

# Court judgement supports Jersey trusts

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The decision last month of the Royal Court of Jersey in the case of *Mubarak v Mubarak* has created something of a stir in the world of trusts, particularly in relation to the protection of assets.

It is clear from legal commentary that the case has set a precedent: the Jersey courts will not, in certain circumstances, enforce an order of a foreign court if the result of so doing would be to alter the terms of a Jersey trust. Many commentators have suggested that this is a symbolic 'shot across the bow' for any foreign jurisdictions attempting to force the distribution of assets from a Jersey trust. In particular, it casts doubts on the 2007 decision of the Court of Appeal in the UK in *Charman v Charman*. For a potential settlor contemplating the jurisdiction in which to establish a trust, this decision will

mean that his assets in Jersey may now enjoy increased protection from the legal decisions of foreign jurisdictions, potentially enhancing the island's attraction.

Jersey also has many other attractions for a wealthy individual. Jersey's status as a British Crown Dependency gives it a unique position within the offshore world – it offers political and economic stability, without being a member of the European Union (and therefore not required to implement EU directives) and, crucially, can set its own rate of tax through its independent legislative framework. This framework is known for its well developed regulation, and complies with the standards of both the Financial Action Task Force and the Organisation for Economic Co-operation and Development (OECD).

As well as creating an impressive financial infrastructure, Jersey's status has enabled the development and growth of a trust

industry which is widely recognised as one of the best in the world, with its high quality of service and, perhaps most importantly, highly sophisticated trust law. This law, combined with clear and definitive rulings, such as that in the *Mubarak* case, has struck a unique balance between openness and privacy, whilst maintaining the approval of international regulatory bodies and satisfying clients' needs.

Jersey is in a unique position – it has international legitimacy, it is a leading offshore financial centre, but it is clear that, although it is willing to cooperate with international bodies and governments where appropriate, its Court will vigorously defend the rights and integrity of its trusts, and the assets held in them, against potential interference from outside its jurisdiction.