

Michael Betley (right) is the Chairman of the Guernsey Association of Trustees (GAT) He is Group Chairman of Trust Corporation International; a member of and past branch Chairman in Guernsey of the Society of Trust and Estate Practitioners (STEP); a member of the Guernsey International Legal Association; a Chartered Director and a member of the Institute of Directors.



Beneficial Ownership Disclosure, Registry of Trusts and the Transparency Debate

As practitioners we are rightly proud of the world class regulatory regime and legal framework we have helped to create in Guernsey. It is incumbent on us to know and understanding who we represent and this includes the collection and maintenance of due diligence and beneficial ownership information on all relevant customers of Guernsey regulated businesses. It is not appropriate to have this information publically available but through its extensive network of tax treaties and tax information exchange and inter-governmental agreements Guernsey has internationally recognised protocols to deal with information sharing with all competent authorities.

The transparency debate is one that Guernsey has already addressed and the island will maintain its position as a centre of excellence without the need to yield to the eclectic international initiatives on transparency which are currently being promoted. If presented with a better solution which allows higher standards to be adopted internationally then, as is customary, Guernsey will consider these through an informed consultative process. In the meantime we will continue to enlighten the international community with the merits of our system and approach.



Deputy Kevin Stewart (left) has been Guernsey's Minister for Commerce and Development since May 2012. He is also a Director of Guernsey Finance. Earlier this year he launched Guernsey's Finance Sector Strategy.

At Michael's invitation he agreed to give some short and direct replies to questions posed by business, not least on where Guernsey's government stands on public registries of beneficial ownership.

Q: Private wealth management has been a cornerstone of Guernsey's finance sector. How important will it be to Guernsey's economy in the future?

A: Guernsey's wealth management and fiduciary sector makes a major contribution to our economy and our community. The reputation for professionalism and high standards for the sector reflects positively on Guernsey around the world. Our fiduciary sector is synonymous with excellence, and its growth and prosperity needs to be fostered. Providing the right environment for the sector to continue to thrive is one of the top priorities of my Department's Finance Sector Strategy.

Q: What does providing the right environment mean in practical terms?

A: We want to encourage business flows by focusing on innovation, whether it be in terms of products or legislation. To deliver this we need to have five things in place: a competitive and neutral tax regime; internationally respected and proportionate regulation; an innovative approach; a legislative framework that supports that innovative approach; and access to new and emerging markets. We have shown that we are prepared to support innovation. In the recent past the Guernsey government has worked with industry to establish products such as foundations, limited liability partnerships, image rights and an Aircraft Registry. These have all been developed to keep pace with new markets and new products.

Q: What is Guernsey's government's position on a public registry of beneficial ownership?

A: In short, here's Guernsey's position. We've had an effective system of regulation and exchange of information in place for over a decade. It is one of the reasons why our fiduciary sector is successful. It also means that we believe there are some jurisdictions that are one or two steps behind Guernsey in that respect. When those jurisdictions are in the same place as us, we can then consider whether steps towards a public registry are necessary. But we will only take that step if it is a truly global standard – that is, if every mainstream finance sector is doing it as well.

Let me also clear up a couple of common misperceptions. First, Guernsey is not part of the UK, so the UK's plans and objectives do not include Guernsey. Second, Guernsey is not part of the European Union nor the EEA, so neither the European Commission nor the European Parliament speaks for Guernsey either. Only Guernsey's government speaks for Guernsey. We in Guernsey published a beneficial ownership plan just over a year ago, during the UK's presidency of G8. We are committed to that plan. This means, for example, that we will take a good hard look at the impact of a public registry of beneficial ownership on our economy and on our fiduciary sector. This will be done through a consultation process with industry and NGOs in the final quarter of this year.

However, let me be clear about something else. Guernsey is one of the few jurisdictions in the world that already regulates corporate service providers. All of the information that a public registry would comprise is already accessible to authorities, and in fact it is more up-to-date than it would be in the public registry model proposed by the UK government. We are making it clear that what we do is, we believe, better than what is being proposed through the public registry model – that is, the information is accessible to authorities, the information is accurate and up-to-date, and the information's availability does not undermine privacy.

Q. How are you making that position clear then?

A: Well, it's a bit of an inconvenient truth for some that Guernsey already does more to provide information on beneficial ownership than most other jurisdictions – in fact we have done so for over a decade. But we are explaining consistently to the UK Government, to the European Parliament and to the OECD how the regulation we have in place can secure the same or dare I say better outcomes than they want. On beneficial ownership information, and on tackling tax evasion, we are well ahead of many countries by all objective standards. Not just in designing rules, but in applying them in practice, year on year, so that individuals and businesses know what to expect. There is a poorly-informed "anti-tax haven" agenda which we in Guernsey are often dragged into. But on every major tax issue we are on the right side of the dividing line – that is, on the white-list. Our challenge is to close that perception gap. But those who know what we do and how we do it in Guernsey understand that we are part of the international mainstream.

Q. So why have a consultation if there are no plans to change anything?

A: No organisation has a monopoly of wisdom, and we are sure that we – like every jurisdiction – have lessons to learn and insights to gain. If we can enhance our regulatory regime we will do so. But let me be clear again – Guernsey won't be moving to a public registry of beneficial ownership unless every other mainstream finance centre is doing so as well. We have a system of regulation in place in Guernsey which we think that some other jurisdictions could learn from, and we are happy to share that expertise.

Q. Going back to the fiduciary sector, what is the balance of priority in Guernsey's finance sector strategy for new and emerging markets?

A: Our approach to new and emerging markets is simple. We want to continue to service our traditional markets, like the UK. We not going to neglect what we have already, we are going to protect it. But in addition there will be a greater focus on new and emerging markets as well – not least, but not exclusively, China and Latin America. Guernsey has emerged through the global recession in good shape. Our economy is robust, and finance and the fiduciary sector are the engine rooms of the economy. We are open for business – we support innovation, we have a stable fiscal and political environment, and we focus on quality. We have a strong professional services sector to support our finance industry. We have a reputation for excellence and being “can-do” – and we have earned that reputation. All of this gives a quality assurance which is necessary to attract business to the island from new markets.

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