

## What is a Foundation?

Foundations are arrangements between individuals or corporations which have separate legal personality, distinct from both Trusts and Companies, and which can enter into contract with third parties, hold and invest assets, sue and be sued, and generally act as a legal person would.

Foundations have their origins in Civil Law as opposed to trusts whose origins are based in Common Law principles.

## Background

A Foundation is an orphan structure, legally separated from the original owner of the assets, and as such it is ideally suited for private wealth management, succession planning and charitable giving. Foundations do not have shareholders, but they do have a Council who control the Foundation's assets for the benefit of a group of Beneficiaries.

A Foundation is constituted by the Statue and the Council has a Constitution which can be specific to each foundation. The Constitution sets out the chart and rules by which the Council must act. A Foundation is not limited in time. When a Foundation is established only certain information is lodged with the public registry thereby maintaining the confidentiality of the parties to the Foundation. A Foundations Constitution is flexible in nature and can be wide or restrictive depending on a client's requirements and needs.

## Guernsey Foundations

The Guernsey Foundation legislation has been carefully drafted to take advantage of many of the benefits that a Foundation can bring including the following:-

- Familiarity of those from a civil law background
- Flexible structure, available for adaptation to individual needs
- The concept of enfranchised and disenfranchised beneficiaries – meaning the disenfranchised beneficiaries do not need to be made aware of the entirety of the assets and information in relation to a Foundation
- The appointment of a Guardian where there are disenfranchised beneficiaries to ensure their interest are protected
- The ability to migrate an existing Foundation to Guernsey enabling existing Foundations to relocate and take advantage of Guernsey's well established administrative capability and reputation

- The Foundation Council consisting of at least two councillors have a fiduciary duty towards the appointed beneficiaries, and if one of the Councillors is a licensed fiduciary such as Imperium they will be subject to regulation in under Guernsey's fiduciary Law, providing comfort to the Founder that the Foundation will be run in a professional manner.

## Advantages of Foundations

Foundations are a practical, adaptable wealth and financial planning tool, recognised and understood in Civil Law Jurisdictions. Assets can be transferred directly to a Foundation thus negating the need for complicated or tiered planning structures. Guernsey's new and modern Foundation legislation enables the efficient registration and administration of Foundations in the Island.

## Tax Advice/Fees

Full tax and structuring advice must be obtained for the establishment of a Guernsey Foundation. Imperium work with a number of leading advisory firms to assist with this advice and drafting of the Constitution, as well as assisting with appointing auditors, lawyers and additional ancillary services.

The fees associated with setting up a Guernsey Foundation would vary depending on the complexity of the Foundation and size & nature of proposed assets. Please note that third party tax and legal advice would be charged in addition to Imperium's fees.

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