

Guernsey: Non-Charitable Purpose Trusts

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Guernsey law permits a trust to be established with a particular non-charitable purpose stated in the trust instrument and for which there are no ascertainable beneficiaries. A non-charitable purpose trust is typically used for commercial, succession or tax planning reasons.

Principal features of Guernsey purpose trusts

Enforcer

The trust must have an enforcer, who must be a different person from the trustee. It is the fiduciary duty of the enforcer to enforce the trust in relation to its non-charitable purposes. An enforcer can be a corporate entity or an individual, and is responsible for supervising the activities of the trustee to ensure that the trust is administered in accordance with its purpose.

The terms of the trust must provide for the appointment of an enforcer and for the appointment of a new enforcer at any time when there is none.

Purpose

The purpose (i.e. the object towards which the trust property will be applied) needs to be specified in the trust instrument. There are very few limitations on what can be an acceptable purpose, save that it must be sufficiently certain and not illegal. It can include the holding of property (such as shares in a private trust company) or the exercise of functions (such as the exercise of voting rights conferred by shares).

Duration

The trust may exist indefinitely. If there is a termination date, the trust instrument can provide for the trust property to be distributed to persons or charities at that time.

Formalities

There are no particular formalities for the creation of a purpose trust. There is no requirement for the trust to be registered in Guernsey or for the trust instrument, or its particulars, to be filed with any governmental or other authority.

Beneficiaries

A purpose trust, by definition, has no ascertainable beneficiaries although it is still possible to benefit individuals or legal entities if the trust instrument allows for that.

Trustees

There is no requirement that the trustees be resident in Guernsey.

Hybrid or mixed trusts

Guernsey law permits a trust to have both a purpose and beneficiaries.

Uses of Guernsey purpose trusts

The potential uses for purpose trusts in Guernsey are not limited but include:

Private trust companies

Purpose trusts are frequently formed to incorporate and hold shares in a private trust company to act as trustee of one particular trust or a group of trusts, e.g. for a specific family.

Quasi-charitable purposes

Settlers often wish to use part of their wealth to further worthy, philanthropic or political causes which might not fall within the narrow legal definition of charity. A Guernsey purpose trust can be utilised instead, allowing those wider causes to be benefitted.

Special Purpose Vehicles (SPVs)

In securitisation and finance transactions, a Guernsey purpose trust can be used instead of a charitable trust to hold the shares in an 'orphan' special purpose vehicle.

A purpose trust might, for example, stipulate the purpose of the trust as being to establish an underlying company and to enter into agreements relating to a specific transaction. Often there will be no net assets left within the structure after the consummation of the transactions and discharge of associated costs, but where there are surplus assets (usually the shares in the underlying company or the proceeds of the liquidation of those shares) they can be distributed to beneficiaries or charitable purposes on the termination of the trust.

Tax treatment

Purpose trusts are entirely free of tax in Guernsey whether or not the trustees are resident in Guernsey, provided only that no Guernsey resident (other than a charity) has an interest in the trust and there is no Guernsey source income (bank interest excepted).

Contacts

A full list of contacts in our International Trusts & Private Client team who specialise in this area can be found [here](#)