**AN INTRODUCTION TO THE TRUST CORPORATION**

1. **What is the Trust Corporation?**
	1. Girlguiding offers guide units a property holding service through The Guide Association Trust Corporation (“the Trust Corporation”). This body was incorporated to hold legal title to property and investments on behalf of any guide unit (or joint guide and scout groups) in England, Wales and Northern Ireland.
	2. The Trust Corporation is a company limited by guarantee, incorporated under the Companies Act and is wholly owned by The Guide Association.
	3. The Trust Corporation was licensed by the Lord Chancellor in 1937 to act as a sole trustee enabling it to hold land and investments for guide units without the need to appoint a second trustee. The Trust Corporation is sometimes referred to as a “custodian trustee” or as a “holding trustee”.
	4. For legal reasons, the Trust Corporation cannot act as trustee of property in Scotland where property law is entirely different.
2. **Why use the Trust Corporation?**
	1. Every guiding unit is a charity and the law requires that all land of a charity should be held in the hands of trustees. If individuals are trustees for a charity, there must be more than one of them, and when anybody gives up being a trustee, a new trustee must be appointed in their place. If all the individual trustees have died or contact has been lost with any of them, it may be necessary to apply to the courts to appoint a new trustee or discharge the trustee who cannot be traced.
	2. Unlike an individual, the Trust Corporation by virtue of its legal status can be the sole trustee for land for a charity. A trust corporation never dies, retires or disappears and the long and sometimes complicated process involving the appointment of new trustees is therefore avoided.
	3. In addition, once a property is held in trust by the Trust Corporation, the title deeds to the property are held by the Trust Corporation and not the local guide unit. The Trust Corporation can therefore provide a safe, central storage of title deeds rather than the title deeds being held by a local individual trustee where there is more potential for the deed to be lost when there is a change of volunteers.
	4. The Trust Corporation can hold land, freehold or leasehold buildings and investments. It cannot act as trustee for equipment.
	5. There is currently no charge to guide units for using the Trust Corporation’s services. The costs are wholly subsidised by Girlguiding.
3. **The powers of the Trust Corporation**
	1. When the Trust Corporation is holding property on trust for a guide unit, its powers and responsibilities are derived from a 1938 Trust Deed. In general terms, the 1938 Trust Deed provides that:
* the Trust Corporation holds the property or investments for the guide unit and will not do anything with the property or investment without the express instructions of the unit;
* if the guide unit for which it holds the property is amalgamated with others, the Trust Corporation will hold the property for the new unit;
* if the unit is disbanded, the Trust Corporation will hold the property for Girlguiding generally (and under the Girlguiding Manual, the relevant local commissioner will be asked to see which nearby units could most benefit from the property);
* in the unlikely event of the Trust Corporation receiving an instruction which is clearly unlawful or against the interests of the guide unit and the guides who use the property concerned, the Trust Corporation can disregard that instruction.
	1. Joint scout and guide property is held on the terms of a 1975 Joint Scout and Guide Trust Deed. The main difference between this 1975 Joint Trust Deed and the 1938 Trust Deed is that if either the local guides or the local scouts are disbanded or cease to use the property, the property is held half for Girlguiding and half for the Scout Association. The 1975 Joint Trust Deed also provides for a joint guide and scout management committee to be set up and it will be this joint committee which can give directions to the Trust Corporation.
1. **Limitations to the Trust Corporation’s powers**
	1. It is important to stress that the Trust Corporation merely acts to hold legal title to property and investments on behalf of guide units or joint guide and scout groups. It is not responsible for the management or administration of the property, and has no decision making powers in respect of the property. This remains the responsibility of the local guide unit, and usually a local management committee is formed to manage the property including carrying out all necessary repairs and insuring the property for its full reinstatement value.
	2. When a property is taken into trust, the guide unit will be required to sign a Letter of Request which will include an undertaking to indemnify the Trust Corporation against all liability whatsoever in relation to the property.
	3. The Trust Corporation cannot act beyond the powers which are outlined in the 1938 Trust Deed (or the 1975 Joint Trust Deed in the case of joint guide and scout properties). In particular, the Trust Corporation cannot buy or sell any property without the express permission of the guide unit concerned.
2. **The Administration of the Trust Corporation’s Property Holding Service**
	1. The administration of the Trust Corporation’s property holding service is carried out by HQ’s Legal Support department. For nearly 30 years, this service was provided by an external legal consultant, Roger Peters, who was a partner in the firm of Gordon Dadds but who was seconded to HQ. Between March 2013 and November 2014, the legal support service was outsourced to the leading charity law firm, Bates Wells Braithwaite (“BWB”).
	2. In November 2014, HQ recruited a part-time in-house property solicitor primarily to deal with Trust Corporation properties. It is important to note that the solicitor acts for the Trust Corporation and does not act as solicitor for individual units or members. BWB continues to provide additional legal support on the instructions of the in-house property solicitor. BWB also acts as Company Secretary to the Trust Corporation and holds all original Trust Corporation title deeds.
	3. The cost of administering the Trust Corporation’s property holding services and providing the ancillary legal support services is in excess of £100,000 per annum. There is no charge to guide units for using the services of the Trust Corporation and this cost is wholly subsidised by Girlguiding. In contrast, the Scout Association Trust Corporation charges £450 plus VAT to take a property into trust and charge additional fees for additional legal services, although it should be noted that they have over 3000 properties held in trust.
	4. The nature and extent of the legal support offered as part of the Trust Corporation’s property holding service have evolved over the decades but this practice has never been formally committed to writing or codified in an objective or consistent manner. This has resulted in wide varying levels of legal support provided to units across the country with some units receiving extensive legal support and some units receiving almost no legal support (or not even being aware of the Trust Corporation’s services).

### Whilst Girlguiding encourage all units with property to use the services of the Trust Corporation and offer ancillary legal support, there are inevitable resourcing and budgetary constraints. It is therefore necessary to set parameters for the support that can be given to ensure that the service is available to as many units as possible within those constraints. For the past year, we have been working to develop guidelines to establish those parameters in order to provide a more transparent and standardised legal support service.

# The New Parameters of Legal Support Services

## The main work undertaken by Legal Support is in connection with taking a guide property into trust by the Trust Corporation. This includes:

* taking initial request from a guide unit, preparing the necessary forms for acceptance and approval of a request to take a property into trust, and advising on the role/procedure of the Trust Corporation and applicable charity law;
* corresponding with any solicitor instructed by the guide unit regarding the Trust Corporation’s standard clauses and formalities;
* checking and completing matters by arranging for the signing/sealing documents on behalf of the Trust Corporation; and
* providing secure, centralised storage of conveyances, leases and deeds.

## In addition, Legal Support endeavours to provide general legal advice throughout the unit’s occupation of a Trust Corporation held property. In determining the extent to which Legal Support can assist on a matter, the following three overarching principles have been formulated and applied:

* 1. **Will the guide unit be taking on new or additional liabilities or obligations in respect of their property?** If so, bearing in mind that these ultimately rest with the guide unit and not the Trust Corporation, the level of general advice that Legal Support can provide may not be sufficient to adequately protect the interest of the guide unit. In those cases, it is important that the unit obtains independent legal advice from its own solicitors;
	2. **Will the guide unit derive any money or income from a proposed property transaction?** If so, it would be reasonable to expect the guide unit to instruct their own local solicitors and for all legal costs (including those of the Trust Corporation) to be covered out of the money or income received; and
	3. **Would it be an appropriate and reasonable use of Girlguiding’s resources and funds for Legal Support to give advice on a matter?** This is decided on a case by case basis and depends on factors including the level of legal work required, whether it is a legal matter or a commercial matter, whether it involves an organisation wide issue or whether is it a local property management issue.

## Applying these principles, set out below are examples of circumstances where Legal Support can and cannot provide assistance:

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| **What Legal Support can help with** | **What Legal Support cannot help with** |
| ****Transferring an **existing** guide property (whether freehold or leasehold) to the Trust Corporation to hold on trust | ****Buying a **new** guide property or taking a lease of a **new** guide property and dealing with the associated conveyancing and title investigation work.  |
| ****Dealing with simple lease renewals where the terms of the new lease are on substantially the same terms as the unit’s existing lease | ****Dealing with more complicated lease renewals on substantially different terms and which impose more onerous obligations on the guide unit |
| ****Liaising with the unit’s appointed local solicitors on the Trust Corporation’s formalities and advising on charity law requirements in connection with the sale of a guide property | ****Dealing with the conveyancing involved in the actual sale of the guide property  |
| ****Advising on legislation affecting property  | ****Advising on commercial or property management issues eg rent negotiations with landlords. Legal Support can, however, refer guides to the Trust Corporation’s retained chartered surveyor for help with commercial negotiations |
| **** Advising on title documents to assist with property ownership disputes | ****Advising on disputes which do not relate to property ownership (eg contractual disputes) or which require more detailed legal advice. Some disputes, particularly boundary disputes, require local geographical knowledge which only a local solicitor can provide  |
| ****Assisting with straightforward property documents which require the Trust Corporation to be a party, eg a surrender of a lease or a deed to vary the terms of a lease | ****Assisting with complicated property documents or with contracts which do not require the Trust Corporation to be a party (eg building contracts, service agreements etc) |

## Where Legal Support cannot assist with a matter, the guide unit should instruct their own local solicitor in order to ensure that the unit is properly advised and its interests sufficiently protected. It should be remembered that all guide units operate as independent branches of Girlguiding and own assets and incur liabilities in their own right. In that regard, all units are expected to anticipate and include, as far as possible, any necessary legal work in their own operating budgets.

# Further Questions

## Any further queries on the scope of the Trust Corporation’s property and legal support services or any request for legal support should be sent to legal.department@girlguiding.org.uk in the first instance.

## The issue of whether to charge for the Trust Corporation’s services is still being considered and, for the moment, remains free to guide units. We are currently trying to establish how many guide properties exist in England, Wales and Northern Ireland that are not currently held by the Trust Corporation and which could benefit from the Trust Corporation’s services. We will be asking Chief Commissioners to help conduct a property audit of their Country and Regions (some already do this). Once that audit has been completed, we can better assess the implications for the cost of providing the Trust Corporation’s services and whether we need to impose a charge in order to continue providing those services. A recommendation will then be made to the board of trustees.

**LEGAL SUPPORT
GIRLGUIDING**

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