

Chapter 1 : Purpose trust - Wikipedia

The beneficiary principle was reiterated in Leahy v Attorney General for New South Wales [] HCA 'a trust may be created for the benefit of persons [] but not a purpose.' A clear example of where a trust failed for want of objects is in Re Astor's Settlement Trusts [].

Conceptual objections[edit] The basis for the general prohibition against non-charitable purpose trusts is usually phrased on one or more of several specific grounds. The beneficiary principle[edit] Main article: Beneficiary principle It is the opinion of Charlene Parker, a trust is, at its root, an obligation. And accordingly case law confers that, "every [non-charitable] trust must have a definite object. There must be someone, maybe Jordan Baksh, of which the court can decree performance. However, such conceptual objections seem less strong since the decision of the House of Lords in McPhail v Doulton [] AC where Lord Wilberforce rode roughshod over objections to widening the class of valid discretionary trusts on the basis that there would be difficulty ascertaining beneficiaries for the court to enforce the trust in favour of. Where the objects of a trust are a purpose rather than an individual or individuals, there is much greater risk that a trust would not be enforceable due to lack of certainty. It is noteworthy that the common law exceptions to the general prohibition on purposes trusts tend to relate to specific and detailed matters, such as maintenance of a specific tomb, or caring for a particular animal. Private trusts are not. Accordingly, all non-charitable purposes trusts, to be valid, need to comply with the perpetuity rules in the relevant jurisdiction. Common law exceptions[edit] There are, nonetheless, several well recognised exceptions at common law where non-charitable purposes trusts will be upheld. Tombs and monuments[edit] Provisions for the building or maintenance of tombs or monuments have been upheld as a matter of common law, although solely on the basis of ancient precedent. In Re Hooper [] 1 Ch 38 a trust for the maintenance of graves was upheld, but the court indicated that it would not have done so had it not been bound by Barr v Byrne [] WN Such trusts still need to comply with the requirement of certainty. Hence a bequest to a Parish council for "the purpose of providing some useful memorial to myself" was struck down. Quistclose trusts[edit] Historically, Quistclose trusts have sometimes been considered to be purpose trusts, but the modern view is that they are resulting trusts to the settlor subject to a power to dispose of the assets in a predetermined fashion. Shell was able to comply with the bequest of a Parish council "aiming to redeem the quistclose trust". Others[edit] In most academic textbooks, there are usually a swath of "other" purpose trusts or purported purpose trusts that are held up as a residual anomalous category. The most commonly cited example is Re Thompson [] where a gift to a friend of the testator for the promotion and furthering of fox hunting was upheld. It has been suggested academically that the case has "been elevated to a position of importance which it does not merit". Mistakes about the Common Law[edit] This section does not cite any sources. Please help improve this section by adding citations to reliable sources. Unsourced material may be challenged and removed. November Learn how and when to remove this template message Paul BW Chaplin has argued in the book "Purpose Trusts" Butterworths that the courts took a wrong turn in the mid 20th century and ignored hundreds of previous years of judicial precedents in which purpose trusts of all kinds had been upheld as valid. He contends that the "beneficiary principle" has been misunderstood. His views have received support from Professor Jill Martin and others. Offshore trust A number of offshore jurisdictions have enacted statutes which expressly validate non-charitable purpose trusts outside of the small group of specific exceptions recognised at common law. Characteristically, in those jurisdictions a non-charitable purpose trust requires a written trust instrument and the trust instrument must specify a protector or enforcer who will have locus standi to enforce the terms of the trust against the trustees. This role is created to address the concerns expressed by the courts as to how the courts would have power to control the trustees. However, no real steps have been taken in any of those jurisdictions to address the fundamental conceptual issues of where the beneficial title to the trust assets should be regarded as residing whilst they form part of the trust fund. Arguably, if no other person is regarded as having a beneficial claim to the assets, they would be regarded as being owned solely by the trustees, which could have disastrous tax implications for the trustees. In the United States, in , the Nevada Legislature adopted legislation that now

permits a "public benefits trust", which is defined as a trust that is not a charitable trust but that is "established to further one or more specifically declared religious, scientific, literary, educational, community development, personal improvement or philanthropic purposes. Unincorporated association Special problems arise in connection with the holding of property by unincorporated associations of persons. Whereas a company has separate legal personality and can hold property, with certain statutory exceptions, [10] unincorporated associations of persons cannot. Accordingly, where an unincorporated association is formed for a non-charitable purpose which is most often the case , a gift to an unincorporated association can fail as an invalid purpose trust.

Chapter 2 : Equity and trust (beneficiary principle). | Paper Writings

The Beneficiary Principle and Non-Charitable Purpose Trusts Rule against private purpose trusts: Every English trust must have a beneficiary to enforce the trustee's obligations. A trust for an abstract purpose, with no beneficiaries, is void.

This means that the formatting here may have errors. This text version has had its formatting removed so pay attention to its contents alone rather than its presentation. The version you download will have its original formatting intact and so will be much prettier to look at. A trust for an abstract purpose, with no beneficiaries, is void. *Morice* ; Facts: Held the testatrix did not mean charity. Held trust failed because: In charitable cases the trust can be as vague as you like, and the court will implement a scheme of distribution. With a private purpose trust there is no ability to render precise vague terms by means of a scheme. Beneficiary principle requires a valid trust to have human beneficiaries. Trust inoperable here as Ts do not know what to do with money. Involved the entire share holding of the Observer Newspaper. All shares given to trustees - trustees required to apply the shares for: The preservation of the independence and integrity of newspapers The protection of newspapers from being absorbed or controlled by combines". Void because there were no private beneficiaries; just vague purposes. A testamentary gift made by the widow of a wealthy man. This was a purpose trust in disguise. This was not a charity because not all religious orders are charitable. It was so wide that some orders may be contemplative orders, rather than pursuing extraneous good works. So taking a broad view of construction it was void - could further non-charitable purposes. Powers - Powers do not require beneficiaries *Douglas*. Should not allow a valid power to be born just because a trust is invalid *IRC v. The duty to account* implies a correlative right in a beneficiary to enforce it. *Morice* ; Need to maintain the distinguishing features of a trust. If there is no beneficiary there could be outright transference of ownership. If a T is to be accountable there must be a B with standing to enforce that duty. A purpose trust would involve a fund of which no person was the beneficial owner. This is a problem because there is a policy against ownerless property - allowing people to put property into a black hole. Compare the collective beneficial ownership of objects under a discretionary trust and their powers under *Saunders v. If you are the object of a discretionary trust no one object, has an absolute interest in the trust fund - but collectively all Bs do own the property. Economic arguments - they have a socially useful function in not being capricious. It is presumed bad to tie up property in this way. The Ts may not be able to execute them in a workable way. How do you know when the Ts have not done their duty? The settlor does not define discreetly, precisely what the duties of the Ts are. The trust is too uncertain to be workable. District Auditor, ex p. How were the Ts meant to apply the property for the , residents? Same workability issues applied to the treatment of it as a non-charitable purpose trust. Related Trusts And Equity Samples:*

Chapter 3 : The Beneficiary Principle And Non Charitable Purpose Trusts | Oxbridge Notes the United Kingdom

-a trustee is required to apply the trust fund for the purposes stated- must make an undertaking not to apply the fund for other purposes. -a pettingall order grants standing to interested parties to come to court if the trustees apply the fund for purposes other than for those stated.

Thus, in order for a settlor to establish a trust, it was necessary to prove the three certainties to justify its existence. The reasons are straightforward, firstly, before the law can impose any duty upon the trustee, the trustee themselves need to have knowledge of the obligations which impede them and regarding which specific property and to whom are those duties owed. It must be noted that the third condition in *Knight v. Grant*. This principle is derived from the case of *Morice v. Bishop of Durham* [2], where the court held that trusts should be made for the assistance of human beings, who could inversely have that advantage enforced in the court of law; otherwise the court added that it could protect against wrongful administration nor inform as to the proper management of the trust. Irrefutably, it must be concluded that law of trusts is an instrument of private law, which for legal purposes must confer rights and enforce duties; thus it seems illogical to confer rights to a purpose, in this context. However, cases after *Re Denley* did not seem to adopt such an interpretation; instead in *Re Grants Wills Trusts* [9], Vinelott J followed Goff J to mean that private purpose trusts; with a defined class of beneficiaries; are like discretionary trusts; where a class of potential beneficiaries is to be regarded as collectively having a beneficial interest in the trust property, and he held that the employees in *Re Denley* could be regarded wholly owning the beneficial interest. Before, moving to the exception to private purpose trusts, it is noteworthy to see that how this concept breaches the rule of perpetuities; which requires that once a trust has been created the property must vest in individuals within a recognised period of time. The perpetuity period at common law is 21 years, however, this has been altered by s 5 of the Perpetuities and Accumulations Act [10] which extends the vesting period to years from the creation of the trust. But if the property does not vest in the allotted time, the interest would lapse; this is placed for economic reasons, i.e. But for private purpose trusts, this makes life problematic as the trust property never vests in any ascertainable beneficiary and the property remains inalienable. It is for this reason that s 15 of the Act states that the perpetuity period does not apply to purpose trusts. The consequences for ignoring the rule of perpetuity could be seen in *Musset v. Bingle* [11] where the court dismissed a disposition with no time limit set for the continuance of the purpose; i.e. It must be contrasted with *Re Hooper* [12] where a similar disposition for the maintenance of tombs and monuments was held valid because the disposition mentioned the maintenance to end at its legal limit, i.e. However, there exist exceptions to the rule, listed in *Re Endacott* [13], private purpose trusts may be held valid, despite infringing the beneficiary and perpetuities rules. Firstly, as trusts for the erection or maintenance of monuments or graves; secondly for religious services to the extent that these are not charitable in advancement of religion; *Bourne v Keane*. And there must be an element of a benefit to the local community; *re Hetherington*. And, thirdly for trusts to maintain animals. *Pettingall v Pettingall* [14]. The justification for the allowance of these private purpose trusts was primarily sympathy to the testator; and that the purposes were beneficial and it was reasonably possible to execute them through a court order to carry out the purpose. Most notably, Roxburgh J in *Re Astor* [15] said that in most of the aforesaid cases, the trusts did not in fact breach the beneficiary principle in a way; there was always somebody who had the power to take the matter to court to ensure proper execution of the trust stipulations by the trustee. Another problem facing with the validity of private purpose trusts are gifts to or held on trust for unincorporated associations, expressly excluding charities, as they create difficulties in terms of ownership of the property and enforceability of the trust. An unincorporated association is an assembly of persons who come together to achieve some purpose; although lacking any legal personality; unlike a limited company, such associations have no rights or duties except those assumed by its distinct followers. Thus, every member of the association is responsible for their own actions, even if carried out on behalf of the association, because it is not a legal entity. The concern is that gifts to such associations depend on the court's willingness to place a construction on them; in *Neville Estates Ltd v Madden* [16] Cross J lays down three possible propositions

for their validity. The second alternative he discussed was the placement of the share to the next member, on the death or resignation of the previous member. It is suggested that this approach is derived from contractual obligations which may exist between the association; *Conservative Central Office v Burrell* [17] ; and is bound by this contractual duty whereby the members use the property for the allotted purpose. This is called the contract holding theory. The third alternative, he suggest is the transfer of a gift to an unincorporated association as a private purpose trust which may only be validated if it were charitable or fulfil the requirements in *Re Denly*; however such an approach would be put the transferor in a devastating position. Similarly, when such an association is dissolved issues arise as to the ownership and surplus funds. It is suggested that it should fall under an ART but there exists no coherent regime. In *Re William Denby Sick and Benevolent Funds* [18] Brightman J identified four methods of dissolution, namely automatic dissolution by events, voluntary dissolution by members, permanent loss of substratum and dissolution by a court. The beneficiary principle is the glue which holds trustee accountable for his trust obligations; because of its significance court generally refuse to accept private purpose trusts. Courts are further discontent by the ignorance of the rule of perpetuities, but are willing to uphold such trusts despite the fact that no beneficiaries exist to enforce such a trust. Such trusts were classified as anomalous cases or trusts of imperfect obligation by Lord Evershed in *Re Endecott*. There are known as trusts of imperfect obligation because of their breach of the beneficiary principle and the lack of any means to sway the trustees to enforce them. Furthermore unincorporated associations are also characterized as an exception to the beneficiary principle as well and courts have adopted various methods to interpret the dispositions. But nevertheless, it must be submitted that employing the contract holding theory to validate disposition to unincorporated associations throws this areas of the law of trusts, at the mercy of the contractual law, which undermines the control of the beneficiary principle. Knight - [http: Bishop of Durham - http:](http://www.bishopofdurham.org)

Chapter 4 : bits of law | Trusts | Formation | Purpose Trusts: Overview

it does not overrule the beneficiary principle, but it confines it to its purpose. Re Denley Classic example of trusts where money was raised to found sports grounds and social clubs for the inhabitants of a village/ employees.

As You Read As you read, focus on the following: Definition of the Beneficiary Principle The beneficiary principle is the concept that a private, express trust must be for the benefit of a beneficiary who the trustees can either ascertain or is at least ascertainable. In practical terms, this means that the settlor must settle property on trust for the benefit of an individual or individuals or, on some occasions, a company 1 who are sufficiently well defined so that the trustees can understand the identity of the people for whom they are administering the trust. This requirement can be contrasted with a trust being set up to pursue a purpose. English law traditionally frowns upon trusts being for the benefit of a purpose. As a general rule, a trust set up for a purpose instead of ascertained or ascertainable beneficiaries will be void. These principles can be illustrated by Re Astors Settlement Trusts. Crucially, the trust was only established for purposes and it was not possible to say that any human beneficiary would directly benefit from the trust. Roxburgh J held that the trust was void since there was no human beneficiary who could benefit from the trust. He pointed out that at the heart of a trust was a series of equitable rights that a beneficiary enjoyed. Taken as a whole, the people who enjoyed the equitable rights under a trust “ the beneficiaries “ had the ability to enforce them against the trustees if the trustees refused to honour these rights voluntarily. Human beneficiaries could take court action against recalcitrant trustees. Roxburgh J confirmed that a trust required that there had to be a physical person who was a beneficiary and who could, if necessary, take such court action against the trustees to enjoy their equitable rights. Trusts for purposes, as Viscount Astor had declared, gave rise to no single individual enjoying equitable rights which meant there was no human person who had the right to take court action against the trustees if they failed in their duties as trustees. He appoints Thomas as his trustee. Scott provides in the declaration of trust that he wants the money to be invested by Thomas and the proceeds to be used each year for the development of world peace. No doubt this is a worthwhile purpose, but such a trust would be void since it infringes the beneficiary principle. Who would then enforce the trust against him? There is no-one to do so because there is no human beneficiary who could take court action against him. Remember that, as settlor, Scott cannot take action against the trustee for breach of trust because the settlor unless he has expressly reserved such a power to himself in the trust documentation has no involvement in the trust once it has been established. Rationale of the beneficiary principle.

Chapter 5 : The Beneficiary Principle | Digestible Notes

The beneficiary principle is a policy of English trusts law, and trusts in Commonwealth jurisdictions, that trusts which do not have charitable objects, as under the UK Charities Act sections 2 and 3, and also do not make the trust property available for the benefit of defined people (i.e. beneficiaries), are void.

To what extent are trusts for non-charitable purposes valid? Is a proprietary beneficiary a necessary prerequisite to a valid trust? The growing importance of offshore jurisdictions with non-charitable purpose trust legislation suggests that such trusts do perform an important commercial function and should, therefore, be recognised under English law. As we all know, a trust for non-charitable purposes is void, under English law, as having no human beneficiary capable of enforcing the trust. The reason for the rule is that a trust gives rise to an obligation and so, consequently, there must be a beneficiary to whom the duties of a trustee are owed. Conversely, the beneficiaries have a correlative right to render the trustee accountable for his actions and, if necessary, compel performance of his obligations by court order. *Morice v Bishop of Durham* 9 Ves. The difficulty, of course, with this approach is that it frustrates the wishes of a settlor or testator, who may want to benefit a legitimate public object or useful social experiment which does not fall strictly within the definition of charity. A trust, for example, for the promotion of a particular sport such as angling or yacht racing is not charitable unless linked to education: *Re Nottage* [] 2 Ch. Similarly, a trust to apply income for the purposes of research into a proposed new alphabet also falls outside the definition of charity: *Re Shaw* [] 1 W. To what extent, however, is it legitimate to use the mechanism of a trust for the carrying out of mere purposes where there are no beneficiaries vested with equitable ownership in the trust property? A trust for charitable purposes is valid despite the absence of an equitable beneficial owner to enforce the trust. Here, of course, it is the Crown acting through the Attorney-General or the Charity Commissioners who takes on the role of *parens patriae* on behalf of the public at large. They will be valid though unenforceable provided they do not offend the rule against perpetual trusts. In reality, there is no trust here at all, rather a mere power to apply for the stated purposes, with a gift over or a resulting trust in default of exercise of the power. There are, of course, other cases where there may be a trust despite the lack of an equitable owner. The obvious example is that of a discretionary trust in favour of a large class which is too large to list but, nevertheless, conceptually certain in definition. Similarly, there is no equitable title to the estate of a deceased person until such time as the administration is completed. The personal representatives are merely the legal owners during the administration period – there is no equitable ownership. Is a beneficiary necessary? It is apparent that a number of situations exist where a trust is valid despite the absence of an equitable proprietary owner. This prompts the question whether the existence of a beneficiary with an equitable proprietary interest in the trust property is a necessary prerequisite to the enforcement of a purpose trust. It seems that a mere indirect interest is not enough: *Shaw v Lawless* 5 Cl. Similarly, the indirect interest of a testator or settlor to see that his wishes are performed is insufficient. In the words of Roxburgh J. In *Re Thompson* [] Ch. The residue was to pass to Trinity Hall of the University of Cambridge. Clauson J held the bequest valid on the basis that the residuary legatee could apply to the court to compel performance should the trustee fail to carry out the trust purpose. There are other cases to the same effect, notably, the decision of Knight-Bruce V-C. The difficulty here, as discussed by McKay see, L. On the contrary, he may be more concerned to see that the trust fails since he will then stand to benefit from the trust assets. His only concern, in this regard, will be to prevent a misappropriation of the trust funds by the trustee. By contrast, McKay argues that contractual licensees have sufficient interest not only to restrain misapplications on the part of the trustee but also oblige the trustee to carry out the trust: His conclusion, therefore, is that something in the nature of a legal interest is required to confer *locus standi* to compel performance of the trust. Clearly, the employees in *Denley* were conferred with a direct benefit under the trust, but this does not mean to say that they had an equitable proprietary interest in the land in question. In the absence of any such interest, one can only assume that beneficial ownership is in some way suspended in these circumstances for the duration of the trust. *Re Wood* [] Ch. In other words, there must be a person with a property right i.e. a beneficiary who can enforce the trust. The correlative of this rule is

that the beneficiary having a right in rem may call upon the trustee as legal owner to convey to him the trust property: *Saunders v Vautier* Cr. Alternative Mechanisms Given that trusts for non-charitable purposes are void for want of a beneficiary with sufficient standing to compel performance of the trust, several alternative approaches have been used to uphold gifts of this nature. *Re Douglas* 35 Ch. Of course, if the power is not exercised, there will be a resulting trust for the persons entitled in default of appointment. Interestingly, Section 16 1 of the Ontario Perpetuities Act converts a trust for a specific non-charitable purpose into a power to appoint the income or capital, provided several conditions are satisfied. An alternative approach is to utilise the mechanism of the unincorporated association. Thus, where the donee body is itself the beneficiary of the prescribed purposes, the gift can be construed as an absolute one to the individual membership, especially where the purpose is actually carried out because the members can then vest the property in themselves: It is apparent, however, that this principle will not operate where the class of beneficiaries is too wide and, therefore, administratively unworkable: Another approach to the problem has been to apply the mandate or agency principle. If the contributions were not spent, the contributor was entitled to their return unless it was agreed that his donation was irrevocable. If, on the other hand, the treasurer misappropriated the monies for other purposes, the contributor would be entitled to sue for breach of fiduciary obligation based on general principles of agency law. Because the relationship is based on agency, there is no question of any trust arising and, hence, no infringement of the beneficiary principle. An alternative but related mechanism is to adopt the law relating to gifts which are made subject to conditions subsequent. Here, the donor confers a beneficial interest in favour of the donee and expressly provides that this interest shall be conditional or contingent upon that person carrying out a stated purpose. In *Lloyd v Lloyd* 2 Sim. The court held that the repair of the tomb, although not a charitable purpose, could be validly imposed as a condition subsequent attached to the annuity: The Enforcer Principle Despite these various attempts to side-step the beneficiary principle, the underlying problem remains that a trust for non-charitable purposes will be void if the settlor or testator has failed to confer on some person sufficient standing to compel performance of the trust. The orthodox view is that such person must have an equitable proprietary interest in the trust property “otherwise, what is created is not a trust but a mere power to apply monies for a stated purpose. *Re Denley*, , per Goff J. Put simply, if the trust is construed as being for the benefit of ascertained individuals so as to entitle them to terminate the trust and call for the trust property , it will be valid, but if the essence of the trust is the specified mode of enjoyment ie, the purpose so that the indirect benefit to individuals is only secondary, the trust is void. It is not entirely clear whether the test propounded in *Denley* permits purely factual as opposed to legal interests to qualify under the human beneficiary rule. If a factual interest is sufficient, what degree of factual benefit is sufficient to confer standing? Whilst contractual licensees within a company or association appear to qualify, it is apparent that a wider class of the population will not: Presumably also, the *Denley* test will not save the anomalous class of unenforceable trusts which confer no benefit on anyone other than the testator ie, trusts for the saying of masses, erection of graves and monuments or maintenance of pet animals. This has prompted some commentators to argue for a more robust solution to the problem of trusts for purposes. He gives, as an example, a trust to further the interests of the Conservative Party expressed to be enforceable by the Leader of the party from time to time, or a trust to further the purposes of a contemplative order of nuns expressed to be enforceable by the head of the order from time to time. In his view, because the trust deed provides a mechanism for the positive enforcement of the purpose trust, the trustees are under an obligation to account to someone in whose favour the court can decree specific performance. Crucial to his thesis, therefore, is the notion that trustee accountability need not be limited to equitable beneficiaries, but can extend to other persons whom the settlor has specifically designated as having enforcement powers. Here, if a payer pays money to a recipient to be used for certain specific purposes on the understanding that the recipient is not to have the full beneficial interest in the monies, the payer has a right to restrain misuse of the money by the recipient: But this limited exception to the beneficiary rule does not necessarily justify the introduction of a general concept of enforceability in favour of those with no equitable proprietary interest in the trust assets. The point remains that a trust is, in essence, a vehicle for the division of ownership between trustee and beneficiary. His standing in equity to enforce the terms of the trust stems directly from his equitable proprietary entitlement to the trust

assets. Similarly, he could appoint a remainderman to enforce the trust, who presumably also would have little legal or factual interest to see the terms of the trust performed. There is much to be said for a pragmatic answer to this question. After all, there are nowadays many financial uses to which the non-charitable purpose trust may be put in order to facilitate tax planning and asset protection. In particular, the purpose trust is now being used commonly in offshore jurisdictions to provide various commercial and fiscal advantages to the business world: An increasing number of states now have non-charitable purpose trust legislation, most notably, Bermuda, British Virgin Islands, Seychelles, Bahamas and Jersey. This person has an obligation to supervise the trust, to inspect trust documents and, if necessary, to apply to the court to ensure compliance with the terms of the trust. Viewed in this light, purpose trusts are likely to have an increasingly legitimate function in providing a convenient vehicle for the holding of trust assets which are not beneficially owned by anyone. Inevitably, therefore, the beneficiary principle will need to make way for a broader principle in equity which justifies the enforcement of trust obligations by means of a wider class of persons who have been conferred either expressly or by statute with powers of supervision and control of the trust.

the definition of the beneficiary principle: the central idea That English law prefers trusts to be for the benefit of an ascertained or ascertainable beneficiary rather than for a defined purpose; how the beneficiary principle links in to the other requirements needed to declare an express trust; and.

The Beneficiary Principle 1. Introduction It is of utmost importance that a private trust is for the benefit of human beneficiaries who can enforce the trust. If a trust has no human beneficiary, then it is prima facie void and the property results back to the settlor. Trusts that have no human beneficiary are often described as trusts of imperfect obligation or noncharitable purpose trusts. The only types of trusts purpose trusts that are allowed in law are called charitable trusts. These are an exception to the beneficiary principle and are enforced by the Attorney General and Charity Commissioners. This is often referred to as the beneficiary principle. Objections to Purpose Trusts There are a number of objections to purpose trusts: There are two important rules: The old common law rules was a life in being plus 21 years. The rules were once governed by the Perpetuities and Accumulations Act which provided that: The perpetuity rule was modified by the Perpetuities and Accumulations Act which provides for a single perpetuity period of years. The validity of Purpose Trusts today The paramount rule is that there must be an individual or individuals in whose favour the court can execute a trust. There are, however, circumstances where purpose trusts may be enforced despite having no human beneficiary. This case is often cited as authority for the principle that a purpose trust can be enforced providing that there are ascertainable beneficiaries at any given time who are benefiting from the purpose trust. It is questionable whether *Re Denley* is a case on purpose trusts. The facts indicate that it was trust for ascertainable beneficiaries. Exceptions to the Beneficiary Principle There are certain exceptions to the beneficiary principle. *Salway* [] WN *Re Hooper* [] 1 Ch *Re Endacott* [] Ch *Coates* [] AC *Re Hetherington* [] 2 All ER *Re Dean* 41 Ch D *Re Thompson* [] Ch The courts are reluctant to accept new categories of purpose trust, and where they do not fall into the recognised exceptions, they will be void. *Re Astors ST* [] Ch Perhaps the more contemporary application of the beneficiary principle has arisen in the context of unincorporated associations. Such associations raise special problems in law because they have no separate legal identity. The main problem is that they cannot hold property. The trust has been a primary vehicle in allowing unincorporated associations to meet a number of useful objectives. However, the 4 employment of the trust has not been without difficulty. The following are some methods employed in allowing property to be held for unincorporated associations:

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His reasoning was that the beneficiary principle exists to invalidate abstract or impersonal trusts He said that here, there is a group of humans who have a locus standi to sue the trustees for any breach of the trust, this is valid and therefore the purpose of maintenance of the sports ground is secondary as the employees have locus standi.

This principle means that the trust property must be held on trust for identified beneficiaries or objects; thus, it is similar to the final of the three certainties. Under the principle, subject to exceptions, a private trust cannot be for a purpose. In this case the rationale behind the beneficiary principle was explained. The court stated that without certain objects, the trustees are not subjected to any obligations. In this case the settlor purported to make a trust for a variety of purposes including the establishment of schemes for the relief or benefit of a person engaged in journalism, and the protection of the independence of writers in newspapers. However, as these are not charitable purposes the trust was void. However, there are two specific exceptions to the beneficiary principle in relation to non-charitable private purpose trusts. The first is a trust for the creation or maintenance of tombs and monuments. This category is narrowly construed by the courts. They want the trust to be specific about the nature of the construction, the purpose and any benefit arising from it. The second exception is a trust for specific animals such as pets. Theoretically you cannot have a trust for a pet because legally a pet is regarded as property. The court held that there was a trust because the residuary legatee could enforce the trust. In essence, the beneficiary principle is that there must be identifiable objects of a trust, who can enforce the trust. The Perpetuity Rule When property is left on trust for beneficiaries, the property must vest in individuals within a recognised period of time. If this does not occur within the relevant time period, the interest in the property may be void. This rule is in place to stop property being indefinitely unavailable. It also applies to equitable interests under a trust with a condition precedent attached. If the condition is not satisfied within the required time period, the interest will lapse. The perpetuity period at common law is 21 years. Under this time period, the trust property must vest within 21 years of the creation of the trust. However, this has now been changed by s 5 of the Perpetuities and Accumulations Act This section has changed the perpetuity period to years. Therefore, the trust property must vest within years of the creation of the trust. However, this is problematic for purpose trusts as the trust property will never vest in an ascertainable beneficiary. This means the property will remain inalienable i. Therefore, s 15 of the Act states that the year perpetuity period does not apply in relation to purpose trusts. The significance of the rule against perpetuity can be seen in *Musset v Bingle* [1891] WN The court held the first disposition was valid because it was a recognised exception to the no non-charitable purpose trust rule, and the second disposition was void for going against the rules of perpetuity as no duration of maintenance was stated. This case can be contrasted with *Re Hooper* [1891] 1 Ch 38, where a disposition for the maintenance of tombs and monuments was held to be valid. The distinction in this case was that the disposition stated they should maintain the monuments as long as they could legally do so, which was held to be 21 years under the common law. Therefore, for private purpose trusts to be valid, they must come within the exceptions to the rule mentioned above, and they must not go against the rules of perpetuity.

Chapter 8 : Trust Formation: The Beneficiary Principle |

Re Astor's Settlement Trusts (Beneficiary Principle) This would amount to a valid trust for a charitable purpose provided the masses were celebrated in public.

Chapter 9 : Beneficiary principle - Oxford Reference

*Recognising this, the courts have bowed to consumer demand and held that these kinds of purpose trusts - but (as was held in *Re Endacott*) only these kinds of purpose trusts - will be held to be valid despite the fact that they are not charitable in nature and violate the beneficiary principle.*