



Guernsey blessing applications

Trustees in Guernsey are provided with a multitude of powers under the Trusts (Guernsey) Law, 2007 and such powers are often extended further by way of the trust deed.

In our experience, where the issues in the trust become more complex, the decision making of trustees can become just as complex.

A blessing of the Royal Court can provide comfort to a trustee that it has exercised its decision making appropriately and that it has taken into account all of its fiduciary and legal obligations.

A blessing confirms that the trustee has the requisite power to make a particular decision, ensuring that a trustee will be protected from challenges to their decision.

5 things to know about blessing applications

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There are four mechanisms by which a trustee can seek the Royal Court's blessing for a decision relating to the trust. Most applications seek the Court's blessing of a particularly momentous decision under category two of the English case of *Public Trustee v Cooper*



There is limited guidance as to what a particularly momentous decision is. It is usually a decision of real importance to the trust such as excluding a beneficiary, a substantial restructuring or selling key "family" property owned by the trust



A momentous decision will only be blessed if the relevant power is provided for in the trust instrument or the Trusts Law, the decision was made in good faith and was desirable and proper in the circumstances, the trustee's opinion was one which a trustee properly informed could have arrived at and the decision making was not vitiated by any conflict of interest



The Court will consider each document in making its decision as to whether the overall impact is in the best interests of the beneficiaries. In some cases, the Court may bless some elements of the decision but not others



An application should only be sought in respect of decisions which are actually momentous. There could be adverse cost consequences for a trustee who brings an application in respect of a decision which is considered by the Court not to be momentous



The Court's blessing will not protect a trustee if it has failed to disclose all the relevant information. Trustees should ensure that they have made full and frank disclosure of the reasons for the decision and any back-up materials relied on



The quality of evidence put before the Court is crucial. Trustees should include minutes, resolutions and expert evidence, including professional valuations and tax or legal advice. This advice should also be carefully sense checked by the trustees



It is very important that the beneficiaries' views have been considered and that beneficiaries have had a reasonable period of time to comment upon the decision to be made



Alternative options should have been explored. Trustees must also demonstrate that the decision is capable of being implemented and have considered the costs of the exercise



While the Court's procedure for dealing with such applications is intended to be quick and accessible, it is important to note that some blessing applications will require greater legal expertise and that legal advice is always recommended



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