

An Introduction to Guernsey Foundations: Key Features and Benefits

Guernsey Foundations provide an alternative solution to a traditional Trust structure, offering greater control and flexibility

6th November 2024

Guernsey has long been a reputable jurisdiction for wealth management, and in recent years, its offering has expanded beyond trusts to include Foundations. A Guernsey Foundation provides an alternative solution to a traditional Trust structure, offering greater control and flexibility while being well-suited to modern wealth management, estate planning, and charitable purposes. This article provides an overview of Guernsey Foundations, explaining their key features, benefits, and the scenarios in which they can be used effectively.

What is a Guernsey Foundation?

A Foundation is a legal entity that holds assets for a specific purpose or to benefit a group of individuals. It has elements of both Trusts and companies, blending the flexibility and privacy of a Trust with the legal personality and structure of a company. However, unlike a Trust, a Foundation can own property, enter into contracts, and hold assets in its own name.

Foundations in Guernsey are governed by the Foundations (Guernsey) Law, 2012, which provides a clear regulatory framework while offering substantial flexibility for structuring the Foundation to meet the founder's objectives.

Key Features of Guernsey Foundations

1. **Founder Control:** The founder, who establishes the Foundation, has significant control over the Foundation's structure and purpose. They can outline the Foundation's objectives in the Foundation charter, appoint Beneficiaries, and dictate how

assets are managed. The founder can also reserve certain powers, such as the ability to amend the Foundation's terms, add or remove Beneficiaries, or dissolve the Foundation.

2. **Council:** Every Foundation is managed by a council, similar to a board of Directors in a company. The council is responsible for managing the Foundation's assets in accordance with the Foundation charter and its rules. The founder can be a member of the council, although at least one council member must be a Guernsey-licensed fiduciary (such as Dixcart).
3. **Beneficiaries:** Foundations can be set up to benefit specific individuals, families, or charitable causes. Guernsey Foundations can have two distinct types of Beneficiaries: enfranchised or disenfranchised beneficiaries. Enfranchised beneficiaries are entitled to a copy of the Foundation's constitution and can even apply to the Court to amend key aspects of the Foundation including the purpose and dissolve the Foundation. Disenfranchised Beneficiaries do not have automatic rights to information about the Foundation or its assets unless specified in the Foundation's rules. This enhances privacy and can be useful in situations where the founder wishes to maintain discretion over the Foundation's purpose and beneficiaries, and is unique to Guernsey Foundation Law.
4. **Guardian:** Guernsey law requires that a Foundation appoint a Guardian if there are disenfranchised Beneficiaries, or if the Foundation is set up for a non-charitable purpose. The Guardian's role is to ensure that the council acts in accordance with the Foundation's objectives and complies with the terms of the Foundation charter. This provides an extra layer of oversight to protect the Foundation's purpose.
5. **Legal Personality:** A Guernsey Foundation has its own legal personality, meaning it can own assets and enter into contracts in its own name. This contrasts with a Trust, where the Trustee holds legal title to the assets on behalf of the Beneficiaries. The legal personality of a Foundation offers clarity and certainty in jurisdictions where Trusts may not be fully recognised.
6. **Flexible Purpose:** Foundations in Guernsey can be established for a wide range of purposes, including charitable, family, or business objectives. They can also be used for commercial purposes, such as holding shares in a family business or acting as a Private Trust Company. This flexibility makes Guernsey Foundations an appealing option for a variety of uses.

Benefits of Guernsey Foundations

1. **Privacy and Confidentiality:** Guernsey Foundations offer a high degree of confidentiality. There is no public register of Beneficiaries, and the details of the Foundation's assets and purposes are not publicly available. This makes them particularly attractive for individuals or families seeking privacy in their wealth management.

2. **Control and Flexibility:** Foundations provide founders with a high level of control over how their assets are managed and distributed. The ability to reserve powers and appoint members to the council allows the founder to retain influence over key decisions, even after the Foundation is established. This is often seen as a significant advantage compared to Trusts, where control is typically transferred to the Trustee.
3. **Asset Protection:** A Guernsey Foundation can offer robust asset protection, particularly if it is established with the intention of preserving wealth for future generations. Foundations can be structured to shield assets from potential future creditors or potential legal claims, provided that the Foundation was not set up with the intent to defraud creditors.
4. **Succession Planning:** Foundations are an excellent tool for succession planning, allowing founders to dictate how their wealth is passed on to future generations. Foundations can be structured to provide for family members over multiple generations whilst ensuring that assets are managed in line with the founder's wishes.
5. **Tax Efficiency:** Guernsey is known for its favourable tax regime, and Foundations can be structured to take advantage of this. Whilst Guernsey does not impose taxes on capital gains, inheritance, or wealth, it is essential to seek expert tax advice to ensure compliance with tax regulations in other jurisdictions where the founder or Beneficiaries may be resident.
6. **Philanthropy:** Guernsey Foundations are often used for charitable purposes, enabling founders to establish a lasting legacy through philanthropic endeavours. Foundations can be structured to fund specific charitable projects, provide ongoing support to causes, or even act as a family's Private Charitable Foundation.

Common Uses of Guernsey Foundations

1. **Wealth Preservation and Estate Planning:** Guernsey Foundations are commonly used to protect and preserve family wealth for future generations. They allow founders to manage how assets are distributed and to maintain control over family wealth, even after their death.
2. **Philanthropic Foundations:** Many individuals establish Guernsey Foundations for charitable purposes. These Foundations can fund specific charitable projects or support ongoing causes in a structured and tax-efficient way.
3. **Holding Family or Business Assets:** Foundations can be used to hold shares in family businesses, real estate, or other valuable assets. By consolidating ownership within a foundation, founders can ensure that assets are managed consistently and in line with their long-term vision.
4. **Succession Planning for Complex Family Structures:** For families with international members or complex relationships, a Foundation provides a clear and structured way to manage and distribute assets. The flexibility of Guernsey

Conclusion

Guernsey Foundations offer a versatile and effective tool for wealth management, asset protection, and succession planning. Combining the best elements of Trusts and companies, they provide founders with greater control, flexibility, and privacy over their assets. Whether used for family wealth preservation, philanthropy, or holding business interests, a Guernsey Foundation can be tailored to meet the specific needs of its founder.

At Dixcart Guernsey, we have extensive experience in establishing and administering Guernsey [Foundations](#), ensuring they meet both legal requirements and the unique objectives of our clients. Please contact the [Dixcart office in Guernsey](#) at advice.guernsey@dixcart.com to learn more about how a Foundation could benefit you and your family.