



CAPABILITY STATEMENT

CROWN DEPENDENCIES

PRIVATE CLIENT & TRUSTS

Through our unique presence across the Crown Dependencies of Jersey, Guernsey and Isle of Man, and further afield including Cayman, Bermuda, BVI, Mauritius, Hong Kong and Shanghai, we provide multi-jurisdictional solutions to offshore wealth structuring. Our lawyers have advised on some of the most complex and innovative wealth structures to arise offshore.

Our private client lawyers possess a unique concentration of expertise in acting for trustees, beneficiaries, settlors, protectors, enforcers and family offices, amongst others. We have extensive expertise on establishing, and advising upon:

- charitable and non-charitable purpose trusts;
- commercial trusts including unit trusts, employee benefit trusts and pensions;
- financial regulation;
- foundations;
- private trusts including settlor directed trusts; and
- private trust companies and family offices.

Our Private Client and Corporate teams work closely together in a variety of matters including off-balance sheet debt structuring using purpose trusts, the financing of both private and commercial trust structures, multi-jurisdictional pension and employee benefit schemes for large corporates such as banks, and advising on corporates owned by trusts and foundations, including migrations and restructuring.

Our private client lawyers work closely with our Dispute Resolution lawyers in matters involving trust disputes and have been involved in most of the major trust-related cases in the Crown Dependencies. These include, in Jersey, the innovative Z Trusts cases relating to insolvent trusts and the landmark decision that a settlors' exercise of personal powers of revocation of a trust should be declared invalid, in Guernsey, the first reported Hastings Bass decision, and in the Isle of Man the first reported case on the extent of a former trustee's rights to an indemnity from the trust fund.

We also provide "thought leadership" and a "trust knowledge series" for fiduciaries. Thought leadership currently focuses on transparency, public registers and technical innovation and the knowledge series looks to enhance the education of corporate trust service providers as an aid to the trust industries within the Crown Dependencies.

"Appleby has a strong reputation in the island, and deservedly so, providing excellent service from very experienced advocates"

- Legal 500

REPRESENTATIVE WORK

SETTLOR DIRECTED TRUSTS

Appleby established a new family office for a Middle Eastern family utilising a private trust company structure with settlor direction and reserved powers. The structure involved four levels, each level containing largely bespoke workings to build-in controls for the family and how the family interacts with itself and its trustee. We prepared all necessary documentation for this structure including the private trust company documents, the underlying trust instruments, the underlying SPV articles of association and related minutes.

SETTING ASIDE A TRANSACTION

We acted for the principal beneficiary in court proceedings relating to setting aside a decision of the trustee to acquire shares from the principal beneficiary in satisfaction of loans which resulted in a significant charge to tax. The judgment in *M v St Anne's Trustees Limited* handed down by the Court of Appeal clarified the legal test in Guernsey for the exercise of the Court's discretion under the *Hastings Bass* principle. Before then the law in Guernsey as to the precise legal test to be applied and the circumstances in which fiduciaries could seek to avoid transactions giving rise to adverse fiscal charges had been uncertain.

OFF-BALANCE SHEET DEBT STRUCTURING

Appleby advised and prepared the necessary trust documentation in relation to a failed investment of over £125 million into an engineering company and its subsidiaries. Our client, together with two commercial banks invested in the group companies which went into liquidation and our client wished to move their share ownership in, and their mezzanine debt financing to the group companies, to an off-balance sheet structure. That structure was a purpose trust with private trust company acting as trustee. Our role was to advice on trusts law, to prepare the necessary documentation for the structure and to negotiate the indemnification protection with the trustee.

FOUNDATIONS

We advised on the formation and drafting of all the constitutional documents for 28 new Isle of Man Foundations for clients of a Big 4 accountancy practice in Ireland. This was carried out as part of a major restructuring project for a series of household name businesses in Ireland in order to bring those businesses outside the scope of new account filing regulations in Ireland. Appleby Jersey worked on related aspects of the restructurings preparing the documentation for and advising on Jersey Limited Partnerships.

FOR MORE INFORMATION PLEASE CONTACT:

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