of trustees interviewed, excluding corporates (74%) were non-professionals compared with 26 per cent who were professional. Trustees interviewed were more likely to be managing trusts set up more recently (79% 2000-2002, versus 14% pre-1960) and high-income trusts were more likely to be being managed by the professional trustees interviewed

In terms of the mix between professional and lay trustees (excluding corporate trustees) managing trusts, the survey of trustees found that (non-corporate) trusts were managed as follows:

- Non-professional trustees only — 62 per cent
- Mix of professional and non-professional trustees — 24 per cent
- Professional trustees only — 13 per cent

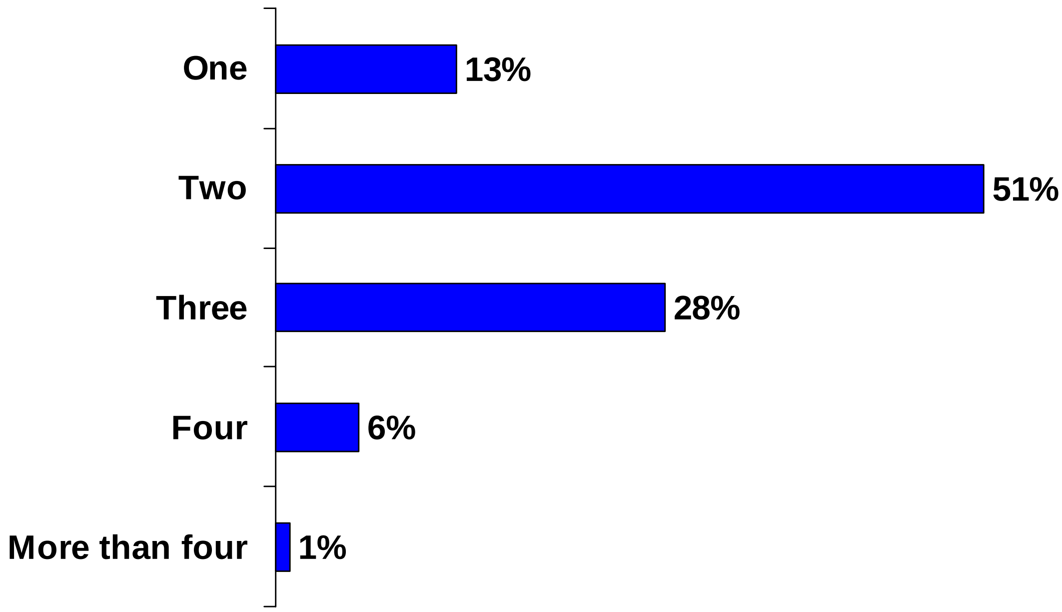
A significantly higher proportion of trusts being managed only by professional trustees were interest in possession trusts (65%) compared with those being managed only by non-professional trustees (48%).
The majority of professional trustees were either solicitors or accountants.

Whereas the survey of trustees encountered more lay than professional trustees, the in-depth interviews were designed to include more professional (12 respondents) than lay (6) trustees. The reason for interviewing more professional than lay trustees was that the former were able to talk in more depth about managing trusts. Non-professionals tended to leave the management of trusts to the professional trustees.

3.6.3 Number of trustees for (non-corporate) trust

In the survey non-corporate trustees were asked how many trustees there were for the trust. Most trusts had at least two trustees (respondent and at least one other). The average number of trustees was two.

Chart 6.3a: Number of trustees for the trust



Base: All professional and non-professional trustees (1000)

Table 6.3.1: Number of trustees for the trust by key segments (percentages)

		Type of trustee responding		Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**IIP**	**Discretionary**	**High**	**Low/med**
1	**13**	12	13	16	9	9	13
2	**51**	53	50	52	50	44	51
3	**28**	29	28	24	33	34	28
4	**6**	5	6	5	6	10	6
More than four	**1**	1	1	1	1	3	1
Mean Score	**2.30**	2.30	2.26	2.17	2.37	2.54	2.28
Unweighted total	***1000***	*296*	*704*	*467*	*530*	*380*	*620*

Base: All professional and non-professional trustees (1000)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

There were no substantial differences between the number of trustees associated with non-corporate trusts managed by non-corporate professionals and those overseen by non-professionals.

In the survey low/medium income (non-corporate) trusts (51%) were more likely than high income (non-corporate) trusts (44%) to have two trustees (respondent and one other). High income (non-corporate) trusts were more likely to have a higher number of trustees compared to low/medium income trusts (47% had three or more trustees compared to 35% for low/medium income trusts).

According to some respondents interviewed as trustees in the qualitative research, each was one of two trustees for the trust, with at least one professional and sometimes two (solicitor and accountant, usually on high-income trusts). Three lay trustees claimed not to have a professional trustee on the trust: in one case, while there had been a professional trustee at the outset, when he retired, they appointed the trustee’s husband in his place because they thought that they had now mastered the running of the trust and could therefore save money on administrative costs. In the other two cases, the deceased settlor (father) had appointed the lay trustee(s).

With a few exceptions, the number of trustees appointed by settlors was either two or three. Two trustees tended to be chosen “to avoid complications”, whereas three were chosen to allow for one of the trustees dying, and to ensure an impartial view could be maintained.

I was fairly keen to keep it as simple as possible and although my solicitor volunteered to be one of them we decided to just keep it as my wife and I to keep the paperwork as simple as possible. (Settlor, A&M, 13)

You need a professional and the other two, if one dies then you are just left with the professional [if you only had two trustees]. (Settlor, discretionary, Pilot 9)

Other factors related to the way trustees are selected included:

- Choosing people younger than the settlor to help with continuity (e.g. friends of their adult children)

  It's like making a will, you always try to have somebody within the family who is several years younger than you and secondly it's better to have a professional person, because at some time or other when you administer a will, you'll probably find a need of a professional. (Settlor, discretionary, 12)

- The belief that there would be no concerns with the (non-corporate) trust in the future, or any reason to review it
- Appointing only himself – the settlor – and his wife, as the trust consisted of shares in their business, and they wished to preserve their control in the company

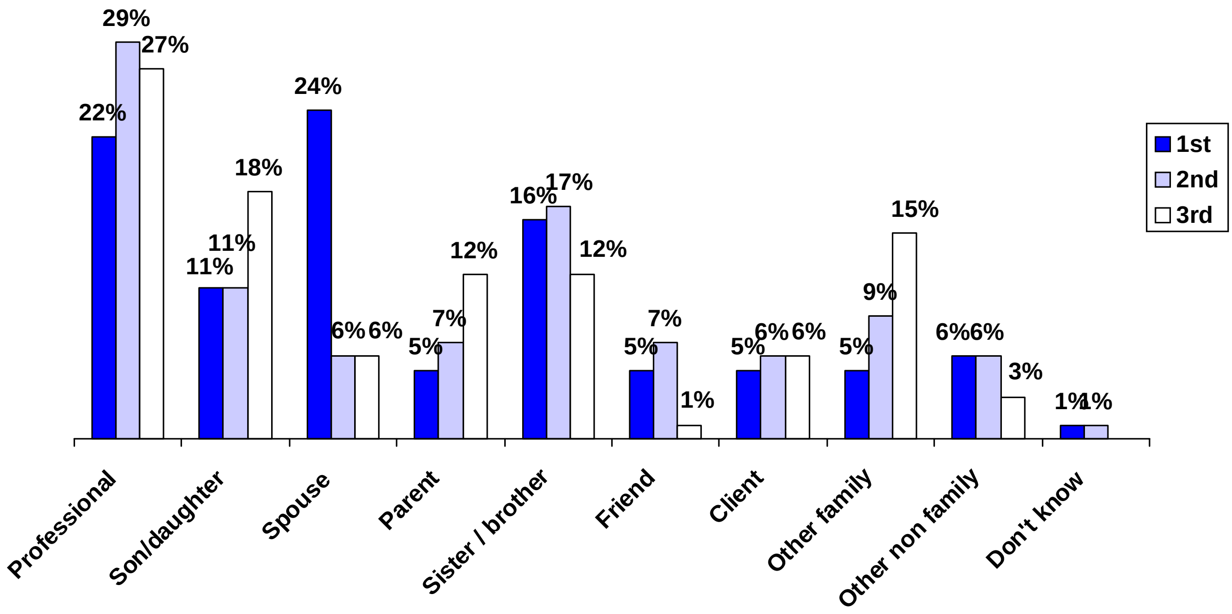
  We needed to hold the voting of the shares should there need to be a vote on an important decision. We retain more than 50per cent of the voting rights. (Settlor, Mixed, 21)

Settlors taking part in the in-depth interviews claimed that the people they asked to become trustees had been perfectly happy to do so.

3.6.4 Relationship to other trustees

Trustees were asked what their relationship was with up to three other trustees. The survey results show that most other trustees are a mix of professionals and members of the family. The non-professional trustees tend to be close family members, particularly spouses, children and brothers and sisters.

Chart 6.4a: Trustee's relationship to other trustees of this trust



Base: All Professional and non-professional Trustees where the trust has other trustees (1st=886, 2nd=399, 3rd =90)

Just over one in ten trusts (13%) in the survey have one trustee and of these:

- 76 per cent of trusts are managed by a non-professional trustee
- 24 per cent are managed by a professional trustee

Around half of trusts (51%) have two trustees and of these

- 65 per cent are managed by non-professionals only
- 20 per cent are managed by a mixture of professional and non-professional trustees
- 15 per cent are managed by professionals only

Trusts with three or more trustees make up 36 per cent of trusts, and of these

- 54 per cent are made up of non-professionals only
- 20 per cent are made up of a mixture
- 7% are made up of professionals only.

In the in-depth interviews, where the trustees interviewed were non-professionals, the other trustees with their trusts (where there was more than one) were also professionals, family members, or family friends.

[The deceased settlor and father of the trustee] wanted people who he trusted to manage it independently of him. So he picked me, my younger brother and a local lady who knew my sister [the vulnerable beneficiary] very well in the care centre and an old family friend who has subsequently died, as the four trustees. *(Trustee, Lay, Did not know trust type, 2)*

I didn't really know what [being a trustee] involved. It seemed like a good idea since there was the lawyer who could deal with the paperwork and I was there to watch after my daughter's interests. It didn't bother me. I didn't think it was going to be difficult. I didn't know what it did involve as I haven't really had anything to do with trusts before. I just thought that's how it's got to be. I'd rather it was me than two trustees I didn't know. (Trustee, Lay, A&M, 5)

3.6.5 Awareness of responsibilities and expectations of workload

In the in-depth interviews, both settlors and trustees were asked what they thought were the responsibilities of a trustee. A gulf emerged between professionals and lay trustees in awareness and understanding of a trustee's responsibilities. Not surprisingly, the professionals perceived that they were fully aware of what is required, and, while considering the task an extremely responsible one, did not find it too onerous because it is how they earn their living. Lay trustees, on the other hand, generally knew very little about their responsibilities, and assumed that real responsibility lay with the professional trustee(s). The exceptions were those who were themselves actively involved in running the trust.

Unprompted, professional trustees tended to refer to the responsibility of safeguarding the trust assets, and having to act in accordance with the terms of the trust or the settlor's wishes. They also described how the trustees should be responsible for distributing both income (and capital) correctly as appropriate, and for ensuring tax compliance and that fiscal requirements are met.

You're charged with the maintenance of whatever the structure is, i.e. the wealth of the trust. You take advice on investment and you have to use a certain amount of judgement on whether you're going for income or going for growth. A trustee has to have eyes open for opportunities and threats and take account of the wishes of the settlor, whether the beneficiary's interests are being looked after. The responsibility is there to make correct tax returns. (Trustee, Professional, Life interest, 7)

To take control of and safeguard the assets of the trust, ensuring the assets are properly applied and wisely invested; ensuring it's only the beneficiaries who benefit from the assets;

to comply with relevant legislation; comply with relevant case law which keeps developing as to the responsibilities of the trustees. (Trustee, Professional, interest in possession, 12)

The needs of the beneficiary should also be taken into account, according to professional trustees, as part of the trustee's responsibility. However, professionals realised that meeting beneficiary's requirements may not necessarily be in line with the purpose of the trust. Instead, they felt, the trustee should take account of these needs.

Is your prime responsibility to look after the beneficiaries? No. Should you consult with and take account of the beneficiaries? Yes. If you have a beneficiary that you know shouldn't bloody well have their money you don't give it to them. (Trustee, Professional, Mixed, 10)

As a result, the responsibility for some professional trustees included taking on the role of "wise old owl". Some believed it their responsibility to be fair, impartial, and approachable and to listen to the family involved with the trust.

The small numbers of lay trustees interviewed fro the qualitative research, were less precise about the responsibilities of a trustee. Examples included just "keeping an eye" on the trust, and "signing cheques". Some talked of "following the settlor's instructions" whereas professionals were more likely to talk of taking into account the settlor's wishes. Also mentioned by lay trustees were:

- Managing the asset funds / ensuring they are well invested
- Distributing income
- Complying with tax requirements.

[The trustee's responsibility is] to manage the fund responsibly, full stop. To make sure that it's all kept in order and the fund is allowed to grow in a safe way without being reckless. (Trustee, Lay, A&M, 3)

The truth is I don't have any idea so my guess is that we have an obligation to report to the HMRC the income and how the money is spent. I'm not aware of any other legal obligation I have. (Trustee, Lay, Did not know trust type, 2)

Some of the lay settlors interviewed in depth were also lay trustees, and it became apparent from their descriptions of the trustee's role that tax obligations was not regarded as a priority in terms of their responsibilities. Instead, they tended to focus on the responsibility of protecting and looking after the assets of the trust (usually stocks and shares) by investing carefully.

To ensure the money is secure, that it's increasing and that it's protected financially and in other ways, and ultimately that it will be there at the age of 25 when we can give to each of [the beneficiaries] the ultimate share of what's been allocated to them. Hopefully they'll find the money of value to use in a way which we would like! If we felt they weren't responsible we would not make that money available to them. We want it to be put to good use and not squandered. (Settlor, A&M, 24)

Some also referred to meeting the terms of the trust and protecting the beneficiaries' interests. A professional settlor who was also a trustee described how one responsibility was to prepare beneficiaries, at an appropriate time, for the wealth of which they are to take control.

It wouldn't be fair when he's 25 to 30, just to say 'well there's £8 million son', that wouldn't really prepare him, so while it's not an expressed responsibility of a trustee I would regard it as a role to educate so he becomes accustomed to it and can in due course handle the money himself. (Settlor and trustee, Professional, discretionary, 22)

A few lay settlors (who were also trustees) admitted that they knew very little of the responsibilities of a trustee. Some claimed that their trust was so simple they did not need to have detailed knowledge.

I've no idea [of the responsibilities] . . . acting responsibly and carrying out the wording of the trust. As to knowing what that is in detail, I have no idea and because it's a simple trust I don't need to know. (Settlor and trustee, Lay, discretionary, 21)

In another case, where the respondent (a trustee of the trust) had spoken during the interview on behalf of his father (the settlor, present but old and infirm), the son did not think he as a trustee had any great responsibilities currently because his father was still able to decide how the income was distributed. He conceded that once his father died, he would have no idea what his role as trustee would then entail.

My personal responsibility as a trustee is little while my father's alive because he has the main say. When he dies, it is my and my sister's responsibility to direct that money where we think it is needed, and withhold it if we don't think it's needed. To be honest, I don't know what happens when my father dies, whether it just lapses, I really don't know. (Settlor interview, son's words, Lay, A&M, 19)

In the in-depth interviews, some lay trustees explained that they had not expected being a trustee to involve them in a heavy workload, and generally this had proved to be the case. This was because, in the main, in these cases professionals were managing the trusts. Some were involved in, for example, checking on investments and contributing to the decision on amounts paid to beneficiaries.

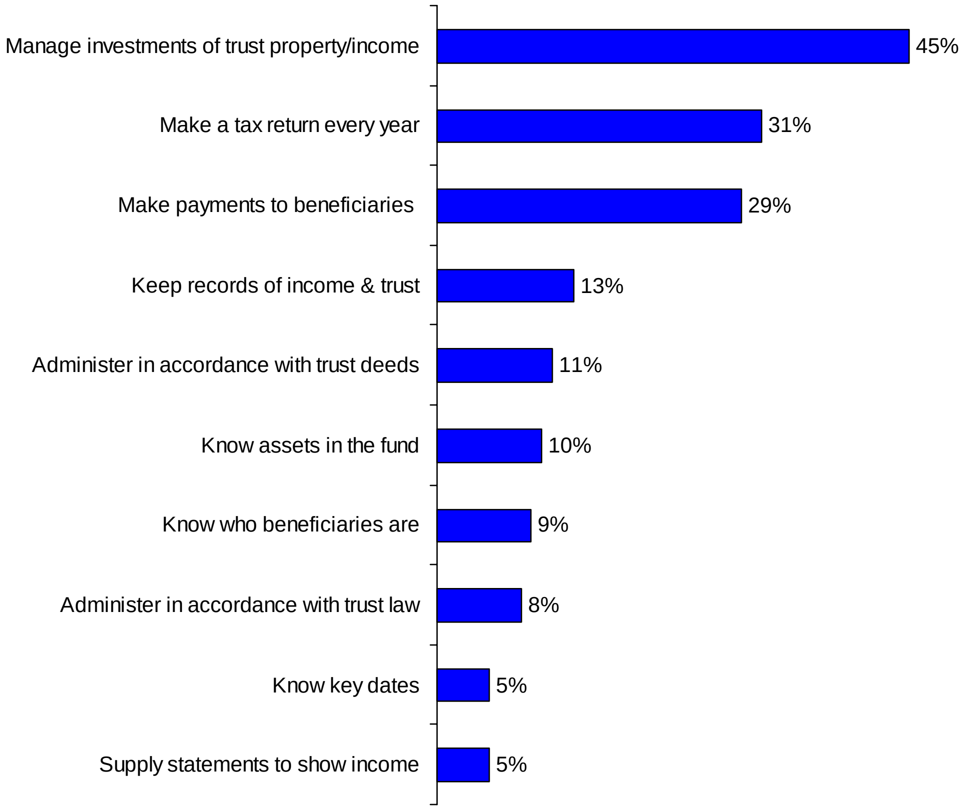
The very small number interviewed as lay trustees who had no professional trustee involved in their trust inevitably had greater involvement in running the trust, e.g.:

- Deciding how assets were to be invested
- Deciding what payments to make to beneficiaries, and when
- Preparing and completing the tax return
- Record keeping.

> *More than anything else I do record keeping, making sure I keep the documents that are related to the investments. Filling in the tax form once a year. (Trustee, Lay, 5)*

Non-corporate trustees in the survey of trustees were asked to spontaneously list their responsibilities in managing trusts. The top ten answers given are shown on chart 6.5.a. The slight difference in emphasis between these figures and the in-depth interview findings is likely to be a result of the higher number of lay trustees in the quantitative survey who, as described above in the qualitative in-depth findings, were sometimes more involved with the investments side of the trust, where they did have an active role.

Chart 6.5a: Trustee responsibilities - unprompted



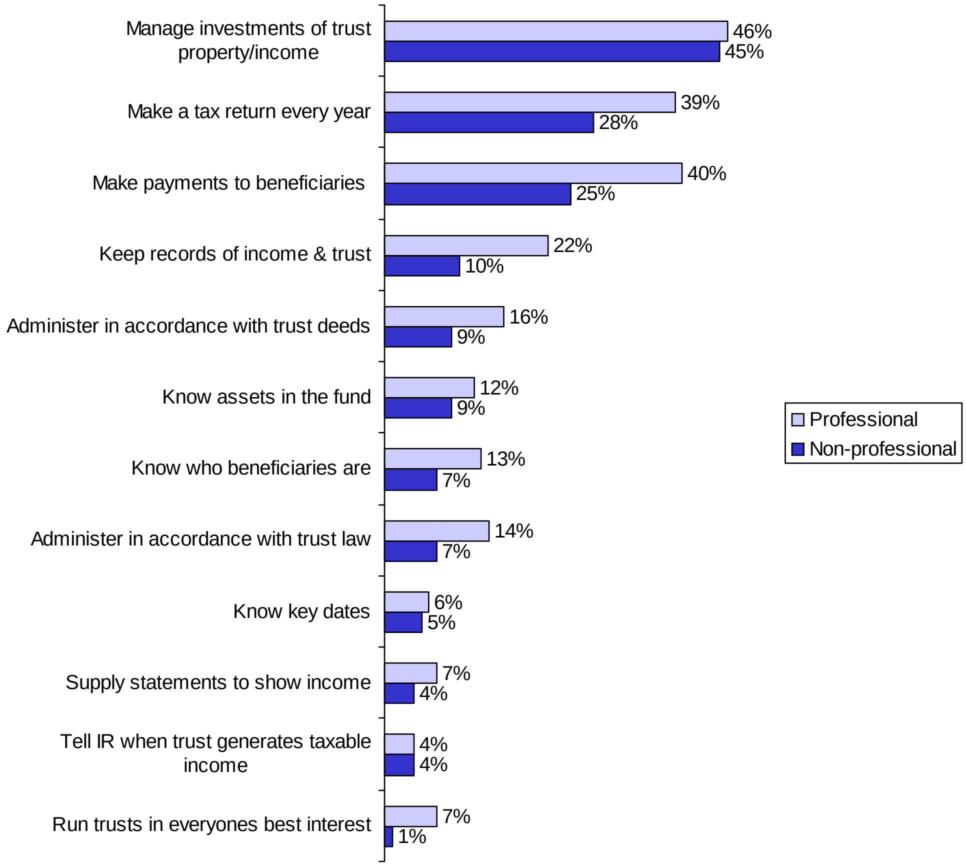
Base: All professional and non-professional trustees only (1000) (multiple responses)

The top three answers given were: manage investments of the trust property income (45%); make a Trust and Estate Tax Return every year (31%); make payments to beneficiaries (29%).

Chart 6.5b shows the spontaneous responses from trustees on what they consider to be their responsibilities split by professional versus non-professional trustees.

Professional trustees are more likely to mention each of the activities compared to non-professional trustees, with the exception of managing the investments of the trust.

Chart 6.5b: Trustee responsibilities by type of trustee - Unprompted



Base: All professional (296) and non-professional trustees (704) (multiple responses)

Non-professional trustees were then asked if they thought the role of trustee is more or less work than they originally expected it to be.

Table 6.5.1: Role of trustee: more or less work than expected (percentages)

		Trust type		Income level*	
	Total	**IIP**	**Discretionary**	**High**	**Low/med**
More work	**26**	29	25	34	26
About the same as expected	**64**	61	67	60	64
Less work	**10**	11	8	6	10
Unweighted total	***704***	*307*	*394*	*226*	*478*

Base: All non-professional trustees (704)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

Two thirds of non-professional trustees (64%) felt that the role of trustee is about what they expected. Only ten per cent felt it was less work than they expected.

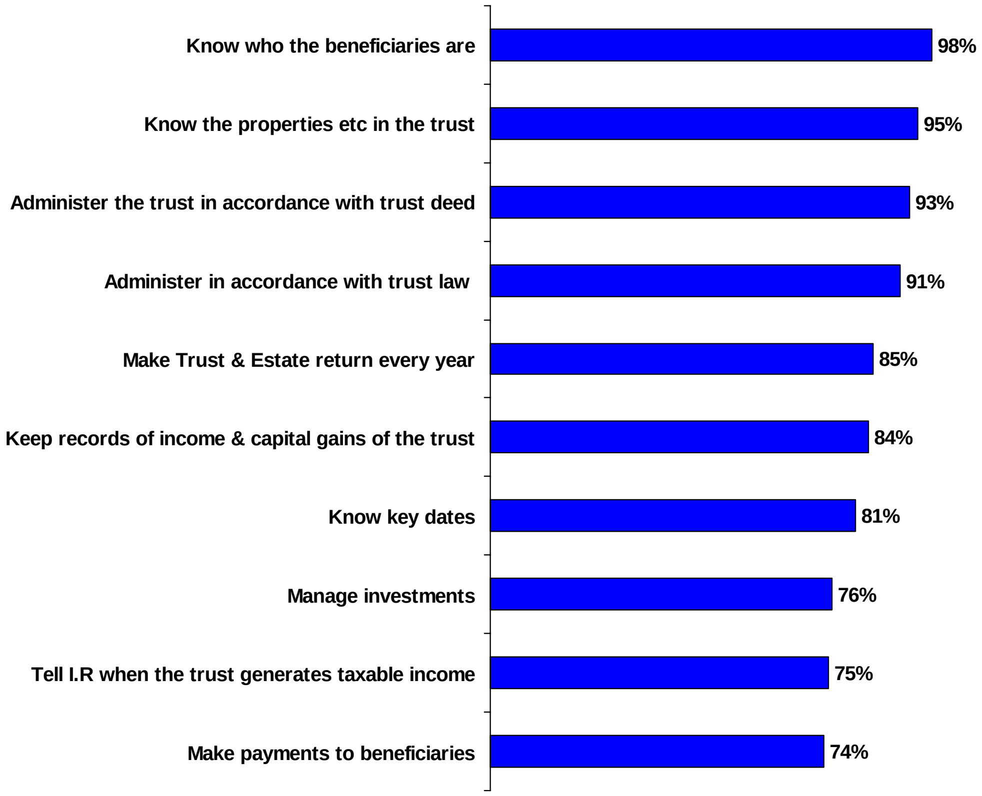
Trustees managing high income trusts were more likely to consider the role had more work than those managing low/medium income trusts.

Other non-professionals who felt being a trustee involved more work than expected were:

- Income that comes from land and property (42%).
- Set up between 2000 – 2002 (35%)
- With an HMRC defined vulnerable beneficiary (30%)

When prompted with a list of responsibilities that trustees undertake, a high proportion of the trustees interviewed said that they carry out most of them. Chart 6.5c shows the top ten responses:

Chart 6.5: Trustee responsibilities – prompted



Base: All trustees (1100) (multiple responses)

Table 6.5.2: Trustee responsibilities by key segments – prompted (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Know who the beneficiaries are	**98**	97	98	100	98	99	98	98
Know the properties etc in the trust	**95**	97	94	99	95	95	98	95
Administer the trust in accordance with trust Deed	**93**	96	91	100	93	93	96	93
Administer in accor-dance with trust law	**91**	96	87	98	90	92	98	91
Make Trust & Estate return (every year)	**85**	89	82	96	81	91	90	85
Keep records of income & capital gains of the trust	**84**	96	76	97	82	85	92	83
Know key dates	**81**	84	77	97	79	83	89	81
Manage investments	**76**	73	72	95	75	76	80	75
Tell HMRC when the trust generates taxable income	**75**	81	70	88	74	77	82	75
Make payments to beneficiaries	**74**	84	65	95	73	76	87	73
Supply cert/vouchers to show beneficiaries income	**60**	76	47	95	62	58	75	59
Make a Trust & Estate return (period not specified)	**49**	52	49	47	46	53	55	49
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base: All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000 (multiple responses)*

Table 6.5.2 shows that corporate and professional trustees were more likely than non-professional trustees to carry out a number of responsibilities, in particular:

- Keeping a record of income and capital gains of the trust
- Administering the trust in accordance with trust law
- Making payments to beneficiaries
- Telling HMRC when the trust generates taxable income.

Corporate trustees were more likely than both professional and non-professional trustees to:

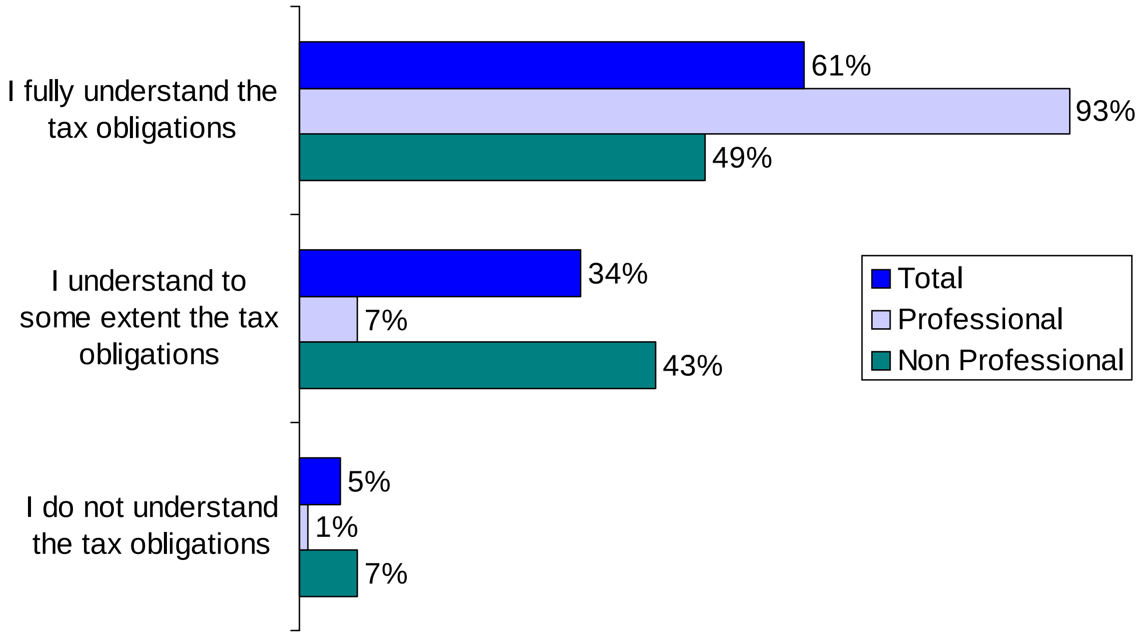
- Manage investments

- Make a Trust and Estate Return every year.

3.6.6 Level of understanding of tax obligations (non-corporate trustees)

Non-corporate respondents in the survey of trustees were specifically asked to what extent they understood the tax obligations involved with managing trusts. Nearly two thirds (61%) stated that they are fully aware of the tax obligations associated with trustee responsibilities.

Chart 6.6a: Understanding of tax obligations



Base: All professional (296) and non-professional trustees (704), total 1000)

Most professional trustees felt that they were fully aware of the tax obligations in managing the trust (93%); the other seven per cent said they understood tax obligations to some extent.

Non-professional trustees were less likely to say they fully understand the tax obligations (49%), although 43 per cent said they understand tax obligations to some extent.

3.6.7 Most difficult aspects of being a trustee

Overall, respondents interviewed as trustees in-depth in the research stated that they were happy with the current situation regarding the trusts with which they were involved, although some had encountered difficulties, which are discussed below.

The following perceived difficulties should be considered in the context of the finding at the qualitative in-depth stage that all types of respondent had not, on the whole, experienced any great problems. Administration and tax compliance were normally left to professionals, for whom such work was all part of their job.

- Understanding the return forms: two lay trustees had not taken any advice on becoming trustees, and there was no professional trustee helping with the trust. Both felt that there was too much paperwork associated with filing the return. (Professional trustees echoed this point, believing that a professional trustee should always be included)

Experience of a lay trustee
A man in his early 40s was the trustee of a trust set up for the benefit of his mother's grandchildren after his mother's untimely death. The intention was that income from the trust would help to fund private schooling for her grandchildren. Being a trustee had seemed a simple enough task when he had taken it on, but he felt it had become more and more complex as time had gone on. He found that there were many questions to which he did not know the answers, and it was not clear to him where he might find advice. He was not sure whether it was better to make changes to investments or to leave them as they were; he did not know if it was possible to add money into the trust at a later date; he did not understand why there appeared to be so many different tax rates; he did not know how a trust was brought to an end; and he found the tax return difficult to complete, not written in plain English, and using 'terms from the past'. He had found HMRC, via telephone calls, to be very helpful, but was always aware that staff there were 'interested parties'. Overall, being a (lay) trustee had not been a pleasant experience.

- One respondent was confused by the different types of trust and some of the explanations on the forms, which resulted in the wrong boxes being marked

> *I can understand that the terms are probably historic . . . but they didn't mean anything to me and I couldn't understand the explanations. . . I think they've tried*

their best to use plain English but there are technical words and without a definition of those it made it quite difficult to understand what I was controlling and what kind of trust it was. (Trustee, Lay, A&M, 5)

- One respondent had been entering incorrect interest figures into the return over the years, and he was currently in dispute with HMRC over how much tax he now owed
- For a very small number of professional trustees, handling disagreements between beneficiaries / trustees, e.g. over money - keeping them "from each other's throats"; such incidents were not, however, a major problem for the professionals.

Playing the parent – a high value, high income trust

The father died suddenly aged 40 plus, and had been recently divorced with two children aged 13 and 11. The children elected to put the estate in trust until they reached the age of 25. The income was handled at the discretion of the trustees. The estate turned out to be worth £3 million because the solicitor (and soon to be trustee) sold some land for development very shortly after the father died. So the trustees had to look after the money in the interests of the children while still covering certain expenses for them. One child attended an independent school, and the other attended college, both of which required fees. When the children were slightly older, they fell out with their mother so the trustees had to provide them with accommodation. As teenagers, the children became ever more demanding, which resulted in the trustees "forever making decisions". The trustees did not think that the father (settlor) would have wanted them to discuss anything with the mother so the decisions they had to take were often extremely difficult because of the "human relationship" element.

When discussing their opinions of being a trustee, some professionals felt that trusteeship was a considerable responsibility, and something that should not be taken lightly. This degree of caution was not so obviously reflected in the responses from the small number of lay trustees interviewed. Professional trustees made the following points in relation to being a trustee:

- It requires a good knowledge of trustee responsibilities
- It requires a "robust disposition", and is not suitable for people who are "risk conscious"
- As a professional trustee, indemnity insurance cover is essential.

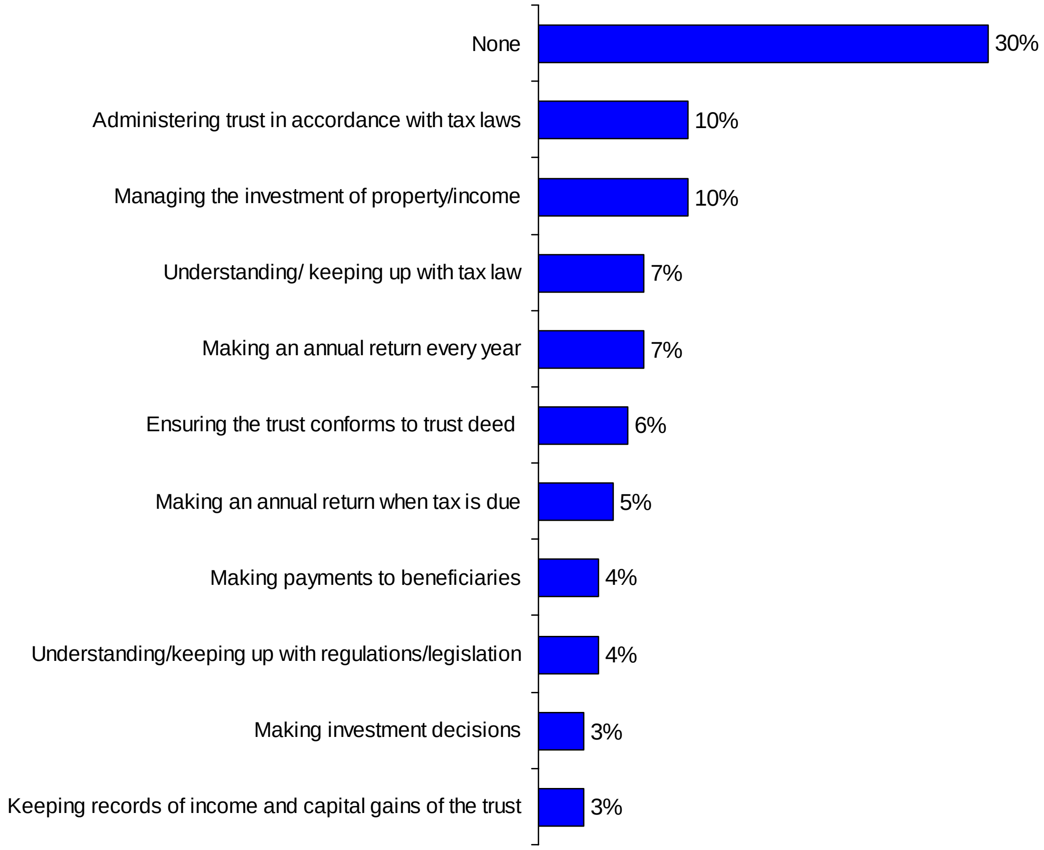
It's all part of the job, but I wouldn't like to be a trustee if I wasn't covered by solicitor's indemnity insurance. You could easily go wrong. I've got the comfort of having the insurance behind me if anything was to go wrong. If you were a lay trustee you could get into trouble and not have any back up. (Trustee, Professional, discretionary, 8)

Some professional trustees gained satisfaction from what they thought of as an interesting and sometimes challenging role, which usually involved getting to know the parties well, and also gave a sense of doing something "useful".

It's enjoyable, I don't know that it pays that well but it can be extremely fulfilling. It can be a drudge and it can be repetitive when you're doing the same tax return every year but it can be 'hold on what do we do if we sell this property?' then it gets interesting. The range can be absolutely boring mundane to fascinating. (Trustee, Professional, Mixed, 10)

The lack of major, widespread difficulties to emerge from the qualitative in-depth interview findings was echoed in the quantitative results, where approximately one third of trustees could not think of anything difficult about being a trustee (30%). The most frequent responses were: administering trust in accordance with tax laws (10%), and managing the property / income of the trusts (10%).

Chart 6.7a: Most difficult aspects of being a trustee



Base: All trustees (1100) (multiple responses)

One fifth of professional and non-professional trustees (both 22%) could not think of anything difficult related to being a trustee, the overall total being increased by the corporate trustees of whom 76 per cent could not think of a difficulty.

Improvements that would make being a trustee easier

Trustees were asked if there was anything they could think of that would make being a trustee easier for them. The answers they gave are summarised in table 6.7.2.

Table 6.7.2: Making life easier for trustees (percentages)

		Type of trustee responding		
	Total	**Prof**	**Non-prof**	**Corp**
Simplify tax law	**17**	27	17	3
Simplify tax structure	**15**	20	15	3
Information being readily available	**8**	6	11	-
No tax /abolish capital gains tax	**1**	2	1	1
Fewer regulations/red tape/bureaucracy	**1**	3	1	1
Improved HMRC website/ability to complete tax returns on line	**1**	1	1	-
Less jargon/more understandable language	**1**	0	1	-
Cost effective professional advice	**1**	1	1	-
Reduce paper work	**1**	0	1	1
More help/efficiency from HMRC	**2**	1	2	-
Guidance pack / Help line	**1**	1	1	-
Simplify paperwork forms/make them easier to understand	**3**	3	3	2
Simplify trust laws/structure	**1**	1	1	-
Others	**5**	5	6	2
Don't Know	**2**	1	1	3
Nothing	**56**	50	52	86
Unweighted total	***1100***	*296*	*704*	*100*

Base: All trustees (1100) (multiple responses)

Over half of respondents could not think of any improvements (56%). The top three suggestions for improvements were:

- Simplify tax law (17%)
- Simplify tax structure (15%)

- Have information more readily available (8%).

Professional trustees were more likely than non-professional trustees to suggest improving tax law, possibly because they are more likely to deal with this part of trust management.

Overall, both trustees and settlors in the in-depth interviews felt that little needed to be done to improve the processes and procedures associated with setting up and managing trusts. Respondents tended to talk of improvements at a more general level, such as a simpler taxation system (e.g. for CGT) with “less legislation”. The improvements they did suggest to the systems and procedures surrounding trusts were not widespread.

> *I’m not sure that there is anything you could do that would improve it particularly. It works all right for me. Setting up a trust is a very straightforward thing to do once you know what they want to do. (Trustee, Professional, discretionary, 11)*

> *Simplify the tax structure of all these [trusts]. Understanding the tax structures of the various different types of trust is quite a problem. It is impossible for anybody who doesn't know anything about tax and I don’t really understand it now. Why all these different trusts have to have different tax regimes, I don't know. That would make life simpler. (Settlor, interest in possession, Pilot 10)*

The following more specific suggestions were put forward by settlors and trustees:

- Develop simpler tax return forms for the trust, for example, a “tailored” approach taking into account the type of trust held, or a form that did not appear to change from year to year so that the previous year’s return can be copied; requests were also made for clearer instructions to accompany the forms. One respondent (settlor) wanted a more accessible contact at HMRC to talk through completing the return each year. She even claimed to be willing to pay for the service (but not the amount the accountant charged).

  > *When you look at the forms they send out they look nice, they look user- friendly, but when it comes down to putting the numbers in they’re not. (Settlor, discretionary, 22)*

  > *Some sort of quick A4 sheet to complete to make life a lot simpler rather than ploughing through pages of paper which cover all sorts of trusts. (Trustee, Lay, A&M, 3)*

- Another settlor thought that it was not currently possible to file returns for trusts online, and that it should be made possible no matter how complex the trust (e.g. if dealing with "overseas capital gains, overseas dividends"). It should be stated that it is now possible to e-file Trust and Estate Returns.

- Provide more readily available information about trusts for both potential settlors and potential trustees: for settlors, something in "plain English" on the different types of trust, and their advantages / disadvantages. Also suggested was the creation of a system of approved and recognised trust specialists, rather than having to use solicitors and accountants.

  It's quite expensive to buy a set of books about [trusts]. There's nothing simple it seems to me that you can lay your hands on . . . . There isn't anything helpful, so I think the HMRC might be able to help us there, and also on what trusts can do for you – legitimately, legally, without upsetting our dear chancellor. (Settlor, discretionary, 15)

- For trustees, provide clear information on the responsibilities of becoming a trustee, or a system whereby taking professional advice is mandatory. The latter was proposed by a respondent who had thought that becoming a trustee without advice would be quite straightforward; but this had not turned out to be the case.

  I think it probably comes back to the responsibilities of a trustee and having more information when you start out…. Perhaps if when you get the tax form they could include a reminder about the responsibilities of a trustee, perhaps that might be something to think about. (Trustee, Lay, A&M, 5)

  Make it mandatory to receive basic financial advice. What I saw as a very easy situation - pass on the money split it down the middle - turned out not to be. It wouldn't come from the HMRC, but a solicitor whose professional line is trusts, even if it's just a free 15 minute interview like Citizens Advice. (Trustee, Lay, A&M, 3)

Additional suggestions made by trustees:

- Dispense with the tax return for discretionary trusts where it is clear that there is no income
- Change the system so that trustees do not feel forced to distribute income from trusts to minors (where it would be more advantageous to the minor to allow the money to accumulate) in order to make use of lower rates
- Consider lowering (or removing) the tax rate for low value trusts

- Make it possible to extend the time period on accumulation and maintenance trusts so that the trustees do not necessarily have to distribute income to children at a given moment:

> *There's one change I'd like to see: this accumulation and maintenance period extended. I don't see why it isn't because there are still circumstances where one shouldn't [pay out]. With these I have got to pay the income to the children but their parents don't want them to have that income. They put it into a bank account in their name which they don't know about, it gets very silly. (Trustee, Professional, Mixed, 10)*

- Abolish CGT when trusts are wound up; this trustee did not think it "entirely fair"
- One corporate trustee felt that life would be much easier if the different RATs (Rates Applicable to Trusts) were all the same, thereby saving a great deal of time

- Develop "standardised, simple products" which could be personalised by the settlor, and would reduce the need to rely on professionals to draw them up

> *I think a large part of my trust could be shrink-wrapped which I could then personalise, rather than start with a blank piece of paper. The lawyers will tell you that's no good, but most people set up trusts that are pretty standard. I think there could be a lot more standardisation. It's just the lawyers and their legal mystique which enables them to charge £200 to £300 an hour. (Settlor, discretionary, 22)*

- Pay back any money held in tax credits.

> *They credit you, they say this is in credit and will be paid when any other monies outstanding are due; you know there are no other monies but I think it's a ploy not to give you the money. They charge me every year for more tax than I owe. I haven't got the money back for three or four years . . . . They owe [me] about £30,000 - it could be more. (Settlor, bare, 20)*

When asked specifically what HMRC could do to help in relation to setting up and running trusts, some respondents (settlors and trustees) in the in-depth interviews did not think that the Department could offer any further help. The reasons respondents gave for this view were as follows:

- It was not HMRC's role to help or give advice

- It was not HMRC's wish to help or give advice because it was more concerned with collecting tax

> *To me the purpose of HMRC is to try and close every loophole they can, that seems to be their policy. (Settlor, A&M, 4)*

- HMRC is already helpful and easy to deal with, but could promote the service better

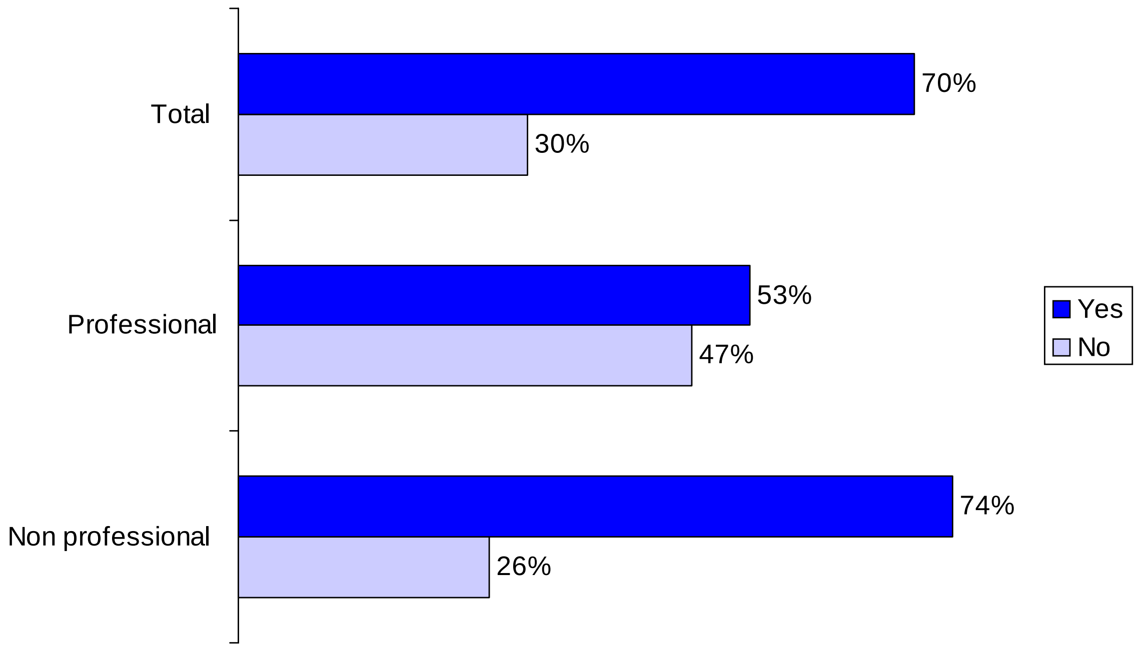
> *I would applaud the assessments that the Trust office themselves give you; even if you go through the normal phone number they'll put you through to someone who is an expert. That facility is not advertised. (Settlor, A&M, 27)*

3.6.8 Whether additional advisors are used

a) Use of additional advisors

Seven out of ten trustees interviewed (70%) in the survey of trustees had someone to advise them on tax related issues. Non-professional trustees were most likely to have advisors for this. The most common advisors used were: accountants (42%) and solicitors (24%).

Chart 6.8a: Use of additional advisors



Base: All trustees professionals (295), non-professionals (701) excluding don't knows

Amongst professional trustees interviewed, the proportion of those who do not receive advice is 47 per cent. Amongst non-professionals, 26 per cent did not receive advice. The sample for corporate trustees is small, but it is interesting to note that just five per cent used additional advisors. (Corporate trustees had in-house legal advice available to them.)

Non-professionals were more inclined to seek advice from accountants and solicitors than professionals.

Table 6.8.1: **Use of additional advisors, by key segments (percentages)**

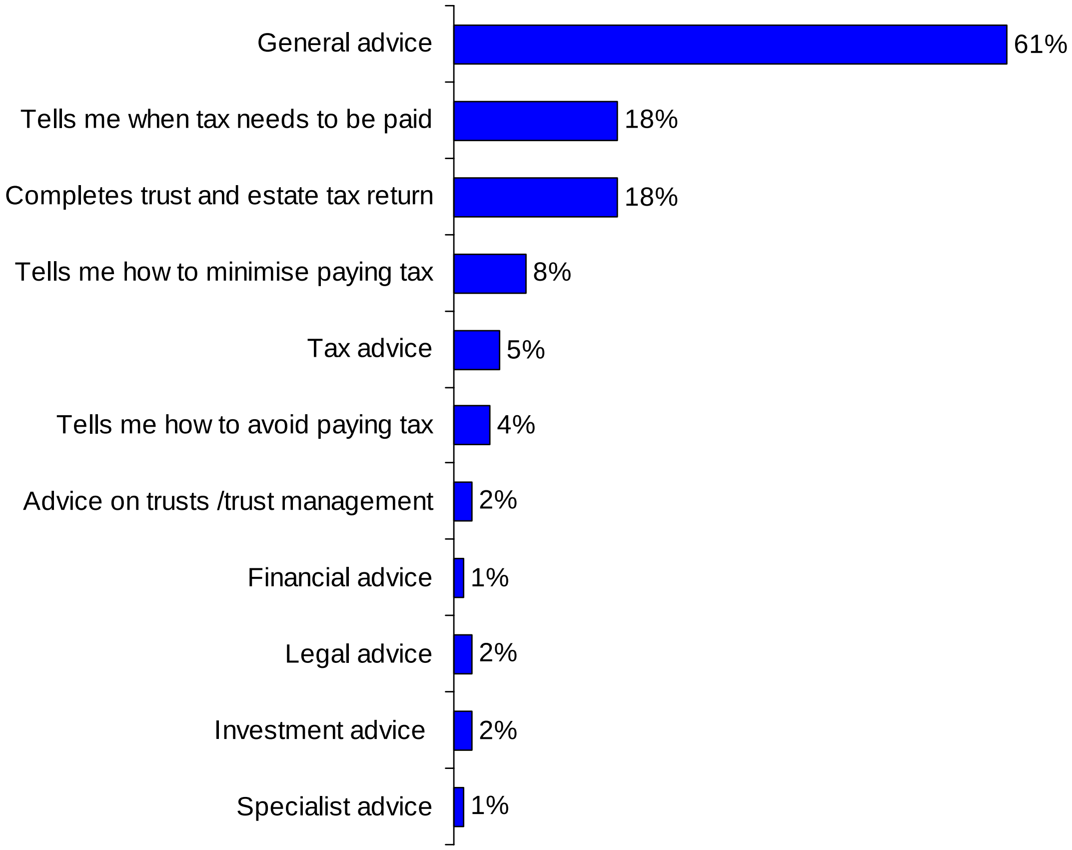
		Type of trustee responding		Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**IIP**	**Discretionary**	**High**	**Low/med**
Accountant	**42**	26	48	39	46	59	41
No one advises me	**30**	47	26	34	25	22	31
Solicitor	**24**	16	25	26	21	20	24
Financial Advisor	**8**	3	10	7	10	6	8
Unweighted total	***1023***	*295*	*701*	*490*	*530*	*378*	*645*

Base: All trustees - excluding don't knows (1023). Corporates excluded from type of trustee responding
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
(multiple responses)

b) Type of advice provided

Of those in the survey of trustees who said they sought advice from external sources (seven out of ten trustees), most just sought general tax advice (61%). Approximately one fifth of trustees (18%) said they were told when tax needs to be paid and the same percentage said that an advisor completes a Trust and Estate Return for them.

Chart 6.8: Type of advice provided to those who use additional advisors



Base: All trustees who have received advice on tax issues (753)
(multiple responses)

3.6.9 Level of influence of trustee on how income and assets are distributed to beneficiaries

a) Income

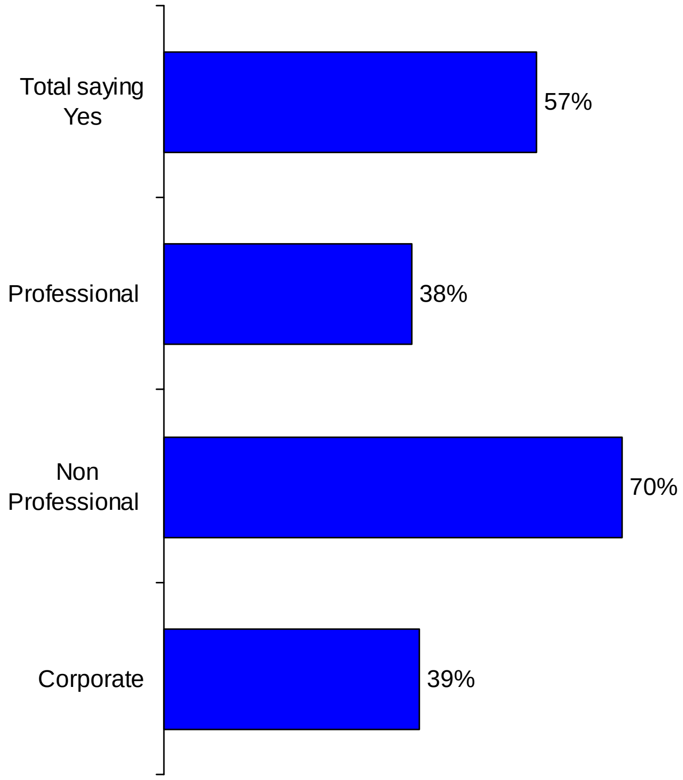
Just over half of trustees (57%) in the survey of trustees stated that the trust allowed them some influence over the distribution of the income to beneficiaries.

It should be noted that in the case of interest in possession trusts, the trustee has no discretion over what happens to the income of the trust (it belongs to the beneficiary as it arises), but they may have some discretion over which investments to place the trust funds in and hence how much income the trust generates.

Trustees who were most likely to have an influence over how the income was distributed were:

- Non-professionals (70%)
- Settlors (72%)
- Those who manage trusts set up after 1995 (72%).

Chart 6.9b: Whether trustees make decisions regarding trust income



Base: All trustees where trust generates an income (896), professional (268), non-professional (532), corporate (96)

As shown in table 6.9.2 below, 87 per cent of trustees said they made decisions in relation to discretionary trusts, whereas 32 per cent reported that they made decisions in relation to interest in possession trusts.

Table 6.9.2: Decisions regarding trust income by key segments (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Yes	**57**	38	70	39	32	87	60	57
No	**43**	62	29	61	67	12	40	43
Unweighted total	***896***	*268*	*532*	*96*	*445*	*450*	*347*	*549*

Base: All trustees where trust generate an income (896)

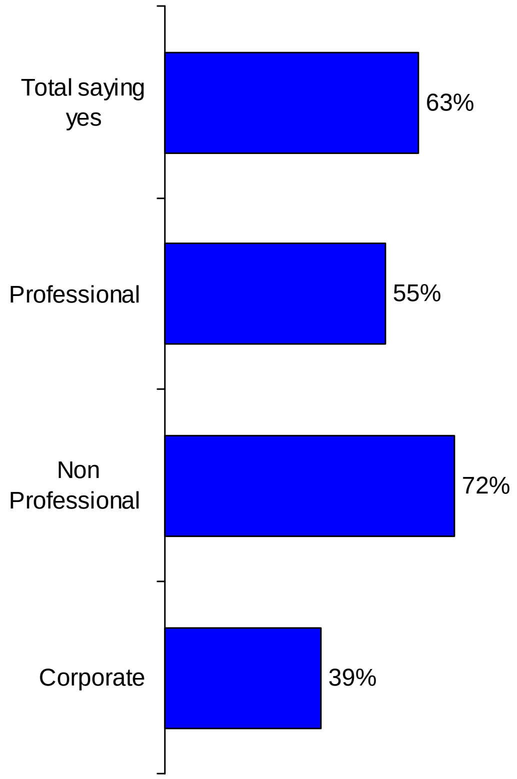
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

b) Assets

Nearly two thirds (63%) of trustees said that they made decisions on how the assets were or would be distributed. Groups most likely to say this were similar to those mentioned previously:

- Also a settlor (84%), or also a settlor and beneficiary (82%)
- Manage trusts set up after 1995 (73%)
- Non-professionals (72%).

Chart 6.9c: Whether trustees make decisions regarding trust assets



Base: All trustees (1100), professional (294), non-professional (706), corporates (100)

A higher proportion of trustees managing high income trusts (75 per cent compared with 63 per cent for low/medium trusts) made decisions regarding trust assets (as distinct from trust income).

The proportion of trustees who made decisions regarding assets is higher in discretionary trusts (83%) than in interest in possession trusts (48%).

Table 6.9.3: Decisions regarding trust assets by key segments (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Yes	**63**	55	72	39	48	83	75	63
No	**37**	45	28	61	52	17	25	37
Unweighted total	***1100***	*296*	*704*	*100*	*548*	*549*	*383*	*717*

Base: All trustees (1100)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*

3.6.10 How income from trust is managed

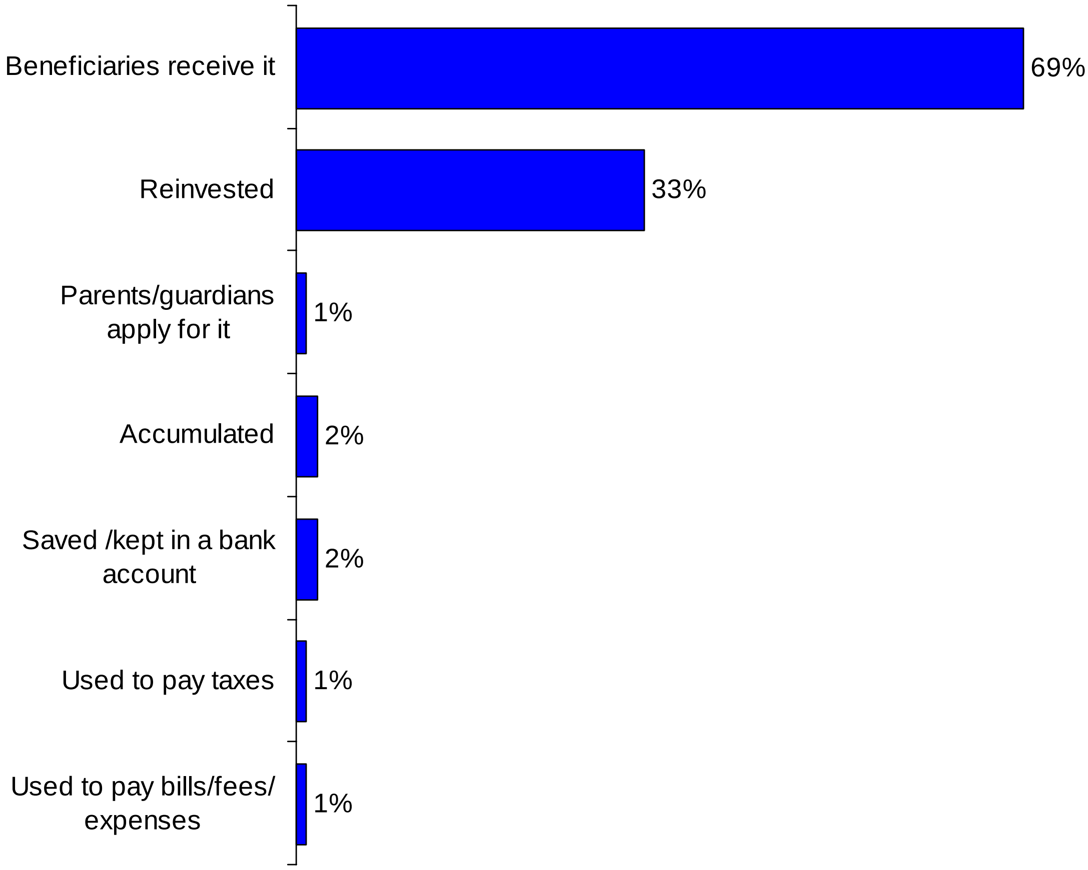
a) What happens to the income from the trust

Three quarters (76%) of trusts in the survey of trustees generate an income. Of these 69 per cent of non-professionally managed trusts generate an income, compared with 84 per cent of professionally managed trusts. In the case of corporate trusts, 97 per cent generate an income.

Overall, of the trusts generating an income, two thirds of trustees (69%) paid out all or some of the income to the trustees, and a third (33%) reinvested the income.

In most cases where the income was reinvested the decision on how the income was to be invested was made by the trustee only (74%).

Chart 6.10a: How income from trust is managed



Base: All trustees where the trust generates an income – excluding don't knows (810)
(Multiple responses)

Some variation was found in the management of trust funds on the basis of trustee type, and type of trust. Differences on the basis of levels of income were less marked.

In the context of solely professionally managed trusts, a smaller proportion re-invested income generated from trusts (19%), than in the case of only non-professionally managed trusts (where the proportion was 39%). Conversely, a higher proportion of beneficiaries received income generated from trusts when the all the trustees were professional (81%), as opposed to trusts managed only by non-professional (62%).

Table 6.10.1: How income from trust is managed by key segments (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Re-invested	**33**	23	41	21	22	46	35	33
Beneficiaries receive it	**69**	81	62	77	81	56	76	69
Parents/Guardians apply for the income on the minor's behalf	**1**	1	1	3	**	2	**	1
Accumulated	**2**	3	1	3	1	3	1	2
Saved/kept in a bank account	**1**	1	2	10	1	2	1	1
Used to pay bills/fees/ expenses	**1**	**	1	1	**	1	1	1
Used to pay taxes	**1**	**	1	**	**	1	**	1
Unweighted total	***896***	*268*	*532*	*96*	*445*	*450*	*347*	*549*

Base: All trustees where the trust generates an income (896)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
***=<0.5% (multiple responses)*

b) Filing returns and distributing income

Trustees in the in-depth interviews were asked about how they decided when to file the return for the trust, and also how decisions were made related to when to distribute income.

In terms of deciding when to file returns for trusts, trustees were usually influenced by the fiscal year, although a small number of professionals stated that they spread out their return filing duties.

> *I usually get [the returns] to coincide with the end of the tax year because that is the logical time to strike accounts. (Trustee, Professional, Mixed, Pilot 3)*

Decisions regarding when to distribute income varied depending on the trust set-up and on how the income was to be used. For example, a life tenant might receive payments at regular intervals throughout the year, or income might be paid into a bank account to be spent on the beneficiaries at the trustees' discretion. Where grandchildren were receiving funds to help with education the school terms could influence when payments were made. Professional trustees on occasion preferred to wait until shortly after the start of the new tax year (May / June) before making payments, so that they were fully aware of any tax liabilities they might have to take into consideration. Seasonal influence was mentioned on one occasion, with gifts being made to the beneficiaries every Christmas. Beneficiaries could also influence when payments were made, for example making requests to the trustees.

3.6.11 Experience and opinions of offshore trusts

A few settlors interviewed in the qualitative research voiced any comments about offshore trusts. Some had considered setting up offshore trusts but had decided against it because they perceived them to be too complex, remote and devoid of any real tax advantages.

> *The tax advantages don't work quite as easily now. I missed the boat on that perhaps. (Settlor, discretionary, 22)*

> *I looked into them at one point but it got very confusing and I'm also a control freak and didn't like the idea of someone I'd never met looking after my assets. (Settlor, discretionary, 25)*

Similarly, only a small handful of trustees interviewed in the qualitative research had experience of offshore trusts or offered comment without experience; none of them felt that offshore trusts offered any advantages and all voiced negative opinions of them.

Those trustees (professional) without experience of offshore trusts complained of the perceived complexity of setting one up and the high cost of running one.

> *We made a decision 25 years ago not to do them - they're too complicated. There's also this real feeling that the Revenue put you on a black list. The costs of running offshore trusts are horrendous. (Trustee, Professional, discretionary, 9)*

Those with experience of offshore trusts complained of a variety of problems associated with their set-up and running. These included:

- *High rates of CGT*: one professional trustee believed that a tax regime had been put in place to punish beneficiaries of offshore trusts in relation to CGT. In the resulting scenario, he claimed, UK beneficiaries often could not benefit from the capital of the trust without being subject to

CGT of 64 per cent. He thought it hardly surprising that the yield from that tax was zero because it was a voluntary tax.

- *Impact of multi-currencies on Capital Gains Tax calculations*: this professional trustee talked of the ‘extraordinary lengths’ one had to go to in order to try and be as compliant as possible in relation to CGT and offshore trusts. One particular area he highlighted was the perceived complexity surrounding currency transactions where there were multi-currencies and where it was necessary to try and trace whether there had been a gain when something was realised into sterling. The trustee referred to Section 86 taxation on the settlor, which he described as ‘an accountant’s nightmare’.

- *Perception from HMRC of tax avoidance as tax evasion*: this professional trustee strongly believed that HMRC actively “attacked” offshore trusts even when the trusts were perfectly valid and set up by a non-domiciled, non-resident. He also claimed that HMRC would still challenge an offshore trust even if there was a ‘clear case of the special commissioners against’.

> *I think [HMRC] are incredibly grabbing and I think they believe that everybody exported to avoid tax. The Revenue has also forgotten the distinction - tax avoidance is perfectly legitimate, tax evasion is illegal, the Treasury and the Revenue have gradually blurred the distinction to the extent they believe tax avoidance is now illegal as well. It isn’t. (Trustee, Professional, Mixed, 10)*

Very few trustees in the survey of trustees had experience of running an offshore trust (5%).

Trustees interviewed in the survey of trustees could think of more disadvantages of having an offshore trust such as:

- Expense (30%)
- Complicated/inconvenient (20%)
- Remoteness (10%).

Just over a quarter (27%) said that there were no disadvantages or they were not aware of any.

3.7 Management of Trusts

3.7.1 Key findings

- **Just under half of trustees (46%) in the survey of trustees claimed that tax law had an influence on the running of the trust and the main reasons given were that they have to adhere to tax law (14%) and to avoid Capital Gains Tax (12%)**
- **In the qualitative in-depth research, the professional trustees referred to the need to keep themselves constantly up to date with tax legislation**

The survey of trustees found:

- **Nine in ten trustees known to HMRC (90%) complete a Trust and Estate return every year**
- **The taxes most likely to be paid on trusts are Income Tax (67%) and Capital Gains Tax (23%)**
- **Virtually all non-professional trustees interviewed do not receive payments or expenses for being a trustee (96%)**
- **Over a third of trustees (38%) claimed managing trusts was now more expensive than when the trust was first set up. However, the main reason given for this was inflation.**

Please see section 2 for details of the robustness of results and likely problems due to response bias. All charts and tables are based on weighted data, unless otherwise stated.

3.7.2 Influence of tax law

For the professional trustees in the in-depth interviews, the main impact of tax law on the way they managed trusts was having to keep themselves up to date with legislation. When asked for improvements to the process, some maintained that the best thing that could be done would be to simplify tax legislation (and CGT in particular). Respondents found it difficult, however, to give specific examples of how they would like to see tax legislation simplified.

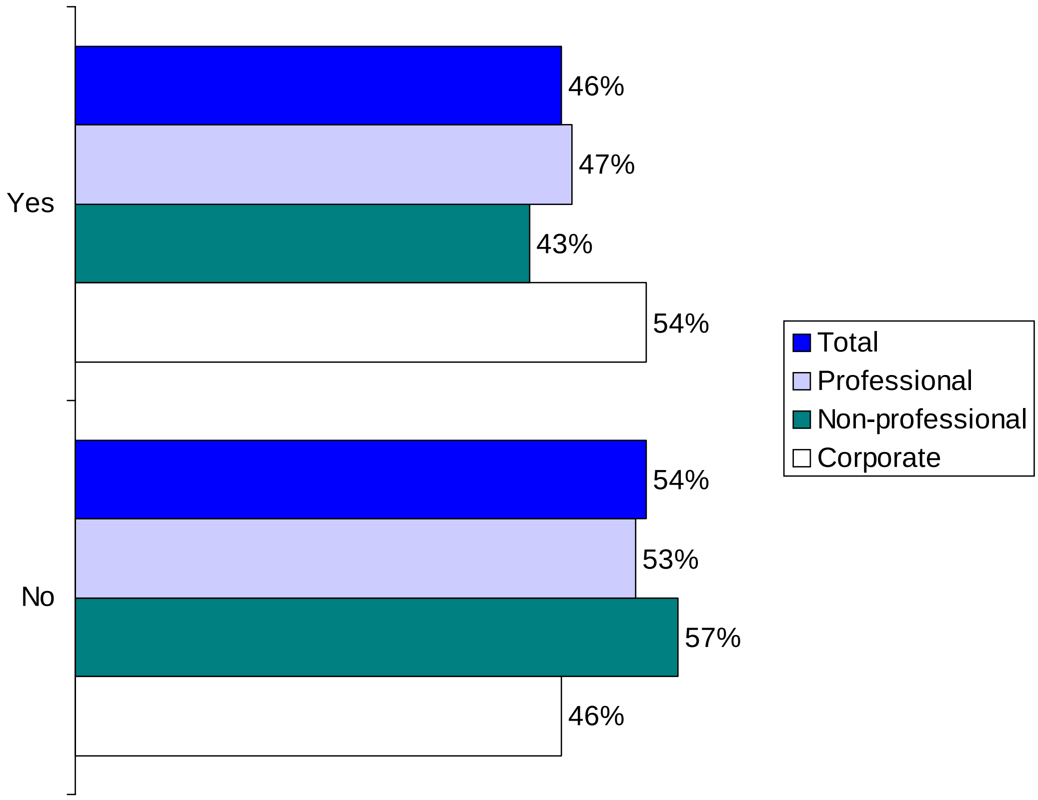
Where tax planning was a key factor in setting up the trust, the trusts were managed as efficiently as possible with this in mind, for example via an annual review of the trust.

The law is forever changing and we have to spend a fortune on keeping abreast of changes in tax law in order to mitigate or allow the tax liability as best as one can. (Trustee, Professional, Mixed, Pilot 3)

The tax is always a bit of a juggling exercise. You become philosophical. You have got to pay the tax and that is the end of it. I don't really look beyond the compliance issues. That is what the tax rules say. We try and make it as efficient as possible . . . so we will look annually at the overall position and if there are ways we can mitigate the tax legitimately then obviously we will do it. (Trustee, Professional, discretionary, Pilot 6)

Trustees in the survey of trustees were also asked if tax laws influenced the way the trust was run, and it emerged that tax law had an influence on the running of the trust in just under half the cases (46%).

Chart 7.2a: Whether tax law has an influence on trust



Base: All trustees – excluding don't knows (1042), professional (293), non-professionals (649), corporate (100)

Professional trustees were slightly more likely to know whether tax law had an influence on the trusts compared with non-professionals (6% responded 'don't know' amongst non-professionals compared with one per cent of professionals).

Trusts most likely to be influenced by tax law are given below:

- High income trusts (55%)
- Discretionary trusts (53%)
- Trusts set up in the last four years (52%)
- Trusts that generate income (47%) – particularly from abroad (62%).

The main reasons for tax law having an influence on trusts are shown in table 7.2.1.

Table 7.2.1: Reasons why tax law has an influence on trusts (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Must adhere to tax law	**14**	10	17	11	12	16	19	14
To avoid Capital Gains Tax	**12**	12	6	35	17	9	10	13
To keep tax liability to a minimum	**7**	7	7	7	5	8	19	6
Affects distribution decisions	**7**	11	6	5	1	12	7	7
Affects investment decisions	**6**	8	6	2	8	4	8	6
Have to react to tax law changes	**5**	2	6	3	4	5	7	4
Unweighted total	***520***	*164*	*306*	*50*	*217*	*303*	*215*	*305*

Base: All trustees who said tax law did have an impact on trust (520)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
N.B. Table shows all responses of 5% or more

The most frequently stated reasons were: that tax law had to be adhered to (14%); to avoid Capital Gains Tax (12%); trying to keep tax liabilities to a minimum (7%); and the effect on distribution decisions (7%).

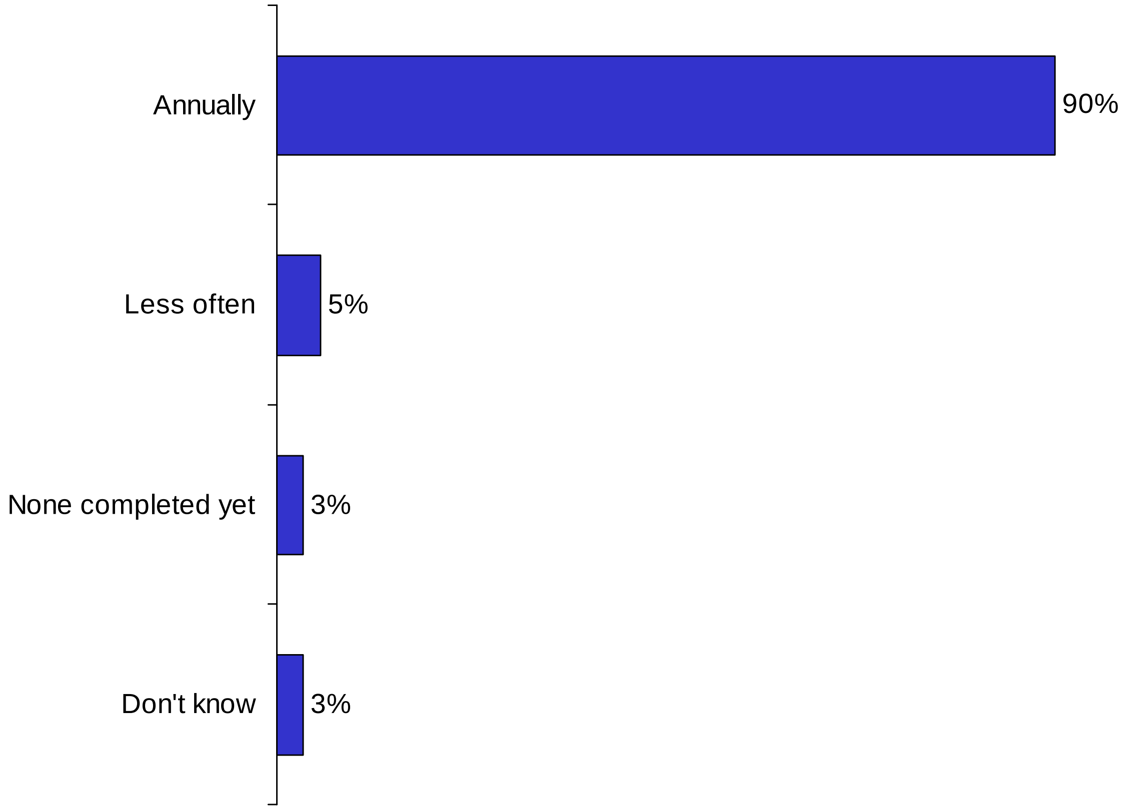
Those who cited Capital Gains Tax were more likely to be professional trustees and corporate professionals, although it should be noted that the sample size was low for the latter group of respondents.

Capital Gains Tax was also an important factor amongst trustees of interest in possession trusts compared with discretionary trusts (17% compared with 9%).

3.7.3 Whether Trust and Estate Returns are being completed unnecessarily

In total, nine in ten trustees claimed to have completed a Trust and Estate return for the named trust every year, as chart 7.3a demonstrates.

Chart 7.3a: Frequency of completing Trust and Estate Return



Base: All trustees (1100)

In the survey of trustees trustees who filled out a tax return annually were asked if tax was always due when they completed a Trust and Estate Return. Nearly two fifths (38%) said tax was not always due when they completed the form and this proportion was similar amongst different trustee types.

In the in-depth interviews, one of the problems respondents occasionally mentioned was the fact that HMRC continued to send them returns to complete for trusts where no return was necessary because the trust either did not generate an income or no further tax was due as it had been deducted at source (e.g. within bank account). They would prefer it if HMRC sent out return forms only when a return was necessary i.e. where the trust has additional tax to pay.

49 per cent of trustees selected ‘make a Trust and Estate Return only when tax is due’ from a list of ‘responsibilities you have already undertaken in managing the… trust’. The proportion of professional and non-professional trustees who selected this was relatively equal. Likewise, the distinctions between the segments defined by trust type and income were not marked where this issue was concerned.

3.7.4 Role of tax in managing trusts

Trustees in the survey of trustees were asked which taxes had been paid to the HMRC on this trust in the last five financial years (since 1999/2000 tax year), or during the lifetime of the trust if it was set up more recently. The most commonly paid taxes were Income Tax (67%) and Capital Gains Tax (23%).

Table 7.4.1: Taxes that have been paid (percentages)

		Type of trustee responding			**Trust type**		**Income level***	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Income tax	**67**	75	63	68	58	79	87	66
Capital Gains Tax	**23**	30	17	39	28	18	58	22
Accrued income tax	**3**	-	-	20	4	2	-	3
Additional rate tax	**2**	2	-	11	1	4	1	2
Inheritance tax	**2**	5	1	4	2	3	9	2
Dividend tax	**1**	-	2	-	2	1	1	1
Tax on interest	**1**	1	-	-	1	-	-	1
Trust tax	**1**	-	1	-	-	1	1	1
Others	**2**	3	2	3	2	2	3	2
None yet	**17**	12	26	8	25	11	2	21
Unweighted total	**934**	276	565	93	464	469	336	598

*Base: All trustees – excluding don’t knows (934)***.** *(14% of trustees responded don’t’ know)*
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
(multiple responses)

Professional and corporate trustees were particularly more likely to say there had been Capital Gains Taxes paid on the trusts than non-professionals.

Non-professionals were less likely than professionals to know which taxes had been paid (18% don't know).

High income trusts were more likely to have paid both income tax (87%) and Capital Gains Tax (58%) in the past five years.

3.7.5 Management of trusts with vulnerable beneficiaries

There was a tendency towards non-professional management in the context of trusts where a trustee classified a beneficiary as vulnerable on the basis of being aged 'under 16'. 31 per cent of trusts managed solely by non-professionals had beneficiaries under the age of 16 compared with 17 per cent where there was at least one professional trustee. Conversely, there was a tendency towards professional management of trusts where a trustee classified a beneficiary as vulnerable on the basis of 'old age'.

A disproportionately large number of trusts with vulnerable beneficiaries were discretionary type trusts. Discretionary trusts constituted around 50 per cent of trusts in the total sample, while 64 per cent per cent of trusts with vulnerable beneficiaries were discretionary.

Table 7.5.1: **Management of trusts with vulnerable beneficiaries (percentages)**

		Type of trustee responding		Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**IIP**	**Discretionary**	**High**	**Low/med**
Aged under 16	**36**	21	41	15	51	62	35
Aged between 16-17	**9**	5	11	6	12	14	9
Aged 18-25	**12**	11	13	4	20	18	12
Have a physical disability	**7**	10	6	2	12	1	7
Old age	**17**	32	12	35	2	14	17
Mental disability	**15**	17	14	11	19	7	15
**Others	**18**	18	18	27	11	7	18
Unweighted total	***231***	*68*	*163*	*82*	*147*	*61*	*170*

Base: All trustees who said the beneficiaries were from a vulnerable group (231)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
(Multiple responses)

** A number of other responses included:

'Drugs problem'
'affairs monitored by social services'
'unable to manage affairs'
'single mother'

3.7.6 Costs of managing trusts

In the in-depth interviews both types of respondent generally believed that all the costs of running a trust were quite reasonable, particularly for some when considered against the value of the trust, its benefits, tax 'saved', and the service provided by the professionals.

> *I believe them to be reasonable. You can't have any professional people without proper fees and if you get good advice, I have no complaints. (Settlor, A&M, 5)*

> *The cost of running my bigger trust is considerably more but I've never reached the stage where I think this isn't worth it. (Settlor, A&M, 4)*

Only a very small number of respondents felt that the costs associated with trusts were too high, for example costs for the amount of work needed when the trust was felt to be very straightforward.

Also, one professional trustee was dismayed by the way he thought that some banks charged clients based on the value of the assets to be placed in trust.

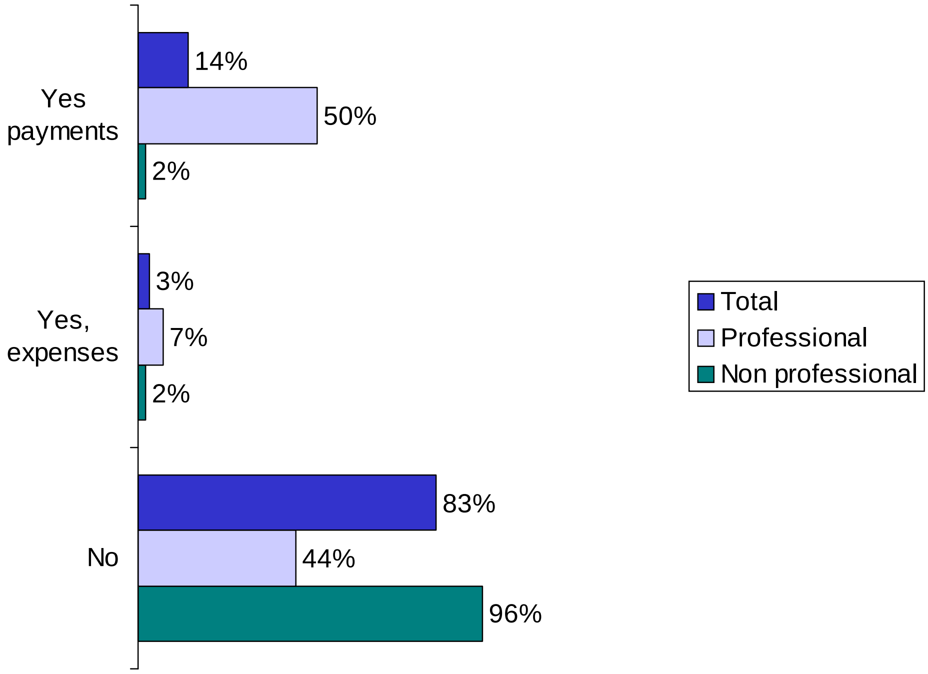
> *We don't charge on a value factor, I do know of banks that charge on a value factor and I think that's appalling, you should have a one-off value charge but then after that it should be on a time basis. (Trustee, Professional, discretionary, 9)*

However, a handful of professional trustees thought that the cost of running a trust had increased over time because of greater regulatory requirements and ever more complex tax law. These factors, they claimed, resulted in more time and resources being spent on preparing accounts and completing forms, and higher fees therefore being passed on to the client.

> *Ongoing annual costs . . . have increased dramatically for two reasons - an organisation called the Financial Services Authority, and the regulatory costs have doubled. The second is that tax used to be fairly straightforward. To do a tax return even on the computer will now probably take an hour - that's expensive money. This Government and the one before it have so complicated things at the expense of the customer to raise more tax and to try and regulate an industry that if you were good frankly you didn't need regulating. You have to pass that on to the client, you can't pass that bill onto the Government, but I'd love to. (Trustee, Professional, Mixed, 10)*

Professional and non-professional trustees in the survey of trustees were asked if they received payments or expenses for being a trustee and chart 7.6a shows the responses to this question.

Chart 7.6a: Whether received payments or expenses



Base: All professional and non-professional trustees (1000), professional (296), non-professional (704)

Most non-professionals did not receive any payments or expenses for being a trustee (96%). Just over half of professional trustees (56%) received either payments (50%), or expenses (7%).

Table 7.6.1: Whether cost of managing the trust is more or less expensive now than when it was first set up (percentages)

		Type of trustee responding			Trust type		Income level*	
	Total	**Prof**	**Non-prof**	**Corp**	**IIP**	**Discretionary**	**High**	**Low/med**
Much more expensive	**6**	7	6	5	7	5	9	6
More expensive	**28**	35	22	40	29	26	38	27
About the same	**52**	42	55	51	46	57	41	52
Less expensive	**11**	14	12	3	13	8	10	11
Much less expensive	**4**	1	5	2	4	3	1	4
MORE EXPENSIVE	**34**	42	28	44	36	31	47	33
LESS EXPENSIVE	**15**	16	17	4	18	12	11	15
Unweighted total	***1012***	*276*	*638*	*98*	*499*	*511*	*356*	*660*

Base: All trustees excluding don't knows (1012)
**High income – greater than £35,000, Low/med – less than or equal to £35,000*
N.B. Percentages in bottom part of table do not always to sum of figures in top part of table due to rounding

A third (34%) of trustees thought that managing the trust was more expensive now than it was when it was first set up. Trustees most likely to say that it is more expensive were professional trustees and corporate trustees (42% and 44% respectively).

The costs for managing high income trusts were also considered more expensive now than when they were first set up (47% more expensive).

Table 7.6.2: Changes in cost of managing the trust by trust set up date (percentages)

		Length of time trust set up					
	Total	**2000-2002**	**1995-1999**	**1985-1994**	**1975-1984**	**1960-1974**	**Earlier than 1960**
More expensive	**34**	18	22	34	43	52	58
Less expensive	**15**	11	14	15	18	12	20
About the same	**52**	70	64	51	40	36	21
Unweighted total	***1012***	*101*	*290*	*271*	*109*	*128*	*77*

Base: All trustees excluding don't knows (1012)

Table 7.6.2 demonstrates that the more recently the trust was set-up, the higher the proportion of trustees who consider costs to have remained about the same. Conversely, the earlier the set up of the trust, the higher the proportion of trustees who considered costs in managing trusts to have become either more or less expensive.

In all cases, particularly where a trust was set up earlier, a greater proportion of trustees considered costs to have become more, rather than less, expensive.

Trustees were asked why they thought the costs of running the trust was more or less expensive now than when it was first set up. Table 7.6.3 shows the reasons that trustees gave for why they think the management of trusts is more expensive now. Table 7.6.4 shows why trustees felt that running a trust is less expensive now.

Table 7.6.3: Why is it more expensive to manage trusts now? (percentages)

	Total
Inflation	36
Increased cost/fees	12
Accountancy fees	12
Professional fees	7
Compliances with/changes in legislation	6
Tax/tax laws	5
Trust has grown/increased in value	4
Greater complexity	3
Stockbrokers fees	3
Cost of living	3
Management costs	3
Solicitors' fees	3
More work to do	2
No ongoing costs	2
Admin/paper work	2
All others	19
Unweighted total	*361*

Base: All trustees who say the trust is more expensive to manage (361)
(Multiple responses)

The main reason given for trusts being more expensive to run now than when it was first set up is inflation (36%). Other reasons given were increases in fees (12%), accountancy fees (12%), and professional fees (7%). Just five per cent of trustees claimed that trusts were now more expensive to run due to tax or tax laws.

Table 7.6.4: Why is it less expensive to manage trusts now? (percentages)

	Total
No ongoing costs	19
Less professional advice/involvement	14
Less work to do now	9
Trust has not changed	4
Set up costs	4
Accountancy fees	4
Tax/Tax law	3
Inflation	2
Small/straightforward trust	2
Trust being wound up	2
Technology/computers	2
Professional fees	2
Legal fees	2
Management time costs	2
All others	28
Unweighted total	*140*

Base: All trustees who say the trust is less expensive to manage (140)
(multiple responses)

The main reason given for trusts being less expensive now than when it was first set up is that there are no on-going costs in managing the trust (19%). There is also less professional involvement now in some trusts (14%).

In another question, trustees were asked whether or not they thought ‘the costs of managing this trust are too high, about right or too low’. 62 per cent responded they thought it was ‘about right’, 11 per cent ‘too high’ and five per cent too low. 22 per cent responded that there were no costs.

3.7.7 Whether the way in which trusts are managed has changed over time

Trustees in the in-depth interviews tended not to think that, overall, the way in which they managed trusts had changed over time. A small number of professionals did feel that they were required to be more rigorous in providing evidence of their actions, based on the Trustee Act of 2000.

> *Gradually we have become much more overtly conscious of the Trustee Act 2000. We live in an era where you have to prove what you have done and what you’re doing, so we’re much more conscious of that. (Trustee, Professional, A&M, 1)*

More generally, the perceived increase in tax complexity did require more time being spent on keeping abreast of legislation, although advances in information technology (IT), a few felt, had helped to mitigate this workload with accounting software.

> *The whole flow of information is so much better now than it was; general use of computers has made our trust accounting up to date so we're processing all the time. Things have dramatically changed with the use of proprietary software. (Trustee, Professional, Life interest, 7)*

In addition, there was reference to the time saving advantages of having share certificates issued in the name of fund managers (not trustees as previously).

Similarly, the survey of trustees found that, in most cases (84%), the way in which the trust was run had not changed over time. The reasons given for the 16 per cent of cases where management of the trust had changed over time are presented below:

Table 7.7.1: Reasons for changes in the management of trust (percentages)

	Total
To take account of new laws/ legislation/ regulation	15
Needs of the beneficiaries have changed	11
Change in investment strategy /policy	10
Changes in technology	10
Change in who manages/runs the trust	8
Changed who got professional advice from	7
To increase efficiency /reduce cost	5
To account for changes in the stock market	4
To take account of taxation	3
Change in type of assets held	3
All others	37
Unweighted total	*145*

Base: All trustees who said the management of the trust has changed over time (145) (multiple responses)

The most common explanation for changes in the management of trusts was 'to take account of new laws/legislation/regulation' (15%). However, no non-professionals cited this as an explanation for changes in the management of trusts.

3.8 Conclusions

3.8.1 Overall conclusions including improvements suggested by trustees and settlors

The following conclusions are based on responses to both the in-depth interviews and the quantitative research. Given the low response rates on the quantitative survey, it is important to recognise that the resulting sample may have some deficiencies in terms of being representative of the sample population (as discussed in section 2) and this should be taken into account when using the results from this research.

- **Lay versus professional trustees and settlors**

This research study suggests that non-professional trustees and settlors tend to adopt a passive role in relation to trusts. The evidence for this includes: the fact that that there is some uncertainty about the type of trust held; there are low levels of awareness among lay trustees about their responsibilities as a trustee; they do not actively seek information about trusts; and lay trustees tend to rely on professional trustees to carry out most of the management of a trust.

It should be noted that lay trustees and settlors are not unhappy with this role. They have every confidence in the professionals on whom they rely, and do not expect to have any greater involvement than they currently have.

Professional trustees and settlors, however, generally consider themselves to be well informed, aware of their responsibility, and continue to keep themselves up to date with tax legislation.

- **Motivations for setting up trusts**

The research suggests that the primary motivation for setting up a trust relates more to control of assets, than to tax planning. An individual will make a decision about what he or she wishes to do (for example, provide private education for grandchildren), and a professional adviser will then give advice about how to carry out these wishes in the most efficient way possible. This will usually involve the use of a trust. ‘Control’ can extend to ensuring that ‘family’ money does not go outside the family, even long after the settlor’s death.

However, whilst trustees in the survey did not generally mention tax spontaneously as the primary reason for setting up the trust, when asked specifically if tax was an important element in deciding to set up a trust, about half of trustees claimed it was important and this figure rose to 60% amongst trustees of high income trusts.

This study identified only a small number of trusts set up for the benefit of individuals HMRC would recognise as ‘vulnerable’. However, in the survey of trustees, one quarter of respondents considered at least one of their beneficiaries to be ‘vulnerable’, according to their own interpretation of vulnerable, and in the quantitative study, settlors and trustees identified a much wider group than orphans and those with a physical or mental disability as ‘vulnerable’ – for example, those with a drug addiction, all children under 18, and those who were financially unreliable.

- ❑ **Setting up trusts**

Settlors taking part in the in-depth interviews tended to find setting up trusts straightforward. This was because they employed professionals to prepare the trust Deed.

- ❑ **Beneficiaries**

The main beneficiaries of trusts in this study were either the children or grandchildren of the settlor. Approximately three quarters of trustees claimed that beneficiaries exerted no influence over the running of the trust.

- ❑ **Trustees**

Around three quarters of trustees included in the survey were non-professional and three-fifths of trusts are managed solely by non-professional trustees. Most have someone to advise them on tax-related issues.

- ❑ **Management of trusts**

Just under half of trustees in the survey claimed that tax law had an influence on the running of the trust. Reasons given included the necessity of keeping up to date with tax law (usually professionals). Over a third of trustees claimed that managing trusts was now more expensive than when the trust was first set up. However, the main reason given for this was inflation. In the in-depth interviews settlors in general found the costs reasonable.

❑ Improvements suggested by trustees and settlors

Overall, respondents felt that there were no major problems associated with running trusts. In the survey of trustees, 56 per cent claimed they could think of no improvements that would make their life easier. The most common response to this question where it was answered related to a request for a simplification of tax laws in general, and the rules relating to Capital Gains Tax in particular. Some specific suggestions were made in the in-depth interviews, including:

- Develop simpler tax return forms for trusts, for example, a "tailored" approach taking into account the type of trust held, and clearer instructions accompanying the forms
- Possibility of completing return online
- More accessible contacts at HMRC
- More readily available (and 'plain English') information about trusts for both potential settlors and potential trustees
- For trustees, clear information on the responsibilities of becoming a trustee, or a system whereby taking professional advice is mandatory.
- Dispense with the tax return for discretionary trusts where it is clear that there is no income
- Change the system so that trustees do not feel forced to distribute income from trusts to minors (where it would be more advantageous to the minor to allow the money to accumulate) in order to make use of lower tax rates
- Consider lowering (or removing) the tax rate for low value trusts
- Make it possible to extend the time period on accumulation and maintenance trusts so that the trustees do not necessarily have to distribute income to children at a given moment
- Apply a single RAT (Rates Applicable to Trust) to trusts
- Develop "standardised, simple products" which could be personalised by the settlor, and would reduce the need to rely on professionals to draw them up
- Pay back any money held in tax credits.