

# TRUST FORMATION

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# How do we create a trust?

- \* There are 3 stages:
  - \* Satisfy the 3 certainties
  - \* Complete the statutory requirements
  - \* Transfer the property into the trust

# The 3 Certainties

- \* Certainty of **Intention** – *the settlor's intention must be clear*
- \* Certainty of **Subject Matter**- *you must be able to identify the property that is being put into trust - there must be no ambiguity.*
- \* Certainty of **Objects** – *you must be able to identify the beneficiaries*

# Statutory requirements

- \* Choose a trustee
- \* Can be one corporate trustee or two individuals. Must satisfy the “four eyes” criteria
- \* If it is a transfer of trustee from an existing trust company, you need to complete a Deed of Retirement and Appointment (DORA)
- \* There must be a Trust Deed
- \* You can have a Letter of Wishes (optional)
- \* You can have a Protector (optional)