

A family affair

The rise of private wealth in a post-banking crisis world has led to increased demand for sophisticated advice. We teamed up with Jersey Finance to ask advisers for their take on the key challenges for family offices

MARK McATEER

Mark McAteer, Legal Business: *Is there much appetite within family offices to forum shop? And whose responsibility is it to make them aware of the options available?*

Jonathan Conder, Macfarlanes: If it is brand new, for sure. It is one of the first bits that we end up covering.

Nick Jacob, Forsters: It is an area where you can forum shop still.

Catherine Grum, KPMG: But you have got quite a long list of criteria. We have done this recently for a client and we were looking

at the regulatory environment, the tax implications, but also things like the transport links and the employee environment. There is the reputation of the jurisdiction, which is increasingly important. There is the availability of quality staff and resources, then there is the connections to legal advisers, and you have got the language and the time zones.

Matthew Braithwaite, Wedlake Bell: But it also feeds into a whole push towards creating a substance in the jurisdiction as well.

Astrid Owen, McDermott Will & Emery: The substance issue is becoming



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Nick Rucker, Irwin Mitchell

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Matthew Braithwaite, Wedlake Bell



► increasingly key because of the regulatory environments.

Kevin Lemasney, Locate Jersey: What we are finding recently is not just first-time family office setups, but a lot of people are futureproofing the family office, looking for alternative jurisdictions to wherever they might be placed at the minute and thinking: ‘Are we in the right place for the future? Should we be bringing it closer to wherever the home base is? Reputational risk, of course, is playing an ever-increasing role.

Astrid Owen: What is interesting is why families are setting up family offices outside their jurisdiction. What I see is, before there

is a liquidity event, the family has made their money in a business which holds them together. It has become very international, but deep down it is still that family business. They then sell. That is when they come asking all kinds of questions. You may need more than one family office as you might have divisions among branches of the family. You have people who want to get dividends and be passive; you have other people who want to be active in whatever the new venture is going to be. It is those kind of events that drive new thought processes.

Jonathan Conder: Yes, because they have a simpler management and support need when

most of their worth is tied up in a business. I am not surprised people are shopping around with family offices, partly because the definition of family offices is so broad. Family offices evolve over time. The needs of the families change and they start out often with the CFO [chief financial officer] doubling up as a sort of financial consigliere to the owner-manager. They evolved often within the business, then there is a liquidity event and you need a new skillset. Eventually you have your own standalone family offices in multiple jurisdictions servicing everything. At that point, the lawyers can often not have as much of a role to play because the family office has its own in-house legal capability as well. I prefer the outsourced family office that focuses on what it needs to buy in from time to time.

Mark McAteer: *What would be the one topic that you feel family offices should prioritise in the next six to 12 months?*

Catherine Grum: A lot of the families I am working with are thinking about how they create something that is still going to be relevant in ten or 20 years’ time. It is so important to spend the time getting the vision for the family, and understanding where they want to be at the outset so that you can help them build a family office that is going to work for them while maintaining enough flexibility so you are not a complete hostage to fortune. Firstly, do they need a family office at all or can they just work with advisers and providers? If they need a family office, what are the critical elements of it for them as a family and how will they achieve that? What are the nice-to-haves or the elements that they can either outsource or do without? You are trying to build something now and the pace of change is so dramatic with new technology. You are trying to create something now for a situation when you have no idea what it is going to look like in 20 years’ time. Creating a family office or evolving one is by its nature something for a long-term project; it is not something you are setting up for five years.

Matthew Braithwaite: This is fact specific to a particular client scenario, but in an age of social media, a key area is reputation management and getting people to focus on the fact that you are the master of your own destiny in terms of what is out there in the media. If you do not go on the record and present your own story, other people will have a judgement. That can have a huge effect not only on the core family but equally

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on the family office more generally if they are associated with that particular individual and that particular family. Probably being aware of those threats and potentially turning it to their advantage by putting the right story out there from the outset is worth considering.

Nick Rucker, Irwin Mitchell: Aligned to that is information security, which is just becoming more and more of an issue, certainly for a lot of our Middle Eastern clients. It is something that more and more people will need to think about, which not a lot do right now.

Gareth Keillor, Herbert Smith Freehills: Cyber security should be a priority. I anticipate we will see some sort of cyber attack directed at a family office, because there is generally more publicity surrounding family offices now and how much money they manage, whereas they were flying under the radar before. Protecting their assets by upping their cyber security protection should be a priority, as you just can't keep all this

information in standard Outlook folders with no security in place.

Nick Rucker: That goes to the reputational point as well: once you turn that stone over and see everything running around, reputation will be very, very difficult to manage.

Gareth Keillor: I know you are saying, 'try not to harvest all the information together', but corporate regulation requires you to do it.

Astrid Owen: And then the family lose it.

Kevin Lemasney: The old adage, 'you've seen one family office, you've seen one family office', has never been truer. There is such fragmentation, but I agree with Catherine: futureproofing, and futureproofing with trusted and recognised experts, is so important.

Jonathan Conder: What has been occupying my time in the last year has been helping a family through a transition under difficult

circumstances. It was a Revenue inquiry and a lot of it came about because the older generation of the family lived in the dark. The generation that I am dealing with live in the light. That has caused not only some expensive bills to the Revenue but has also led to the firing of the family's main lawyers. This had led to a complete rejig of the governance within the main family office so that there is now a much greater balance between [generation] G3 and G4 in this case. All is well that ends well because the family have not fallen out and it has not become public, but it was a very painful transition. One of the things that we can do as advisers is help families learn from our experiences with other families and try and prevent, as much as we can, the sort of pain that this family has gone through. We are not finished yet, but it has been pretty damaging to family relations, never mind their balance sheet.

Astrid Owen: Futureproofing is very difficult as families expand and become more international. You do not know when



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Nick Jacob, Forsters

Nick Jacob: Getting the right people to run whatever the family office is going to need is absolutely critical because there are quite a few family offices that I have seen which have not got the right people. Who are the right people? Clearly they need to be trusted and trustworthy, but they need also to be sufficiently objective to be able to talk to the family about difficult issues that are often hidden under the table; difficult relationships where they can challenge and suggest constructive solutions; potential disputes within the family that arise time and again. If they can help to diffuse those issues, then they are worth their weight in gold and there are not many people around in family offices who are sufficiently objective to do that. In my view, they have saved that family’s reputational risk, security risk, dispute risk, and been worth every single penny that they are paid.

Astrid Owen: Sadly, I see that often that person gets fired.

Nick Jacob: Sometimes, yes.

Kevin Lemasney: That person will never be out of work; they will be gobbled up very quickly by somebody else.

Nick Jacob: A number of families will accept that, because this person is not a family member, is sufficiently objective and is able to persuade in the right way. That gains acceptability, not in every case but in a number. There are not many people like that unfortunately.

Astrid Owen: Often that is the role of the outside advisers.

Jonathan Conder: To give the difficult messages? Yes, it is.

Nick Jacob: We are all asked: ‘What do other families do in this situation?’ Every single time, we get that question.

Mark McAteer: *So let us hope the messenger does not get shot.*

Astrid Owen: Not today.

Mark McAteer: *Thank you all for your contribution.* LB

mark.mcateer@legalease.co.uk

▶ you are going to get a US person in your mix because a girlfriend suddenly becomes a wife and then your entire structure has to be revisited. Privacy is a key issue for most families and that is eroding in Europe with all the regulations. Also, now every family is in the media if they are in the ‘wrong type’ of business, such as selling guns. The family is no longer protected just because it gives a huge amount of money to charity. Historically, the philanthropic side protected your family from the negative side of your business. It is a very different scenario now when you can be in front

of criminal courts, not because of what their generation did, but because of what their father or grandfather created.

Robert Moore, Jersey Finance: One topic you would consider important is the open, honest communication and education of the generations within the family office, to ensure they have a clear and transparent understanding of the goals of the family office itself, so in the future you have no misunderstandings on the intended areas of focus.



THE PANELLISTS

- **Matthew Braithwaite** Partner, *Wedlake Bell*
- **Jonathan Conder** Partner, *Macfarlanes*
- **Catherine Grum** Head of family office services, *KPMG*
- **Nick Jacob** Partner, *Forsters*
- **Gareth Keillor** Of counsel, *Herbert Smith Freehills*
- **Astrid Owen** Partner, *McDermott Will & Emery*
- **Nick Rucker** National head of tax, trusts and estates, *Irwin Mitchell*
- **Robert Moore** Business development director, *Jersey Finance*
- **Lisa Springate** Head of technical, *Jersey Finance*
- **Mark McAteer** Managing editor, *Legal Business*

