

# To bless or not to bless

**Two Jersey cases. Two difficult trustee decisions.**
Recent guidance on succession planning, beneficiary opposition and the limits of court protection

Nancy Chien | Singapore Trustee Association | 18 September 2026

# When should a trustee ask the Court for protection?



**01**

**Significant consequences for the trust**

**02**

**Competing beneficiary interests**

A DIFFICULT **TRUSTEE DECISION**

**03**

**Serious beneficiary opposition**

**04**

**Material legal or financial risk**



A decision may become momentous because of its consequences, its complexity or the controversy surrounding it.



In *Amazon*, the Court expressly recognised that beneficiary contention may turn an otherwise ordinary trustee decision into a momentous one.

# The Court supervises. It does not take over.





**TRUSTEE**

**Forms and owns the decision**



**COURT**

**Tests the decision-making**



**BLESSING**

**Protection against later challenges to the blessed decision**

## THREE SHORT PRINCIPLES

1. **The trustee must make its own decision.**
2. **The Court tests reasonableness, rationality and process.**
3. **The Court does not substitute its preferred decision.**



Re S Settlement (2001) JLR N37, the Court emphasised that the Court's role is supervisory, outside of the limited cases where a surrender of discretion may be appropriate.

# The blessing test



**1** **Good faith**
Has the decision been formed in good faith?



**2** **Rationality**
Could a reasonable trustee, properly instructed, have reached this decision?

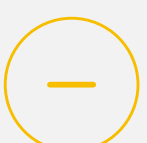


**3** **No disabling conflict**
Was the decision free from an actual or potential conflict that vitiated it?





**Relevant matters considered**



**Irrelevant matters excluded**



**Reasons supported by evidence**

# Case study 1 - A Settlement: planning for the day nobody wanted to arrive

**Can a trustee restructure a trust now to deal with a possible death or divorce later?**

## 1 TODAY



- HAPPY MARRIAGE
- GOOD HEALTH
- NO DISPUTE

## 2 POSSIBLE FUTURE



- DEATH OR DIVORCE
- FAMILY DISRUPTION
- COMPETING CLAIMS

## 3 ROLE OF TRUSTEE

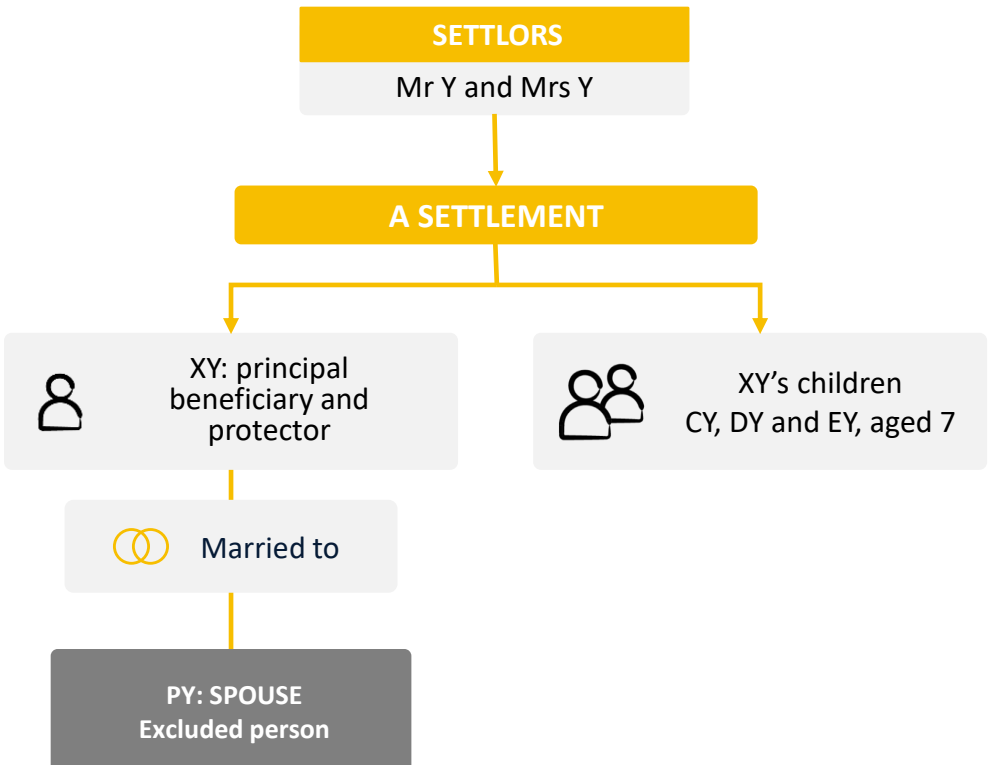


**Restructure today to provide stability, certainty and protection tomorrow**

# The family and trust structure



**THE STARTING POSITION: the spouse was an extended person.**




## KEY POINT

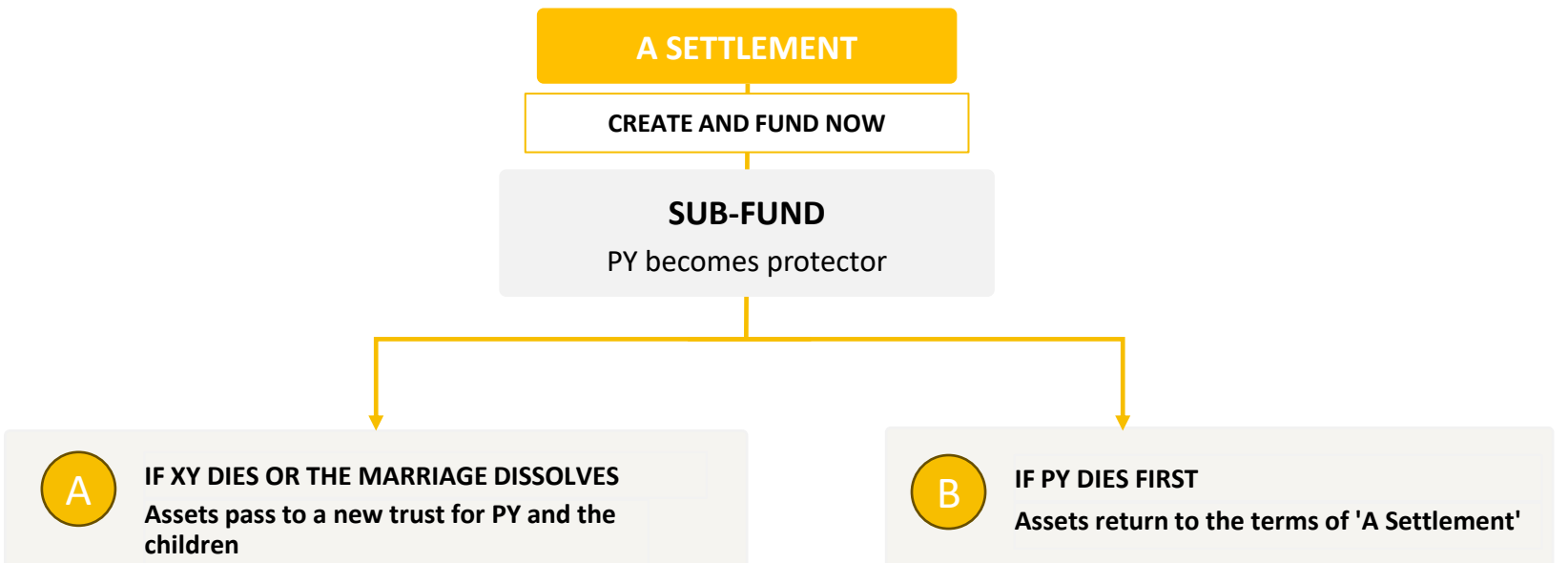
The restructuring was intended eventually to provide benefit to someone who was currently an excluded person.

**The current beneficial class consisted of XY and the children. PY was excluded because she was XY's spouse, although her position was recognised as relevant to the request.**

# The proposed restructuring



**Build the solution now. Activate it later.**

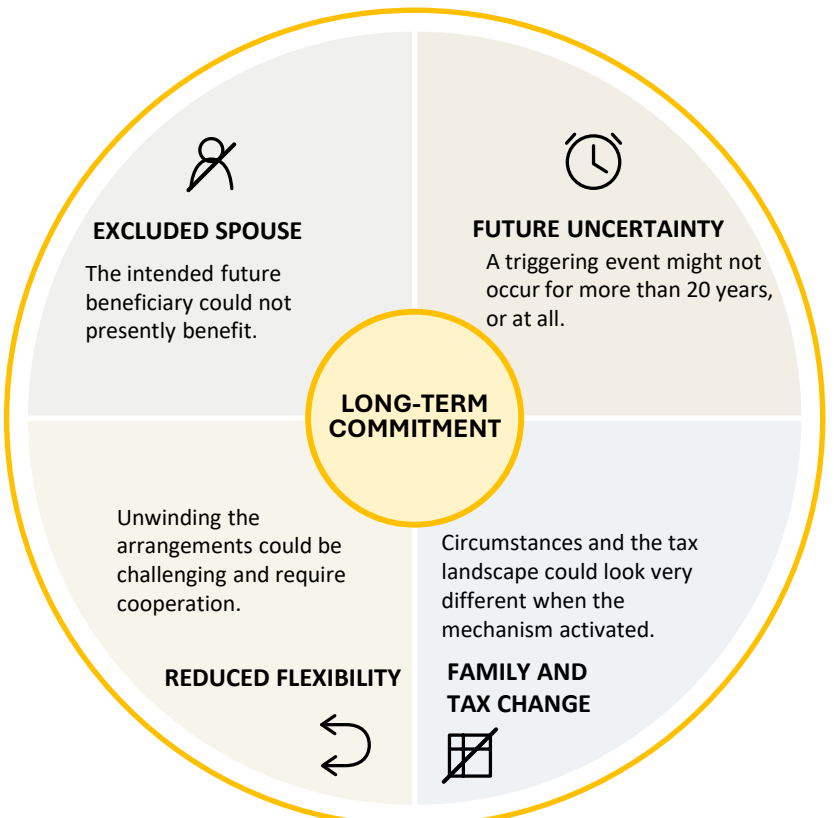



The proposal contemplated a sub-fund which, on XY's death or dissolution of the marriage, would fund a new Jersey trust for PY and the children. If PY died before either triggering event, the sub-fund assets would revert to the terms of the original trust.

# Why was this momentous?



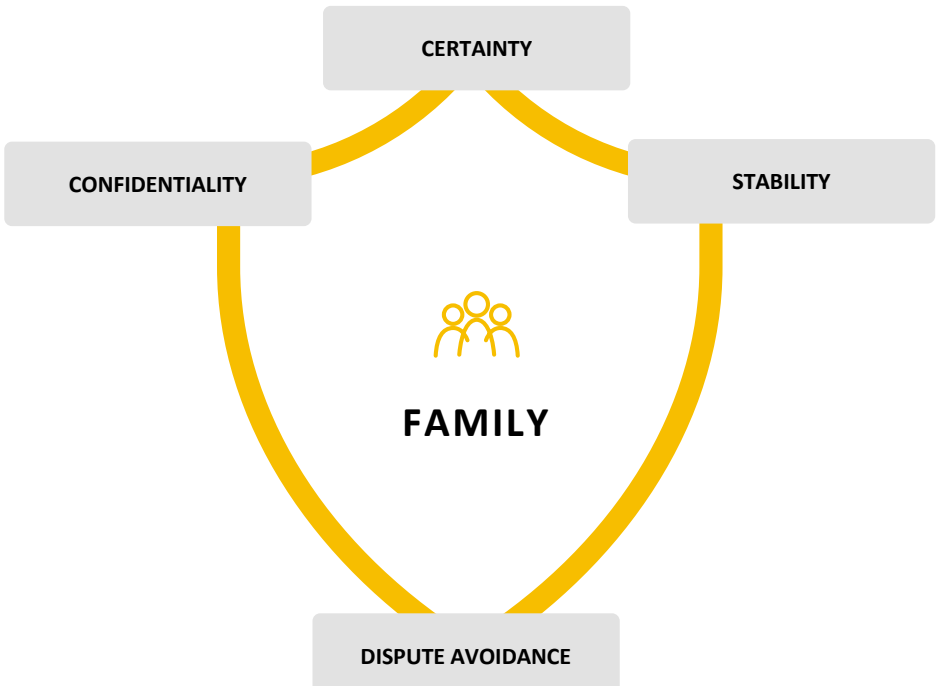
**The Trustee was being asked to make a long-term commitment.**




**The trustee recognised the risk that the arrangements might constrain future discretion and become suboptimal if circumstances changed significantly but concluded that the restrictions were justified and manageable.**

# Why did the trustee say yes?

**Benefit means more than money, i.e. financial benefit.**




## THE FIVE BENEFITS

1. Certainty and peace of mind
2. Security for the family and future generations
3. Reduced risk of disputes on death or divorce
4. Proactive management rather than crisis response
5. Insulation from matrimonial proceedings and preservation of confidentiality

**THE TRUSTEE REGARDED THE NON-FINANCIAL BENEFITS AS COMPELLING.**

# The Court's decision



**BLESSED: Foresight was itself beneficial.**



**BLESSED**

## THE COURT'S REASONS

- ☑ The decision was formed in good faith
- ☑ A reasonable trustee could have reached it
- ☑ No actual or potential conflict vitiated it

> *Arrangements to cover events that they hoped would either never come to pass or at least not occur for many years*

**CASE 1 TAKEAWAY** **A trustee may properly treat conflict prevention, confidentiality and family stability as substantive benefits**

# Case study 2 - Amazon Trust: When principle becomes more expensive than the dispute

**DISPUTE FEES**

**≈ CHF 150,000**

Outstanding fees plus interest



**PROJECTED LEGAL COSTS**

**> £200,000**

More than £100,000 for each side if tried

? *What should a trustee do when the beneficiaries are determined to fight, but the legal costs may exceed the amount at stake?*

The former trustee claimed CHF 149,880.79 in outstanding fees, plus interest. Legal advice warned that each side's costs were likely to exceed £100,000 if the case went to trial.

# The cast and the conflict

**Three perspectives. No common ground.**

1

### FORMER TRUSTEE

- Claimed unpaid fees
- Defended its conduct
- Blamed the daughter for administration difficulties

2

### BENEFICIARIES

- Alleged poor service and excessive fees
- Believed the former trustee owed the trust money
- Wanted complete vindication

3

### CURRENT TRUSTEE

- Inherited the dispute
- Received strong advice to settle
- Had duties to the whole beneficial class

**TRUST VALUE** **≈ £13.8 million**

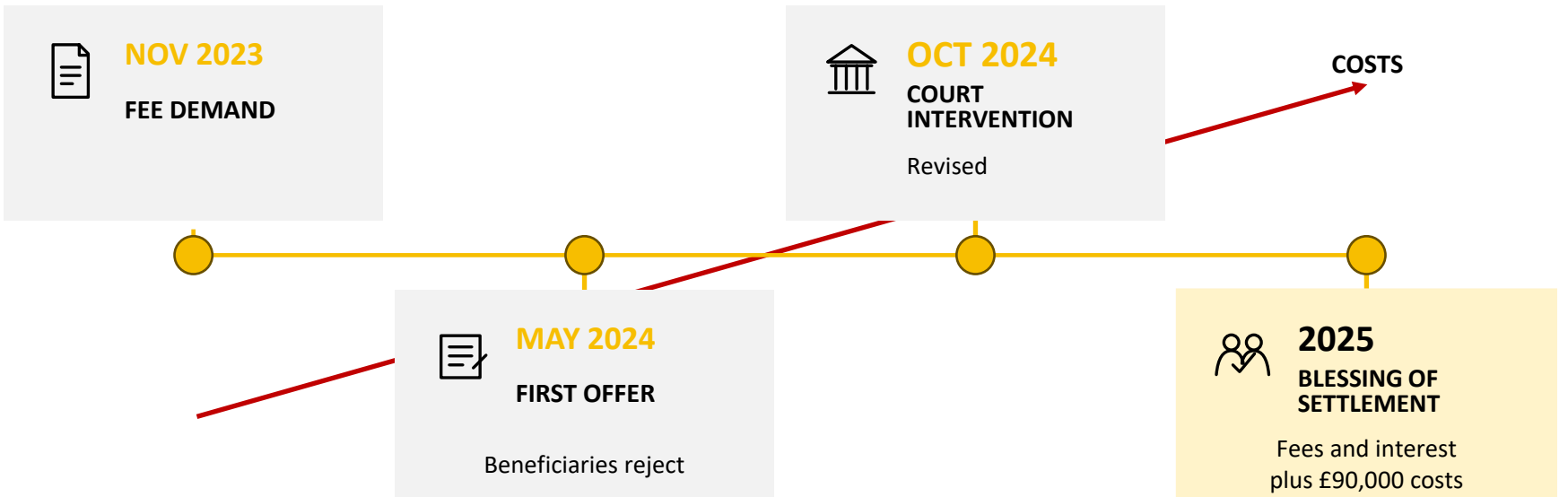
Adult beneficiaries: surviving settlor, daughter and son. Beneficial class also included the son's infant child and possible future issue.

4 Minor and unborn beneficiaries

# How the dispute escalated



## The cost spiral




The Court described the magnitude of the costs as *"nothing short of astonishing"*.

The first offer sought 50 percent of the fees claimed and 40 percent of the claimed interest. After further costs were incurred, the revised offer added £90,000 in legal fees and costs.

# Decision 1: Should the trustee settle against the beneficiaries wishes?



## FIGHT ON

- Beneficiaries support it
- Possibility of vindication
- Uncertain outcome
- Costs continue to rise

## SETTLE

- Beneficiaries strongly oppose
- Caps further litigation exposure
- Follows legal advice
- Protects trust assets

**COURT'S ANSWER**

**The decision to settle was reasonable**

**BLESSING ADJOURNED**

Consent order drafted too widely

The Court concluded that the settlement was entirely reasonable but identified a technical concern that the consent order might inadvertently prevent later requests for outstanding trust documents. It therefore required the order to be varied before blessing would be granted.

# Decision 2: Can a trustee stop investigating because it wants to retire



1. **RELATIONSHIP BREAKDOWN**
2. **TRUSTEE WANTS TO RETIRE**
3. **STOP INVESTIGATING?**

**NO**

**UNTIL YOU CEASE TO BE TRUSTEE, YOU REMAIN TRUSTEE.**

## THE COURT'S REASONING

- An intention to retire does not end existing duties
- The trustee remains responsible while in office
- Preservation of the trust fund may require investigation
- Relevant documents should be obtained
- Expert investment advice may be needed
- The cost of that work remains a relevant consideration

**COURT'S DECISION**

**The Court refused to bless the decision not to progress the potential investment claim.**

# Two cases, five practical lessons



## What should trustees take away?

### A SETTLEMENT

**Plan before the crisis**

Use foresight to protect family stability before a triggering event occurs.

### AMAZON TRUST

**Remain objective during the crisis**

Assess settlement, costs and duties to the entire beneficial class.

### SHARED PRINCIPLES

1. **Tell the Court the full story**

   Evidence, advice, alternatives and reasons matter.

2. **Benefit is broader than financial return**

   Stability, privacy, and dispute prevention may all be relevant.

3. **Beneficiary views matter, but do not direct the trustee**

   The trustee acts for the trust estate and the beneficial class as a whole.

4. **Economics can outweigh the desire for vindication**

   Litigation must be assessed as an asset, liability and risk.

5. **Blessing protects a decision, not an incomplete process**

   Duties continue until properly discharged; documents must preserve key rights.

# Your decision

**What would you have done?**

CASE 1 • A SETTLEMENT

## Would you create the sub-fund?

YES NO

CASE 2 • AMAZON TRUST

## Would you settle the fee dispute?

YES NO

# Thank you





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I have worked with Nancy Chien on a number of client matters regarding Jersey trust laws. She is extremely knowledgeable and responsive. Even though we are on different time zones, she was very willing to accommodate our timings.

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