

A Reflection on Family Trusts as the Longest-Lived Family Members

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Who's family? This question is always at the foundation of any serious attempt to manage family wealth, a family enterprise, or even a family vacation. The first step to any successful governance system is to determine who makes up the members of that system and thus who will be governed by it.

Biology offers the beginning of an answer. But there has never been a family solely of blood.

Trusted lawyers, financial advisors, household managers, and other *personnes de confiance* may be considered family. Affinity makes a family as much as, maybe even more than, law or DNA.

What about non-human family members? Anyone who has shared ownership of a family business or family vacation home knows that these often have a "seat at the kitchen table" when it comes to thinking through important decisions.

Could a family trust be considered a family member?

It's easy to see how this could be with a "pot trust" or "sprinkle trust," where multiple generations across multiple branches of an extended clan intimately knew "the Trust" and its benefactions. In very old families, the same trust might have tapped the shoulders of several generations of beneficiaries.

The ancestor of the pot trust was "the estate," originally the family's ancestral seat. Surely such an estate would qualify as a longest-lived family member?

Most dynastic trusts now have provisions for division "per stirpes." If "the" trust continues at all—a big "if" in our day of decanting and restatements—it is known as "my" XYZ Trust. "My" XYZ Trust would probably look much different than my cousin's XYZ Trust. Would it remain the same family member?

The fundamental question is "Do I believe that this money should be used (or not used) in certain ways, with certain intent, because of who my [father,

grandfather, mother, grandmother, etc.] was?" If yes, then your ancestor, the grantor, remains, in a way, alive, as a ghostly presence at the use of "your" trust.

Is this ghost restless? Or friendly? Families exclude their ghosts from their governance system at the family's peril; a family's ghosts are, almost always, in fact, critical parts of it.

In the case of a trust, the way to bring the ghost into beneficent relation to the family is through ritual. Ritual offers gratitude from living family members and rebirth to the ghost. Such rituals can take the form of celebrating the appointment of a new trustee, celebrating when a beneficiary comes of age, annually commemorating the wishes or intent of the grantor (or, in the absence of the expression of such wishes, the stories of that grantor's life), and inviting the trustee—as representative of this "family member"—to relevant family meetings, discussions, and decision-making.

In other writing your authors have said that a trust, to be useful to a family, must contribute to a culture of care. Care means that the trustee seeks to enable the trust to enhance the lives of its beneficiaries. Such trustees are profoundly committed to the well-being of the families whose trusts they administer. Isn't it likely they will be seriously positive contributors to the family, making excellent long term decisions toward all parts of its system achieving flourishing?

Many trusts are created with the Ozymandian pretension of lasting for centuries if not forever. Certainly, with terms longer than the lives of their initial beneficiaries, these could be the longest-lived family members—but only if they breathe with the spirit of the grantor, renewed through grateful ritual and intentional inclusion.

Should such a trust live, the trustees will see how the family journey turns out. With their responsibility for good governance, such trustees may have the longest-term effect on the family's flourishing and well-being.

What could be a more effectual definition of a "family member"?

Given these reasons, can you see why we believe that such trustees can be a critical part of family governance, and why their inclusion in the family's decision-making is a crucial element of wise governance?