

## Trust Jersey to misrepresent trusts

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The Guardian has begun a mini-series on the Channel Islands today. As [it notes in the second part of the series](#):

*[T]he most lucrative corner of Jersey's financial sector is the offshore trusts industry catering to the international super-rich.*

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*With no register of trusts, the Jersey authorities do not know how many such ownership vehicles exist, who owns them, or what assets they control.*

*But John Harris, director-general of the Jersey Financial Services Commission (JFSC), is furious at critics who suggest such opacity opens the door to international tax evasion. He said the 180 companies that administer offshore trusts are tightly regulated, required to know the source of funds, who set up the trust, who are the beneficiaries, and to meet strict anti-money laundering criteria.*

*Harris claimed there was a "prejudice against trusts" simply because they offered a "legitimate degree of confidentiality, no different to bank accounts". Asked how many trusts were administered on the island, he said: "Nobody knows ... It's probably tens of thousands." Responsibility for ensuring all comply with regulations lies with just 675 trust company directors recognised by the JFSC.*

Well as someone who has done more than most to fuel anger at Jersey's trust laws - [they having been a recurring theme of this blog's six year life](#) - I can confidently say that John Harris is not just wrong; he is very wrong.

First it's important to know what a trust is. I have suggested, in lay terms that a trust is an arrangement where one person says to a second "please look after this asset for me, but when doing so make sure (for example) that the income goes to this third person during their life and when they die the remaining property goes to another, fourth person". All trusts are meant to incorporate this split of roles, responsibilities and entitlements. If they did not then there would be no need for a trust. The property

would be owned absolutely by one person for their own benefit. In other words, there has to be an arrangement where a person gives assets away, irrevocably, to another person not under their control who holds the assets for the benefit of more than one other person

[As I disclosed six years ago](#), Jersey wilfully and knowingly changed its trust laws so that:

- 1) The settlor of a trust - the person giving the asset away - can now control the trustees of a Jersey trust. They must do as he or she says, and they can change them at will. That means they are sham trustees.
- 2) The settlor can direct how the trust can be managed and who it will give funds too. That mean they have complete control of the asset. there is no trust.
- 3) They can demand the trust assets back at any time for themselves - so again there was no gift into trust. There is, therefore, no trust.

To put it another way, Jersey made sure that some, at least, of its trusts could be quite legally according to its law a complete sham. They could claim to be trusts when they were no such thing. Of course there is no register of trusts so no one has a clue which trusts are shams and which are not and how many abuse in this way or not, but the point is that all of this is deliberate: Jersey is a secrecy jurisdiction. Secrecy jurisdictions are places that intentionally create regulation for the primary benefit and use of those not resident in their geographical domain. That regulation is designed to undermine the legislation or regulation of another jurisdiction. To facilitate its use secrecy jurisdictions also create a deliberate, legally backed veil of secrecy that ensures that those from outside the jurisdiction making use of its regulation cannot be identified to be doing so. That's what this sham trust deal is all about: it is about allowing abuse that is hidden from view.

And if that's what Jersey decided to allow then they deserve all the criticism they get, because there is one reason and one reason only for such trusts, and it is to hide the truth, including the truth about tax evasion.

Jersey know that. [They discussed this possibility in emails that I published](#). John Harris was involved in those discussions in 2006 in Jersey. Jersey said then that they were at risk of losing revenue from the abuse they were allowing. But now Harris says he's angry at such a suggestion.

The real question is why are you denying what you know to be true John? Wouldn't a little honesty help?