

Let's talk: developments in the private client world

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In this article, Ogier partners Matthew Guthrie and Catherine Moore look at the impact the Covid-19 pandemic has had on the private wealth industry. The article first appeared in the Guernsey Press in May 2021.

The past year has been a difficult and unsettling one for many. Some have lost or been separated from loved ones, while others have had a moment to pause and reflect on what matters most to them and what the future may bring. This is no less true for the international clients who work with the fiduciary sector here in Guernsey.

A trend which we have seen gain real momentum over the past year was the shift in the attitude of clients who had previously put off dealing with those tricky questions about their estate planning and may not have been particularly open to engaging with the next generation about this.

The pandemic has spurred many of these clients to act and it has been an exceptionally busy time for those working in the industry. The pandemic has given both clients and service providers the opportunity to question whether existing arrangements and governance procedures are fit for the future. Guernsey service providers and advisers are well placed to facilitate these kinds of discussions, with a variety of flexible structures and a professional services industry capable of delivering the full remit of services to international clients – from wills for international clients to trusts, foundations and companies, to more bespoke structures.

For others, any discussion of the future has inevitably led to an evaluation of what has happened to date and a resolution of any issues which may have arisen. Hindsight is of course a wonderful thing, and while a pandemic may not have been foreseen, such world events inevitably raise issues there may not have otherwise been, such as investment losses or liquidity and cash-flow issues. What we have seen in both cases are clients looking to plainly and frequently communicate with their service providers, even if virtually, and more of an emphasis on all parties coming together to speak – including the next generation.

Addressing what is to happen after one's death or "bringing into the fold" those who may become involved in the future facilitates a much smoother transition when the time comes and a stronger relationship between clients, families and their service providers throughout. In addition, this open communication can allow service providers to better understand at an early stage the differences in thought between the current and next generation, be that in relation to the family business, philanthropy or suitable investment forms for example (such as discussions on ESG and impact investing).

Such communications have been helped by the ease with which clients are able to communicate among themselves and with their service providers and advisers in Guernsey, with virtual meetings now commonplace.

Of course with the swift move to virtual working came a number of inevitable legal considerations for clients and the industry, which we do not see going away any time soon. From ensuring that meetings take place in appropriate jurisdictions (from a tax and economic substance perspective, among others) and data protection and confidentiality issues which arise, to ensuring documents are properly signed (noting that legislation in one jurisdiction may be different to the legislation in another in relation to electronic signing such that some forms of documents may still require "wet-ink" signature or witnessing) – the considerations to be had when working together with clients have adapted and expanded over the past year. Service providers have had to develop and expand upon existing policies designed to address new protocols during the pandemic and, like clients looking to future-proof their arrangements, will also inevitably be looking to "future-proof" their policies and business continuity plans as much as possible and communicate these to clients as necessary.

It is fair to say that we have all had to deal with changes over the past year and as well as the means by which service providers, advisers and clients have worked and communicated having changed, so too have some relationships, whether between families or among clients and their service providers and advisers – let's be honest, it is far easier to be at ease with one's professional adviser or one's trustee when you have seen them interrupted by errant children and pets. Joking aside, however, many factors have likely contributed to this change in attitude towards estate planning and discussions among international clients and their families and this shift is one which we do not see changing any time soon, both among the current generation and the next.

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