

Jersey - rotten to the core

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The Observer [published a story today](#) about an email from Jersey that had been sent to it, seemingly inadvertently. Nick Mathiason at the Observer was kind enough to ask my opinion on the mail, and to send me a copy since he knows of my work there. For those who don't, I advised a [Scrutiny Committee](#) of the States of Jersey on its proposed new laws in 2005 and [my report](#) was so damning that those new laws were entirely rewritten, as were the proposals for Guernsey.

I have mused on the mail I received. The Observer used it because they said 'it would a dereliction of their duty not to do so'. Well, I think that on reflection it would be a dereliction of mine not to discuss it further, so I will be, over the next few days. But first of all let me repeat what I told the Observer, which was:

'This proves that Jersey is rotten to the core. We now have evidence that its government knowingly facilitates tax evasion by creating legislation that allows it to happen. The government of Jersey has allowed the creation of sham trusts. Trustees are UK-trained and UK-regulated solicitors and accountants. The UK's professional bodies should make it clear that this is unacceptable. It's clear that the Jersey government's aim is to help the rich evade the tax that they should be paying to other governments, including the UK's.'

I should be explicit why I think this is the case. And I should also make clear we're talking about Jersey's new [sham trust laws](#). First of all let's name who the mails are between. The principle players, all of whom wrote over the last few days, are:

- 1) John Harris, Director of International Finance for the States of Jersey,
- 2) Terry Le Sueur is the Jersey Minister for Treasury and Resources (the equivalent of the UK's Chancellor)
- 3) Malcolm Campbell is Comptroller of Income Tax in Jersey i.e. head of their taxation department;
- 4) Paul de Gruchy comes from an old established Jersey family and is an Advocate (barrister) who project managed the changes to Jersey's trust laws on behalf of the States (government).

There are other minor players, such as Ian Black, Treasurer of the States of Jersey - but

the above are the critical people. Together they cover the senior echelons of the civil service and politics and John Harris also, for example, sits of the board of Jersey Finance which represents the Jersey Finance industry to the world.

And what do the mails say? Well, take this from Paul de Gruchy to Malcolm Campbell:

I imagine that a large number of wealthy people all over the world (including Jersey) do just the thing you fear in your e-mail - place assets in trusts in another jurisdiction, define themselves as excluded persons for the time they are resident in a specific jurisdiction, have assets returned to them when they cease to be resident in that jurisdiction, and then receive all the gains/rolled-up income tax free.

Now he, and the other participants in the correspondence call this behaviour 'avoidance' but that's self delusion on their part. To structure affairs like this is false representation. The person is claiming to put the assets in trust when they never have any intention of doing so. In other words they intend to evade tax. That's entirely different from avoidance, but it is this evasion that Jersey is facilitating.

Now look at what de Gruchy has to say about how Jersey should react to this:

The changes to the Trusts Law are intended to give statutory certainty to a practice that is already widely carried out. Currently, it is common for assets such as shares in a family company to be placed in trust, but for the settlor to wish to retain control over how the company is operated. Or an investment portfolio may be placed in trust, but the settlor may wish to manage the investments.

In other words, rather than seeking to stop the tax evasion that is going on, Jersey is seeking to endorse it.

No wonder Malcolm Campbell said to the Observer that there was nothing in the proposed changes that would '*make tax avoidance or evasion more likely than under the present statute.*'

I'm sure that's true. What Jersey is seeking to do is pass statute that endorses the evasion that is already taking place. Indeed, de Gruchy says:

'What they will do is allow Jersey to compete more effectively for international work'. As John Harris says 'As Jersey is squarely pitching itself at the expert/sophisticated/ultra-high net worth end of the market, we need settlor reserved powers in order to offer an attractive product to international clients.'

To put it another way (as the quote in the Observer makes clear) these people will evade anyway, so we must help them. It's a bit like saying 'there are thieves in the world; let's help the best of them by changing the definition of theft so that they can't be prosecuted'. In fact, that's exactly what is being said.

And that's why we now have the proof: Jersey is rotten to the core of its politics, civil service and professions. It's time the place was closed down.