The evolving role of protectors: Trust, tax and CRS implications after *A v C*

DENTONS RODYK

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Introduction

1. Protectors have become a common feature of modern offshore trusts, yet their legal role remains far less developed than that of trustees. Traditionally regarded as passive overseers with limited veto powers, protectors have rarely been viewed as participating in the management of a trust.
2. The Judicial Committee of the Privy Council's decision in *A v C* [2026] UKPC 11 challenges that assumption. By recognising that fiduciary protectors may exercise independent judgment when giving or withholding consent, the decision elevates protectors from passive supervisors to active fiduciaries. This development has implications not only for trust administration but also for tax residence and Common Reporting Standard (**CRS**) reporting.

From passive oversight to active fiduciary

3. The office of protector emerged in offshore trust jurisdictions during the 1980s to provide settlors with comfort that trustees would not exercise key powers without oversight. Protectors are commonly given consent rights over matters such as capital distributions, changes to beneficiaries and the appointment or removal of trustees.
4. The extent of those powers has long been debated. Where a protector acts in a personal capacity, the powers may generally be exercised freely. Where the protector acts as a fiduciary, however, the powers must be exercised in good faith, for a proper purpose and in the interests of the beneficiaries.
5. The recent decision of the Judicial Committee of the Privy Council in *A v C* [2026] UKPC 11 provides important clarification on the role of fiduciary protectors. The appeal arose from a series of offshore discretionary trusts governed by the laws of Bermuda, England and Jersey. The trust deeds required the trustees to obtain the prior written consent of the protectors before exercising certain significant powers, including distributions of capital and dealings with specified trust assets. The deeds, however, were silent as to how the protectors should exercise their consent powers.
6. The key issue was the scope of their powers: Do fiduciary protectors have a Narrow Role, limited to reviewing whether the trustee's proposed decision is lawful? Or do they have a Wider Role, entitling them to form their own independent view on the merits and to veto decisions even where those decisions fall within the range of reasonable trustee discretion?
7. The Board rejected the narrow approach. Instead, it held that the correct question is whether the trust instrument imposes any express constraints on the protector's powers. In the absence of such constraints, fiduciary protectors are entitled to exercise a broad, independent judgment.
8. On the facts, the Board favoured the wider interpretation, effectively confirming that fiduciary protectors are not confined to a purely supervisory or procedural role. The Board also acknowledged the practical risk of deadlock where trustees and protectors disagree.

Practical implications

9. The decision has immediate consequences for trust administration. Professional protectors can no longer adopt a passive approach when exercising consent powers. They are expected to consider the merits of trustee decisions independently and to exercise genuine fiduciary judgment. Trustees, in turn, should expect protectors to request sufficient information to enable them to discharge those duties.
10. The decision is also likely to influence the drafting of trust deeds. Settlors who intend protectors to perform only a supervisory role should consider expressly limiting their powers, while professional protectors may increasingly seek enhanced indemnities and insurance.

Tax residence

11. The broader significance of *A v C* lies in its potential tax implications. In many jurisdictions, a trust's residence depends upon where its central management and control is exercised. Historically, protectors have attracted little attention because they were viewed as exercising only negative or supervisory powers.
12. Following *A v C*, that assumption may no longer hold. Where a fiduciary protector exercises independent judgment over significant trust decisions, tax authorities may increasingly consider whether the protector participates in the trust's central management and control. This may become particularly relevant where the protector resides in a different jurisdiction from the trustee. Although no tax authority has yet adopted this approach expressly, *A v C* strengthens the legal basis for such arguments.

CRS reporting

13. The decision may also influence the interpretation of CRS reporting obligations. Under Singapore's CRS framework, protectors are treated as controlling persons of a trust and are generally reportable irrespective of the extent of their powers. In practice, trustees are therefore likely to continue reporting protectors as controlling persons.
14. Nevertheless, *A v C* highlights a conceptual issue. The office of protector has no universally recognised legal definition, and the powers conferred on protectors vary significantly between trust deeds. Similar governance functions may also be exercised by individuals who are not described as protectors.
15. From a legal perspective, it may therefore be more appropriate to focus on whether a person exercises effective control over the trust rather than on the title they hold. The decision reinforces the importance of analysing the substance of governance arrangements rather than their form.

Conclusion

16. *A v C* marks a significant development in the law relating to protectors. By recognising fiduciary protectors as active decision-makers rather than passive overseers, the decision reshapes the governance of offshore trusts and raises important questions beyond trust law.
17. Trustees, protectors and advisers should review existing trust structures carefully. As tax authorities increasingly focus on the substance of decision-making, the allocation of protector powers may become relevant not only for trust administration but also for tax residence and CRS compliance.

Your Key Contacts



Edmund Leow, SC
Senior Partner, Singapore
D +65 6885 3613
edmund.leow@dentons.com



Linda Bai
Partner, Singapore
D +65 6885 2773
linda.bai@dentons.com



Kia Meng Loh, FCIArb, TEP
Chief Operating Officer and
Senior Partner, Singapore
D +65 6885 3888
kiameng.loh@dentons.com

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