

# Differences Between Trusts and Foundations

Jersey Trusts	Jersey Foundations
<b>The laws</b>	
Set up for the benefit of beneficiaries	Same as Jersey Trusts
Can be used for a specific purpose, for example a charitable purpose such as helping the poor or promoting education	Same as Jersey Trusts
A trust is a legal relationship between people (a settlor and a trustees) <a href="#">See Put Simply Trusts</a>	Treated as a 'legal person' under Jersey Law, like a company. It can transact in its own name and own property. But it does not have an owner or shares
Can combine assets of two or more trusts, change its place of incorporation from one country to another or wind up the trust company business	Treated like a company. They can merge, move to another country or wind up its businesses. They must notify the Register of Companies to do this
Can change laws which govern a trust from one country to another. These are set out in the trust deed	Set laws and procedures which need consent from a public authority
Abide by set laws or legal frameworks with core duties for key people; no escaping these rules	Same as Jersey Trusts
<b>Terms and rules</b>	
Have documents setting out the rules	Same as Jersey Trusts

<b>Ownership</b>	
Ownership divided between trustee (legal ownership) and beneficial owners	Foundation owns the assets
<b>Set up procedure</b>	
No set registration process	Set up procedure done through Registrar of Companies
Must be set up at the same time as transferring some assets from settlor to trustee	No initial assets or income required for set up
<b>Participants</b>	
Trustees responsible for controlling trust	A council is responsible for controlling a foundation
An enforcer must oversee certain types of trust	A guardian must oversee the council
Option to use trustee services which are qualified or licensed in Jersey, or lay-trustees	Must have a qualified member on the council (Jersey-based)
Trustees can be individuals or companies	Qualified members are not individuals. They are regulated companies
Often uses professional trustees, but not essential	A foundation's council can include family members and others; not just professionals
Beneficiaries and the court have power to vary a trust	Beneficiaries do not have power to vary a foundation, but they can apply to the Royal Court for entitlement to benefits
<b>Reasons to use them and why</b>	
Attractive to those from Common Law countries such as USA and Australia	Attractive to those from Civil Law countries such as Europe, South America and the Far East
Offers protection from personal debts and other potential claims to assets, such as forced heirship rules (rules imposed in some countries which dictate who is entitled to a person's assets when they pass away)	Same as Jersey Trusts

Questions about, or transfers of, assets are determined by Jersey Law; not international law	Same as Jersey Trusts
Ability to adapt terms and conditions to meet particular goals	Same as Jersey Trusts
Flexible uses making it easy to plan for the long-term; one type of trust is completely self-governing	Council must operate within specific purposes set out in the charter and regulations
Must preserve, enhance or diversify (expand) assets, unless the trust deed says otherwise	Useful for holding assets which are likely to depreciate or fluctuate over time, such as a yacht or shares in a company
Beneficiaries have a right to certain trust information, for example trust accounts	Not obliged to provide information to its beneficiaries, unless the charter or regulations say so. Can resist requests from 'hostile' beneficiaries wanting to advance their own personal agenda such as a disgruntled spouse of a beneficiary or a known big spender
Can be used for charitable or philanthropic purposes for an unlimited period of time	Same as Jersey Trusts
Can be used as a legal entity - to hold assets - for complex high value borrowing or investments aimed at large corporations	Same as Jersey Trusts