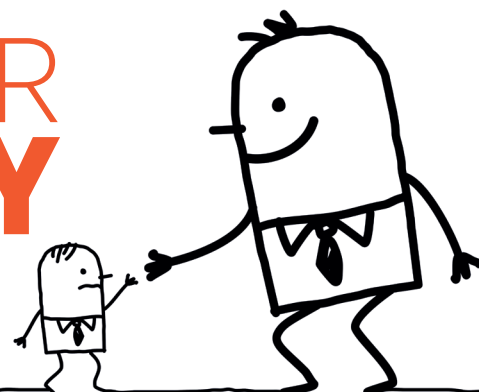


# FOUNDATIONS FOR PHILANTHROPY

Zillah Howard considers the benefits of Jersey foundations for philanthropic purposes



**PHILANTHROPY** is a topic of increasing importance for many, so the question arises as to what form their giving should take. While some people are happy to give to existing charitable organisations, others prefer to create their own philanthropic structures.

The reasons for creating a new structure vary, but often include a desire for the philanthropist to focus on a particular cause that matters greatly to them, and to have opportunities for ongoing involvement.

For those looking to establish a new structure, Jersey can be an ideal jurisdiction: it offers political, economic and geographic stability, a robust regulatory regime, a well-respected judicial system, a depth and breadth of experience among its professional advisors, and legislation that places strong emphasis on the importance of flexibility, allowing structures to be tailored to meet each individual's requirements.

The two principal structures used in Jersey for philanthropy are the trust and the foundation. While charitable and non-charitable purpose trusts continue to be popular, there has been growing interest in foundations since their introduction in 2009.

A Jersey foundation can be established for an unlimited period and is an incorporated body, brought into existence following completion of a registration process. It does not have shareholders or any other form of owner, and holds assets and enters into contracts in its own name. Its existence can be determined as a matter of public record, by conducting a search of the register of foundations.

The constitutional documents of a foundation are its charter and regulations. A foundation is incorporated on the instruction of the founder, with a council to administer its assets and carry out its objects, and a guardian with an enforcement role. One of the council members must be a 'qualified person' with the appropriate regulatory licence pursuant to the *Financial Services (Jersey) Law 1998*.

A foundation's objects will be specified in its charter. The *Foundations (Jersey) Law 2009* (the Law) provides that a foundation's objects can be charitable, non-charitable, or a combination of both. They can be to benefit people or to carry out a specified purpose, or a mixture of both. The flexibility that the Law allows in this regard is attractive as it means that it is possible to combine the benefit of purposes with benefit to people in the same foundation. A philanthropist can therefore establish a foundation to carry out a purpose that matters to them, without having to consider whether it falls within the technical definition of charity, and can

use that same foundation to provide for general charitable giving and for benefit to people.

It is now more than three years since the Law was introduced, and it is clear that the flexibility that the Law allows in the choice of objects is being used. The range of philanthropic causes being chosen is broad, and, by way of example, some of the purposes for which foundations have been incorporated are to:

- acquire, maintain and restore artworks and make them available for public benefit
- raise awareness and understanding of philanthropy
- inspire, mentor and empower young people with business, financial and personal development skills
- advance the wool industry
- acquire historic buildings and heritage properties and restore and maintain them
- encourage research into medical conditions
- support ethnic minorities in a particular area; and
- support education.

As well as being able to draft a foundation's objects so that its focus is as narrow or broad as is appropriate for individual requirements, the Jersey foundation also provides opportunities for ongoing involvement, so the skills that a philanthropist has brought to their business life can also be used for the benefit of their chosen cause, or the younger generation can be introduced to the family's wealth in a controlled way.

For example, a philanthropist might wish to be a council member and participate in the decision-making processes, or might like to be the guardian (with a monitoring role, overseeing the council's operations). As a founder, a philanthropist could, in an appropriate case, be both a council member and the guardian. Where younger family members are concerned, they might similarly become involved as council members and might, for example, participate in a giving committee, distributing the foundation's assets.

With an established record for creating charitable and non-charitable purpose trusts, and a growing interest in the use of foundations to promote giving, Jersey has a valuable role to play in philanthropy. ■

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