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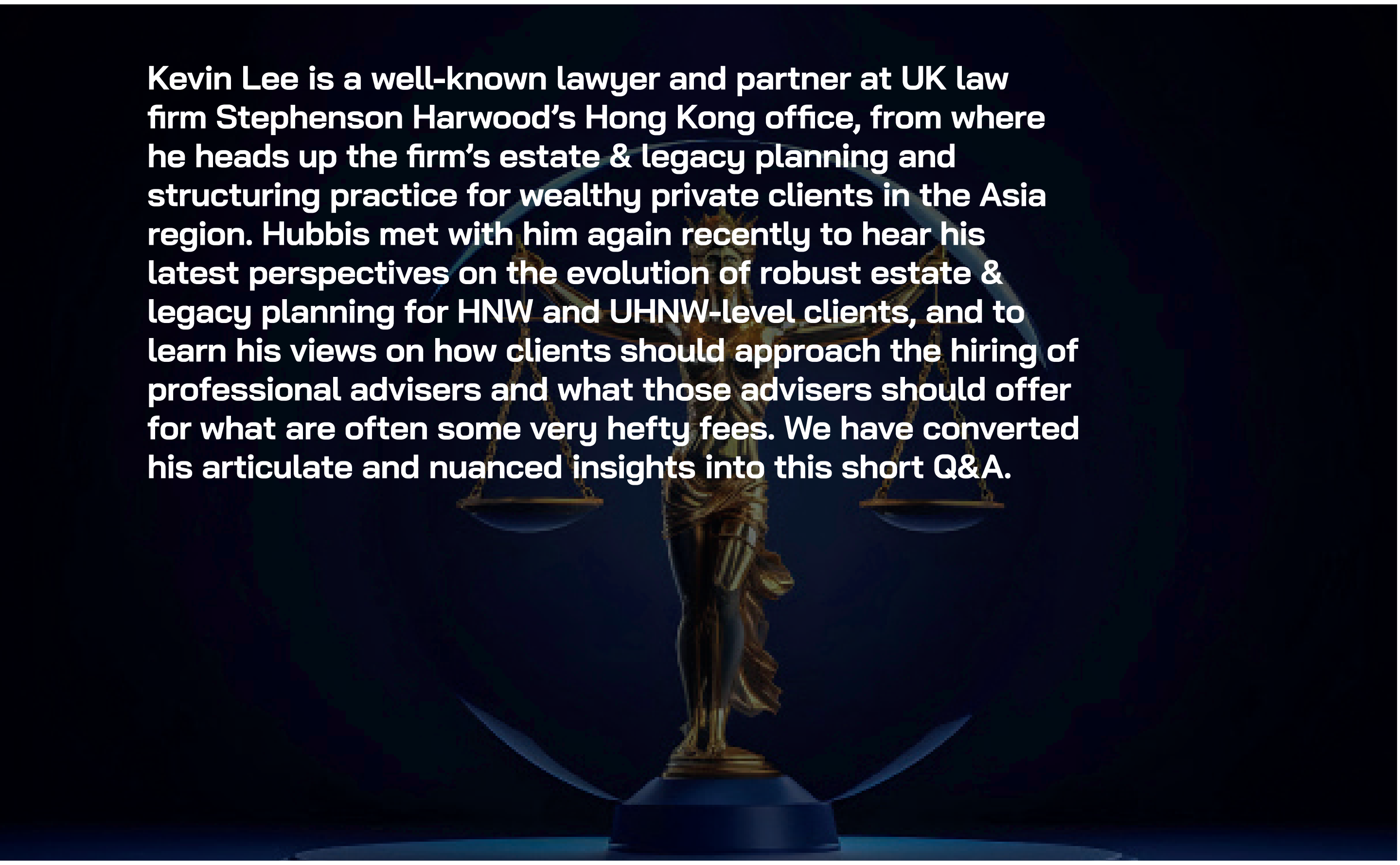
Robust Estate & Legacy Planning: The Need to Know Your Objectives and Choose Your Advisers Carefully



Kevin Lee is a well-known lawyer and partner at UK law firm Stephenson Harwood's Hong Kong office, from where he heads up the firm's estate & legacy planning and structuring practice for wealthy private clients in the Asia region. Hubbis met with him again recently to hear his latest perspectives on the evolution of robust estate & legacy planning for HNW and UHNW-level clients, and to learn his views on how clients should approach the hiring of professional advisers and what those advisers should offer for what are often some very hefty fees. We have converted his articulate and nuanced insights into this short Q&A.

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How do you set about making sure that the simple and less obvious mistakes are not made during the process of estate and legacy structuring?

Clients should begin by clearly identifying their objectives and determining whether they need wealth management, legal advice, succession planning, or another form of guidance. It's essential to discern which advisory sectors are pertinent to your situation, as some providers and experts may focus on specific investment products rather than offering comprehensive wealth or succession planning services.

After evaluating the nature of the advice needed, especially if there is a legal component - which is often the case - consider whether you require a private wealth lawyer for issues like tax migration, succession planning, potential disputes, or a mix of these concerns. Remember, no single lawyer is a perfect fit for everyone due to the variety of needs and personality differences. Identifying potential advisors starts with an initial meeting to assess compatibility and ensure they align with your goals without steering you off course. Chemistry is important in such personal matters.

If the matter is primarily related to tax, you may find several options available, varying by jurisdiction. However, for broader issues, the number of private wealth lawyers capable of addressing a wide range of needs in a single consultation is limited. These lawyers should understand the client's overall needs before focusing on specific issues, possibly consulting with colleagues or external advisors to provide more comprehensive advice. Be wary of private wealth lawyers who claim to cover all aspects of wealth management without the requisite expertise in areas critical to your concerns.

Be wary of advisors who brandish the "private wealth" or "family office" banner (which by itself is fine) and claiming to cover all aspects of wealth management and succession but perhaps without the requisite expertise in certain specific areas critical to your concerns.

How do your clients find their way to you and your firm?

At least half of the new clients might be from intermediary referrers. But there's a good portion that comes to us who are friends or family of existing clients who are satisfied with the advice received. There is a clear payoff for doing good work for new clients. Interestingly in Asia, the older generations from some nationalities and ethnic groups do not easily just trust external advisors unless someone in their close circle has recommended that advisor, but when you are 'confirmed' as approved, then there may be a snowball effect.

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How often do you turn down clients, and for what reasons?

All lawyers must be prudent and (in some cases) circumspect about who they work for and also the bandwidth they have to provide the right level of service. I am too busy to do a good job for everybody, that is a reality. That is why it is also vital to have a strong team I trust and that clients trust. Frankly, it is also a question of who can pay our fees, and for those clients that want more of a discount service, they will be able to find other firms who charge at levels they can afford. I should also say that while we are determined to produce top-quality advice, the time and effort to do that would be covered by our clients, and, yes, I do worry about where the legal sector is going if some clients are being forced into different levels of advice sometimes because of the cost structure.

Is there a danger that some law firms might drag matters on longer than strictly necessary?

Well, I think it's difficult to detect for any client without deep experience with law firms. It is possible that sort of behaviour could exist in a range of different size law firms, big or small, international or local. However, the principle is that law firms owe a duty to be reasonable and to act in the best interests of the client.

That is partly why it is vital to meet your law firm and the lawyers and make sure that chemistry and communication will work well. You need to trust that they are doing a good job and that they are safeguarding the interests of yourself and your family. If you get the right adviser then hopefully you can at least trust that person, that trusted advisor, that firm and openly address issues with them, if such arise.

How has this whole private wealth estate and legacy planning universe evolved in recent years, and what lies ahead?

Reflecting on the evolution of the advisory role, especially in wealth management, I have noticed significant changes over time. Initially, our approach was straightforward: a client presented a problem, and we, as lawyers, tackled it directly. If a challenge was beyond our expertise, most legal advisors may have been inclined to decline the instructions and refer the client away to a specialist. While this is of course still a common and prudent practice today, I am seeing in the private wealth practice a few more advisors who are familiar with a broader range of issues and who can competently and with outsourced help project-manage matters for private clients even if they do not have deep personal experience in all relevant aspects of the matter.

As the sector matured, we have seen a more polished, brand-centric identity. Concepts like wealth management, wealth advisory, and succession planning became prevalent, shaping clients' expectations and influencing the language and approach of professionals in the field. When I began my career, these terms were seldom used, even though the outcomes we sought for our clients were essentially the same. Back then, without the widespread discourse on these topics, we relied more on intuition, common sense, and a deep understanding of our clients' needs to guide our decisions.

Today, there's an abundance of resources and guidelines designed to streamline the advisory process, purportedly offering a quicker path to solutions. However, I'm not convinced these developments are keeping pace with the increasing complexity of the global landscape. The world is

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changing rapidly, and while the structured frameworks of wealth advisory services provide a foundation, they may not always suffice in addressing the nuanced challenges our clients face.

Looking for example at the landscape of multi-jurisdictional tax, compliance, and migration issues, the dynamic has profoundly shifted over the years. In earlier times, it was common for clients to approach us with specific inquiries—perhaps about tax implications in a single jurisdiction or the logistics of relocating to a new country. The scenarios were fairly straightforward, rarely involving families spread across multiple jurisdictions or the complexities of global reporting mandates. Back then, clients might have been more inclined to overlook my cautious guidance to seek comprehensive advice across all relevant territories, with a tendency to prefer operating 'under the radar'.

That was then, and those days are long gone. As regulation, and as awareness have increased, so has the realisation that sidestepping the system is less feasible. This enlightenment is partially due to the dissemination of knowledge emphasising the necessity of compliance, coupled with the continual introduction of new regulations.

Despite these challenges, I don't believe it's too late for families to benefit from professional advisory services. There's still a significant opportunity for us to provide value. Indeed, while not all families may recognise this yet, many do see the inherent value in maintaining a trusted advisor relationship. This role isn't just about navigating current legal and tax complexities; it's about foreseeing and managing potential future challenges for the individual and their families.

Engaging a trusted advisor can, in fact, be a cost-effective strategy in the long term. By having someone knowledgeable and reliable to guide you through this intricate web of global regulations and emerging issues, families can make informed decisions that ultimately preserve their wealth and ensure compliance, avoiding costly pitfalls along the way.

The world is becoming ever more complex. Does it mean there is even more need for astute thinking and guidance, and how can you stay on top of everything?

When you delve into the complexities of advising ultra-high net worth families, it becomes apparent that every facet of their journey could potentially benefit from professional guidance. Take, for instance, the topic of children; this is an area that often flies under the radar but harbours significant concerns for many clients, particularly regarding the rights of children.

Digital assets serve as another poignant illustration. In the realm of trust management, it is tempting for trustees who don't deal with digital assets to dismiss them as irrelevant. The rationale might be, "Why should I invest time in understanding something that doesn't pertain to my current practice?" However, overlooking the importance of emerging technologies like AI can ultimately lead to obsolescence. As the digital landscape evolves, failing to stay informed and adapt accordingly could diminish your relevance in the eyes of clients and their successors.

This realisation highlights a crucial aspect of our role as advisors: the necessity to evolve with the times. Remaining static, clinging to traditional methods that have proven successful in the past, is no longer viable.

The world is changing rapidly, and so are the needs and expectations of HNW and UHNW families. Staying abreast of trends, including those that might seem peripheral to our primary areas of expertise, is essential. It is all about more than just maintaining relevance, providing comprehensive, forward-thinking guidance that addresses the full range of our clients' needs, now and in the future. ■