



## British secrecy jurisdictions and the Privy Council

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The Judicial Committee of the Privy Council (JCPC), a legacy from the British Empire, is the final court of appeal for all of Britain's Crown Dependencies and Overseas Territories, and for a number of British Commonwealth jurisdictions too (see [map](#).)

This legal backstop to these (mostly small) jurisdictions' legal systems – which covers both civil and criminal cases<sup>i</sup> - provides a potent bedrock upon which their financial services industries have been built. Skittish owners of financial capital tend to be more cautious about fully independent jurisdictions without such an external legal backstop, fearing local corruption in the judiciary which might threaten the safety of their assets. Cases such as [this one](#) help protect and preserve this bedrock.

Beyond this role as a final court of appeal, Britain's Privy Council serves many other roles that are beyond the scope of this report. To find out more about this peculiar, ancient British institution, see this [report](#) from Justice.org, and the official UK Privy Council [website](#).

There are correlations between British Commonwealth countries' secrecy scores and their having the JCPC as final court of appeal or not.

For instance, the 20 British Commonwealth countries that have the JCPC as their final appeal court and which are on our list have an average secrecy score of 75 – while those 11 Commonwealth members on our list that did not retain the JPC have a secrecy score of just 65. Of those Commonwealth members that retained the JCPC, 72 percent (21 of 29) are on our list with a secrecy score of 65 or more, pointing to secrecy jurisdiction status; but of those that did not retain the JCPC, 81 percent (29 of 36) are either not on our list or have a secrecy score below 65, suggesting that offering financial secrecy is unlikely to be a core economic strategy.<sup>ii</sup> (For comparison purposes, the average secrecy score for all countries on our FSI is 67.) The following table provides the data.

**Table: the British Connection, the Privy Council, and secrecy scores**

<b>Commonwealth + OTs + CDs</b>	<b>Privy Council (see <a href="#">list</a>)</b>	<b>FSI Secrecy Score</b>
Antigua and Barbuda	X	80
Anguilla	X	76
Australia		47
Bahamas	X	80
Bangladesh		-
Barbados		81
Belize		80
Bermuda	X	80
Botswana		-
British Virgin Islands	X	66
Brunei	X	84
Cameroon		-
Canada		54
Cayman Islands	X	70
Cyprus	(Sovereign base areas only)	52
Dominica	X	79
Falkland Islands	X	-
Fiji		-
Gambia		-
Ghana		66
Gibraltar	X	79
Grenada	X	78
Guernsey	X	67
Guyana		-
India		46
Isle of Man	X	67
Jamaica	X	-
Jersey	X	75
Kenya		-
Kiribati	X	-
Lesotho		-
Malawi		-
Malaysia	(Labuan)	80
Maldives		-
Malta		44
Mauritius	X	80
Montserrat	X	-
Mozambique		-
Namibia		-
Nauru		79
New Zealand	X (Cook Islands + Niue)	77
Nigeria		-
Pakistan		-

Papua New Guinea		-
Pitcairn Is.	X	-
Rwanda		-
St Helena	X	-
St Kitts and Nevis	X	80
St Lucia	X	84
St Vincent & Grenadines	X	78
Samoa		88
Seychelles		85
Sierra Leone		-
Singapore		70
Solomon Islands		-
South Africa		53
Sri Lanka		-
Swaziland		-
Tanzania		-
Tonga		-
Trinidad Tobago	X	-
Tuvalu	X	-
Turks, Caicos	X	78
United Kingdom	X	40
Uganda		-
Vanuatu		87
Zambia		-

<sup>i</sup> To use the JCPC as a final court of appeal, leave must be granted by a lower court. This happens only in certain circumstances: as the JCPC [notes](#):

*“In civil cases, the lower court will generally grant you leave to appeal if the court is satisfied that your case raises a point of general public importance. In criminal cases, it is unusual for the lower court to have the power to grant leave unless your case raises questions of great and general importance, or there has been some grave violation of the principles of natural justice.”*

<sup>ii</sup> We are only making comparisons and noting correlations here, not commenting on causation. The reasons for these scores are likely to be complex. At least part of the reason for these trends is likely to be because larger jurisdictions (such as Australia, Canada and India) have sufficiently well developed legal systems to not need the UK’s backstop; these larger jurisdictions tend not to be as aggressive as smaller jurisdictions in offering secrecy, since the smaller jurisdictions frequently feel they have few other tools to attract footloose financial capital. Nicholas Shaxson’s book [Treasure Islands](#) discusses some of the politics around how some British Caribbean jurisdictions were both seeking to be, and were being actively encouraged by London to be, secrecy jurisdictions, though it did not explore the particular point about whether or not to retain the JCPC. Further research would be needed to obtain a fuller picture of correlation and causation here and of the true importance of the Privy Council to these jurisdictions.