

The Business Interview

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A question of trusts: A structure that can be relevant and accessible to a range of Islanders

HAVE you ever considered placing some of your assets into a trust or have you assumed that, as you don't have a multi-million-pound mansion, a superyacht moored off Monaco and an extensive art collection, such a structure would be inaccessible to you?

While many people may think that trusts are designed exclusively for ultra-high-net-worth individuals or those with complex international tax arrangements, the reality, says Alex Picot Trust director Hannah Roynon-Jones, can be very different.

"At Alex Picot Trust, more than half our clients are Jersey residents, which shows just how relevant trusts can be for local individuals and families," she said. "And while some people may have millions of pounds worth of assets which they want to place into a trust, such structures can also offer practical solutions for a wide range of people, helping with succession planning, asset protection and ensuring that wealth is passed on in line with their wishes."

Admitting that some people may count yachts, classic cars and artwork among their assets, Hannah added that stocks and shares and property could also be considered appropriate to place into such a structure. However, she advised that there were some additional factors to consider when thinking about property.

"Property can be more complicated than other assets," she explained, "particularly if it is in Jersey, where you have to consider the local housing regulations. There can be complications around the different types of property ownership: freehold, flying freehold and share transfer, and the ability to place these into structures."

Overseas property also brings complications, says Hannah.

Alex Picot Trust director Hannah Roynon-Jones tells **Emily Moore** how trusts can help with succession planning, asset protection and ensuring that wealth is passed on as people wish

"A lot of Jersey residents own property in the UK and it used to be very straightforward to place UK real estate into trusts," she said. "However, since the UK government introduced a range of legislation in 2017, UK residential property now comes with a whole host of UK tax implications, both when you put it into a trust and every ten years thereafter. I wouldn't necessarily place UK property into a structure, and so would always recommend obtaining UK tax advice if this is an asset that clients were keen to transfer."

Despite the complications surrounding property, Hannah says trusts can benefit many Islanders.

"Most people think of trusts when they consider tax planning, and trusts can certainly help when it comes to inheritance tax planning, particularly if you have children or grandchildren who live in the UK," she said.

"However, that is far from the only reason that a trust could be a useful vehicle. While asset protection may sound very general, trusts can be very practical ways of keeping assets together to maintain their value.

"Placing assets into trust can safeguard against common family scenarios, at least one of which I'm sure will resonate with everyone. There could be family members who are unable or unwilling to take on significant financial responsibilities, for example due to poor mental health, being of an inappropriate age or maturity, or being estranged from the family. Trusts can also be beneficial in the event of divorce, or in the case of blended families with multiple children."

Elaborating on this, Hannah said that while trusts could be brought into legal divorce proceedings, assets within a trust were more secure than those which were not.

"If, for example, an individual has inherited significant assets from their parents, which they now hold in their own name, the divorcing spouse could try to claim those during a divorce case," she said. "However, if those assets had been placed into a trust while the parents were alive, there is an additional layer of protection. The trust would therefore act as a deterrent from legal claims, albeit it's not a guarantee."

While divorce and death may be two life events that force people to review their estates, Hannah stresses that trusts should be considered before people are facing a difficult situation.

"People often regard trusts in a similar way to a will, not really thinking about them until later in life," she said. "However, just as it is good practice for anyone with significant assets to have a will, it is worth thinking about a trust. The trigger for thinking about setting up trusts should not be your age, it should be your circumstances."

"It is also worth pointing out that even if you set up a trust when you are relatively young, it does not have to be active during your lifetime. Indeed, many people set up a trust as part of their estate planning to safeguard their assets for future generations but stipulate that the trust is not to become active until they have passed away."

To ensure that the trust is set up in line with the individual's requirements, each structure, Hannah explains, is created by way of a trust deed, which governs the terms of the trust.

"Perhaps even more importantly for the person setting up the trust is the accompanying letter of wishes, which, although not a legally binding document, serves as a guide to the trustees," she said.

"It sets out the purpose of the trust, who they want to benefit from it and how they would like the assets to be invested. This letter of wishes can be as detailed as you like, so you could stipulate that the distributions are to be used for school fees, for helping beneficiaries to get on the property ladder or, indeed, for making charitable donations."

"While the assets are legally owned by the trustees, those individuals or charitable organisations named by the founder of the trust are the beneficiaries, and it is they who may receive distributions from the trust. Importantly, people should be aware that trusts can be set up on a discretionary basis, which means that distributions are flexible both in terms of amount and timing. Decisions about distribution requests are made by the trustees and are guided by the letter of wishes."

Hannah says that it is important to get the terms of the trust deed correct at set up.

"In the case of a will trust, which is a trust that becomes active upon someone's death, this can be set up in two ways. Either a trust is formed now and named in the will, which is the route I would favour, or the trust is formed as part of the will. I have seen an example where a trust was formed as part of the will, but the terms of the trust were too restrictive. This had unintended consequences and was costly to rectify," she said. "Another thing to consider when setting up a trust are Jersey's forced heirship rules, which can override the wishes of someone's will."

To try to prevent any legal challenges, Hannah recommends talking to family, so that there are no surprises.

"While a lot of people don't like talking about death, it is a certainty and, in some ways, the earlier you start planning for it, the better," she said. "For example,



■ Hannah Roynon-Jones, director at Alex Picot Trust Picture: ROB CURRIE (42140733)

if a child is expecting to receive an inheritance and then discovers after their parents pass away that they set up a trust instead, that could cause some friction and may lead them to challenge the will.

"Therefore, as well as planning early, I always encourage people to communicate with their family, so that they know what you are planning to do and, just as importantly, why that is your intention."

And it is not just personal assets, says Hannah, that people may want to place in trust.

"Companies can also be owned by a trust. The trust can become the shareholder of the company at any point, be that during the individual's lifetime or tipped into trust upon their death," she said. "If the trust becomes the shareholder of the company during their lifetime, the individual can continue to run the company as they did before, just with the additional layer of protection that a trust can offer."

Importantly, says Hannah, if someone runs a company, they also need to consider what will happen to that business after their death.

"If you are a sole director, the business can be left rudderless upon your passing, which brings additional administrative burdens to your family," she said. "I therefore encourage people to appoint at least one other Jersey resident director, as that can solve a lot of problems in the long run."

Stressing the flexible nature of trusts, Hannah added: "You certainly don't need £25m of assets to look into setting up such a structure."

"In fact, if you have around £3m in assets, the majority of which could be proceeds from the sale of a family home, then a trust could be perfect for supporting future generations. We work with clients to understand what they need and what they want the trust to achieve, and we recognise that there is no

one-size-fits-all solution. It all comes down to communication, both with family members and with a professional, to ensure

that you get the right structure for you."

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