TRUSTS AND PRIVATE CLIENTS

Guernsey – a premier location

WE ARE GUERNSEY

WE ARE CONNECTED

WHAT IS A TRUST?

A trust is a legally binding relationship created whereby one person (the settlor) transfers assets to another (the trustee). The trustee assumes the legal but not beneficial ownership of the assets, which is enjoyed by a third party or parties (known as beneficiaries).

SETTLOR

Who contributes assets and provides letter of wishes

PROTECTOR

Whose consent is required for some actions

THE BENEFICIARIES

Who enjoy the beneficial ownership of the trust assets

The instruction from the settlor to the trustee as to the disposition of the trust assets will normally be contained in a document called the trust instrument, which sets out the rights and duties of all parties.

In addition to the trust instrument, it is usual for the settlor to provide the trustee an expression of their wishes as to the disposition of the trust assets in a less formal manner. Their expression is often contained in a letter of wishes which, although not legally binding, will guide the trustee when performing his/her duties.

WHY CHOOSE A TRUST?

THE FIDUCIARY RELATIONSHIP

The fiduciary relationship which exists between the trustee and beneficiaries of a trust is the principal reason to choose a trust over other tools for wealth management – it can offer a degree of personal service unlike any other:

A trustee looks only to the best interests of the beneficiaries

A trustee may not be released from their duty to act in the best interests of the beneficiaries

A trustee is held to the highest standards of professional care and skill

PRACTICAL USES OF TRUSTS

A trust can have one or more of the following practical uses, making it an incredibly versatile tool for preserving and enhancing wealth.

CAN A TRUSTEE MISUSE THE TRUST FUND?

The beneficiaries of a trust established in Guernsey benefit from multiple layers of protection, provided by:

The Trusts (Guernsey) Law ('the Law') imposes a general fiduciary duty on the trustee to act only in the interests of beneficiaries, or 'en bon père de famille'.

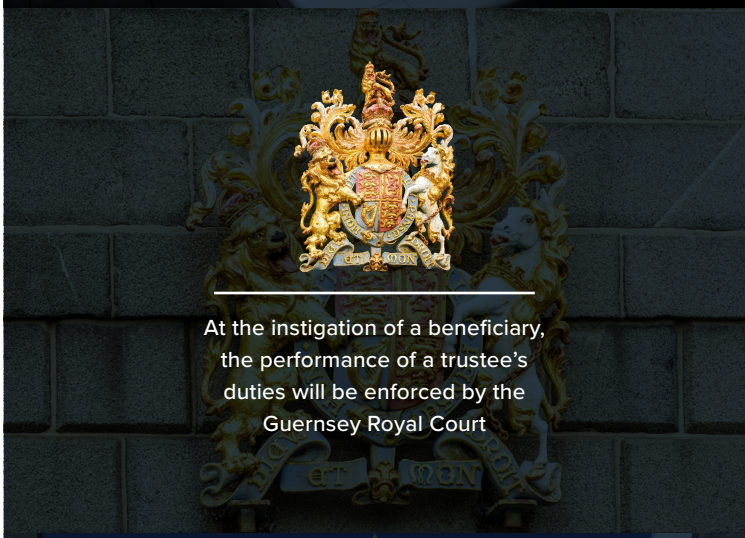
SECTION 27

of the Law prescribes that trust assets be kept separately from the trustee's own

SECTION 15

of the Law allows for certain powers to be reserved by the settlor, including the power to appoint or remove a trustee

Since 2001, all trustees acting 'by way of business' must be licensed and supervised by the Guernsey Financial Services Commission (GFSC)



At the instigation of a beneficiary, the performance of a trustee's duties will be enforced by the Guernsey Royal Court

The Privy Council in London provide the final appeal for matters from the Guernsey Royal Court

WHY GUERNSEY?

Guernsey is a self-governing dependency of the British Crown. It neither forms part of the United Kingdom nor the European Union. By constitutional convention, the island enjoys autonomy in all matters of internal government, including powers to enact legislation and raise taxes. The island's constitutional position makes it the ideal location for the establishment and administration of trusts.

After more than half a century as an international finance centre, Guernsey has a wealth of experienced lawyers, tax advisers, trustees and administrators who are at the service of private clients from around the world.

MODERN TRUST LAW

The Trusts (Guernsey) Law, 2007

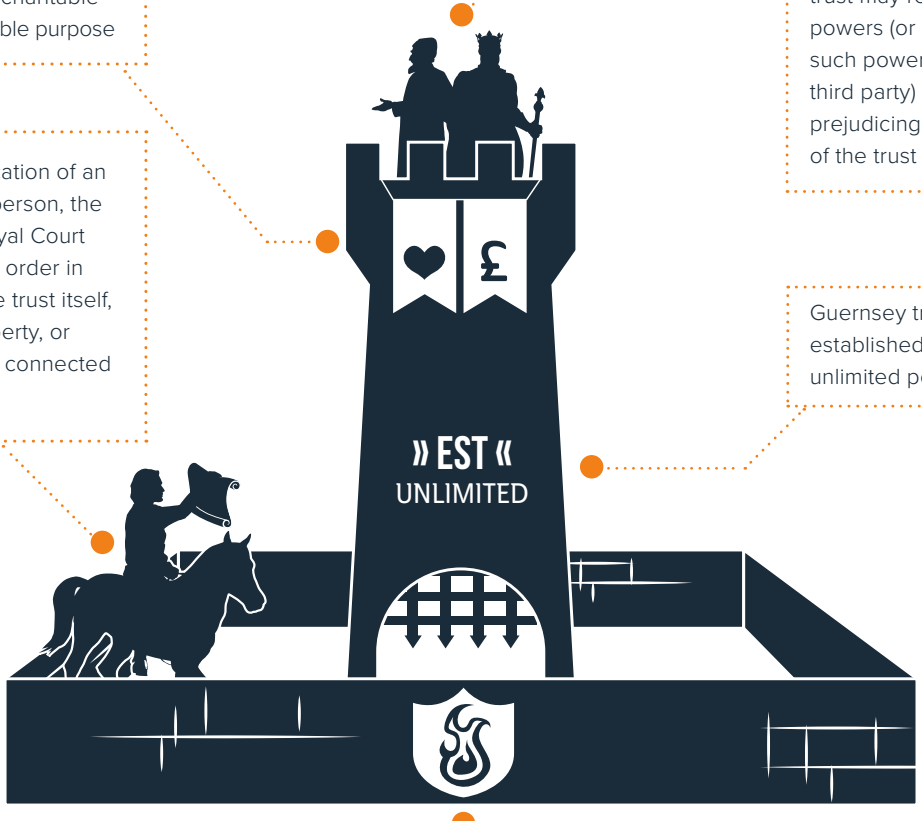
The Trusts (Guernsey) Law, 2007 came into force in 2008, replacing in its entirety the previous legislation. This modern piece of legislation includes those features common in offshore jurisdictions as well as some unique to Guernsey. The key features contained in the law include:

A Guernsey trust may be created for a charitable or non-charitable purpose

A settlor of a Guernsey trust may reserve certain powers (or confer such powers onto a third party) without prejudicing the validity of the trust

On the application of an appropriate person, the Guernsey Royal Court may make an order in respect of the trust itself, the trust property, or those closely connected with the trust

Guernsey trusts can be established to last for an unlimited period



The law contains a 'firewall' provision to confirm that issues relating to the establishment of, and settlement of property into, the trust will be a question of Guernsey law alone

WEAREGUERNSEY.COM

+44(0) 1481 720 071 info@weareguernsey.com

Guernsey Finance, PO Box 655, St Peter Port, Guernsey, GY1 3PN

WE ARE GUERNSEY

WE ARE CONNECTED