

## Global Trust Trends - Mini Series

We recently spoke to Geoff Kertesz, Partner, Trust and Probate litigation at Stewarts in London about the latest trends in offshore trusts disputes and what he and his team are seeing in practice in the context of their clients.

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### What are the major trends you have seen in Trusts disputes over the past 12 months?

In the past, families often restructured trusts with little to no input from most of the family. Over the last year or so, these restructuring exercises have often become more contentious as different branches and generations wish to have their views considered in the larger restructuring.

### How do you expect these trends to play out in 2023 and beyond?

As families become less 'nuclear' and the generational shift continues, there will only be more viewpoints to consider and, necessarily, this will lead to more friction.

### What are the main issues international families are dealing with and how should their professional trustees and advisors be helping them deal with these?

Families are highly mobile and may, completely inadvertently, expose their structures to risk by doing something that anyone would consider 'normal'. This could include buying a property in a country that imposes forced heirship, marrying an 'accidental American', not entering into a pre-nuptial agreement, and so on. It is all about getting the right advice in the right jurisdictions and, more importantly, at an early stage.

### What advice would you give to wealthy families when it comes to appointing a professional trustee? What do you look for when asked to recommend new or replacement trustees to your clients?

We look for professional trustees who have a history of working in respected jurisdictions that have strong regulation and experienced local lawyers in the event things go wrong. Families rarely come to us because they are happy with their existing trustees! So we also look for trustees who are happy to take on a 'distressed' structure and improve communication going forward.

### What are your top tips for avoiding trust disputes?

Communication, communication, communication. If a dispute is going to happen, it's almost always due to family dynamics and it's going to happen, and there's really nothing that can be done to stop it. But communication in advance can often stave off a dispute.

### What is your sage advice when families have fallen out and a trust is in dispute?

Keep talking. Or, more likely, start talking! Don't do anything rash. And while it may sound self-serving, speak to a lawyer early on. This is what we do every day and we can help.

### How does your practice typically interface with offshore trust companies and their clients and what kind of legal advice do you offer in this field?

We do not have overseas offices so we are used to working closely alongside offshore trust companies and their existing local advisors. We are adept at coordinating litigation among various jurisdictions but we leave the substantive local advice to the local advisors who have the 'on the ground' experience.