

UNREPRESENTED APPLICATIONS

FREQUENTLY ASKED QUESTIONS

Useful email addresses:- www.guernseyroyalcourt.gg

www.guernseybar.com

www.citizensadvice.org.gg

www.guernseylegalresources.gg

www.cadastre.gov.gg

GENERAL QUESTIONS

Q. Can I take a person/company to Court without using an Advocate?

A. Yes, this can be done, but you will need to apply for permission from a Judge to issue the Summons. Seeking permission from a Judge forms part of the Application process in the Royal Court. Please see the guidance notes. Please see the guidance notes on the [Royal Court website](#).

Q. Where can I obtain Application forms from?

A. Application forms are available from the Greffe Reception or can be found on the [Royal Court website](#).

Q. Can the Court Services Team help me with preparing my application?

A. Staff at the Courts are not legally trained and therefore cannot provide legal advice. They can assist with queries in terms of Court procedures; however they cannot assist with any queries concerning legal formalities and how to draft your application or likely outcomes, nor can they physically handwrite or type the application for you. If you are in any doubt as to the validity of your claim, etc. legal advice should be obtained from one of Guernsey's Law Firms. Assistance/guidance can be provided by [Citizens Advice Guernsey](#).

Q. Will I have to pay a fee to pursue a claim through the Court?

A. Yes you will. The current fees can be found in the [The Royal Court \(cost and fees\) Rules](#). The initial Application fee is payable at the time of the initial application. Once granted, the summons and first Court hearing fee are payable in advance of the hearing. Payment can be made by telephone, cheque or cash. Cheques should be made payable to "The States of Guernsey".

Q. Can I claim the fees back?

A. If you win your case you can apply to the Court for costs from the other party. That application may or may not be granted at the discretion of the Court.

Q. How long does it take to seek permission from a Judge to serve a summons?

A. It may take between 1 and 5 working days for a Judge to consider your application. Should the Judge feel that more information or amendments are required for your application, then you will be given an opportunity to provide these.

Q. What is a Summons?

A. When a summons is served on a Defendant, it means that you have formally issued a Claim against that person. At this point you will have paid the relevant summons fee which may be recoverable by you from them as part of your claim.

When serving a Summons upon a Defendant the Office of H.M. Sergeant achieves one of three levels of service: -

1. "A Service" the Summons is handed directly to the Defendant.
2. "B Service" the Summons is handed to a responsible adult who undertakes to pass the Summons to the Defendant.
3. "C Service" after attempts to achieve an "A" or "B" service have not succeeded, the Summons is left in an envelope at the address concerned.

The paperwork served upon the Defendant will consist of the Summons, the cause, the Application and any supporting papers you initially provided. It will also state the date and time of the Court hearing.

If "A" or "B" Service has been achieved, then the matter will be heard irrespective of whether or not the Defendant attends Court, and Judgment may be given in their absence unless they have given the Court good reason and evidence as to why they cannot attend.

If "C" Service only has been achieved, the matter is unlikely to proceed and the Court may order that a matter be adjourned for better Service. As the Applicant you will still need to attend Court unless an agreement has been reached between the parties and notified to the Court.

Q. Do I have to attend Court personally?

A. Yes. As a litigant in person you have to present your own case in Court.

Q. Can a friend come to Court with me?

A. Yes they can, but they will have to sit in the Public Gallery and cannot speak on your behalf. You may apply for them to be a "Mackenzie friend" where they can accompany you in Court and advise

you, but they cannot address the Court on your behalf. Such an application can be made via email to the Court Services Team ahead of the hearing or in person to the Judge in Court.

Q. What happens if I am unwell and cannot attend Court?

A. You should contact the Court Services Team to inform them of the position but will also need to provide a medical certificate as to your inability to attend Court. It will be at the discretion of the Judge as to whether they accept your explanation for non-attendance or dismiss your application. It is advisable to also contact the Defendant/Respondent to let them know that you will not be attending.

Q. What do I have to do when I arrive at the Court building?

A. You will be searched by the Court Security Officers upon arrival. They will search any handbags, briefcases etc. which you may be carrying and you will be asked to walk through a security arch, having deposited your mobile 'phone and any keys etc. which you may have in your pockets in a small plastic basket. Those items will be returned to you once you have gone through the security arch. If, for medical reasons, you cannot go through the security arch, you will be directed to an area where you will be searched with a hand-held scanner. Anyone refusing to be searched will be denied access to the building.

Q. How do I know which Courtroom I need to go to?

A. There is a screen on the Reception Desk in the Grand Hall which permanently displays the listings for each Courtroom. In addition, the Security Staff at the Front Desk will be pleased to assist you.

Q. I am likely to be in Court for some time – can I buy food in the Court building?

A. There are no canteen facilities in the Court Complex although hot drinks are available from the vending machine in the Grand Hall for consumption at one of the tables provided in that area. Food/hot drinks/chewing gum are not permitted in the waiting areas, public galleries or courts. Water is available free of charge on all levels of the Court Complex and in the Courtrooms.

Q. I am due in Court but do not have a babysitter – can I bring my child/children with me?

A. Regrettably we cannot allow children in the Courtrooms nor do we have facilities for their care whilst parents are in Court. The Royal Court cannot accept responsibility for any children left unsupervised in the building whilst their parents attend Court.

Q. What is an affidavit?

A. An affidavit is a sworn statement of fact.

Q. May I video record my Court hearing on my mobile telephone?

A. No you may not. The recording of any Court hearing via video, camera or voice recording is strictly prohibited. The only recording permitted to be made is the official digital recording of the Court session.

Q. The documents which I want to produce to the Court to evidence my claim are held electronically. Is it acceptable to file the documents using a USB stick or disc rather than supply hard copies?

A. No, you may not. In line with our IT policies and to safeguard our systems against viruses and malware, any electronic evidence upon which you wish to rely must be emailed securely to the Court in good time before any hearing.

ACTIONS FOR DEBT OR DAMAGE

Q. Are there any limits as to how much can I claim in relation to a debt?

A. You can claim from £10,000.00 upwards in the Royal Court. Debts under £10,000.00 may be pursued in the Magistrate's Petty Debts Court. Forms for Petty Debts are available from the Greffe Reception or can be found on the [Royal Court website](#).

Q. What happens at the first Court hearing?

A. That depends on a couple of factors:

Firstly, what level of service was achievable by HM Sergeant with serving the summons on the Defendant. Should the summons be served directly on the individual/company or passed to a responsible adult at the address, then the matter will likely proceed whether or not they attend.

Should HM Sergeant be unable to achieve this, then the matter could potentially be adjourned for better service to be achieved.

Secondly, should the matter proceed and the Defendant attends, then the Judge will ask whether the matter is agreed or to be defended. If the claim is agreed, then Judgment will be awarded to you. If defended, then the Judge will adjourn the matter to allow for defences to be filed. A new date will be discussed and agreed in Court by the Judge.

Q. If I am successful with my application will the Court recover the monies owed to me from by the Defendant?

A. No, the Court does not enforce the recovery of debts. It is your responsibility as the successful party to pursue the matter through the Office of HM Sheriff if the Respondent does not pay the debt in accordance with the order of the Court. A fee will be charged for this service. For more information please see the [Royal Court website](#).

ADMINISTRATION ORDERS

Q. I need to apply for an Administration Order for my (for example) late mother's real estate. Do I need to come to Court?

A. Yes. You must be ordinarily resident in Guernsey to be sworn as Administrator. Otherwise you will need to seek the approval of HM Procureur for an alternative person who is ordinarily resident in Guernsey to take on the role of Administrator.

You will need to provide an affidavit giving details of next of kin and proof that you are a suitable person to make the application.

GUARDIANSHIPS

Q. My (for example) mother is incapable of looking after her own affairs – can I apply to become her legal guardian?

A. Yes you can. You will need to provide your mother's details and an affidavit from her doctor confirming her incapacity, your own details and details of up to three Family Council members who should be the closest living blood relatives to the patient and who are willing to act as a member of the Family Council.

Q. I have (for example) more than three brothers/sisters and we would all like to be Members of the Family Council is that possible?

A. Yes it is - but it must be borne in mind that the more Family Council members there are the more complicated administration of the Patient's affairs will be.

Q. The applicant is based off Island, does this cause any issues?

A. Potentially. The Court prefers that the applicant is based in Guernsey as this is where the Patient's assets and affairs are located. It is appreciated that in some cases, an on-Island Guardian may not be possible and the applicant should therefore seek legal advice. Alternatively, the applicant could become a joint guardian with another individual located in Guernsey.

Q. Can the applicant(s) also sit as a member of the Family Council?

A. No they cannot. Wherever possible the Family Council should consist of three additional closest living blood relatives to the Patient.

Q. My brother will sit on the Family Council but lives off-Island. Does he need to attend Court?

A. Ideally yes, but he may ask a Guernsey Advocate to attend on his behalf duly authorised by a Power of Attorney. Alternatively he could authorise another member of the Family Council via a Power of Attorney to speak on his behalf.

Q. If we do not have three blood relatives who can sit on the Family Council can relatives by marriage sit instead?

A. Yes they can, as can a close friend, accountant, minister etc. if necessary.

Q. Will this cost me anything?

A. There are fees for all hearings before the Court. Usually with Guardianship applications, only one hearing is required. A fee is also charged for the filing of an affidavit. The current fees can be found in the application pack and in The Royal Court (Costs and Fees) (Amendment) Rules, 2018 available on the Guernsey Legal Resources website.

Advocates or Notaries will also charge a fee for witnessing your signature on the application and the doctor's signature.

Q. Who can witness a signature on an Affidavit?

A. Should the Patient's doctor not be attending Court in person, then an affidavit sworn by them will be required. Most surgeries hold a sample of the wording for an affidavit. For the affidavit to be sworn, this will need to be done before an Advocate with at least 5 years' experience or a registered Notary Public. A list of Advocates and Notaries can be found on the Royal Court website.

Q. Can a Jurat witness my signature in Court?

A. Only in very exceptional circumstances. It is preferable to have your signature witnessed prior to filing the papers for Court, so that the papers are complete when initially considered by the Bench prior to Court.

Q. Does the doctor need to see the patient in order to provide an affidavit?

A. Yes. In order for the Court to have the most up to date and accurate information in respect of the patient, the doctor must have seen the patient within six weeks of the court date. Should more than six weeks have elapsed between the doctor producing the affidavit and the court date, then the doctor will need to provide an up to date affidavit.

Q. When does a guardianship take effect?

A. Under normal circumstances, as soon as the guardian has been placed on oath by the Court at the hearing.

Q. Is the Court hearing simply a rubber stamping exercise?

A. No it is not. The Court carefully considers all information presented to them both in the paperwork provided to the Court and what is said in reply to any of questions they may ask in Court. If they are not happy to proceed they will either adjourn for the Bailiff or other Judge to sit with the Jurats or they will request further information which may involve adjourning the matter to another date.

EVICCTIONS

Q. Do I need to serve a Notice to Quit?

A. Yes. Before you can start formal eviction proceedings with the Court, you must first serve a Notice to Quit on the tenants. This can be done by contacting the Client Services Team at the Greffe on +44(0)1481 225277

Q. I want to recover rent arrears from my tenant. Can this be done as part of the Eviction application?

A. No, this will need to be a separate application with either the Petty Debts Court or Royal Court depending on the amount. Further information on how this can be done can be found on the Royal Court website.

Q. What happens at the first Court hearing

A. That depends on a couple of factors:

Firstly, the level of service which was achieved by HM Sergeant with serving the summons on the Defendant. Should the summons be served directly to the individual/company or passed to a responsible adult at the address, then the matter will likely proceed irrespective of their attendance. Should HM Sergeant be unable to achieve this, then the matter could potentially be adjourned for them to achieve better service.

Secondly, should the matter proceed and the Defendant attends, then the Judge will ask whether the matter is agreed or to be opposed. If the claim is agreed, then Judgment will be awarded to you. If opposed, then the Judge will adjourn the matter to a future sitting of the Ordinary Court with Jurats who will decide the outcome and consider any stay of eviction requested. A new date will be discussed and agreed in Court by the Judge.

Q. If my application is granted by the Court does this mean that the property will be vacated straight away?

A. Not necessarily. The tenant may seek a stay of eviction which will be considered by the Jurats upon hearing evidence in support of that application. Should a stay be granted then certain conditions may be applied for example that rent continue to be paid for the period of the stay.

TERRES A L'AMENDE

Q. I am the tenant of a flat – can I make an application for Terres a l'Amende for the outside area/car park/private roadway?

A. Any application should be made by the owner(s) of the property. Therefore, you will need to approach the landlord in the first instance.

Q. I am the Manager/Director of a flat/flats/property – can I make an application for Terres a l'Amende for the outside area/car park/private roadway?

A. Yes, however you should seek legal advice if there is any doubt in terms of ownership, users of the area and your powers as Manager/Director.

Q. We have (for example) 10 flats in our block – we all own our flats – who should make the application?

A. It is important to refer to the title deeds of each property/land to ensure there is a full understanding of ownership and right of use/access to the land.

In cases where there is an overlying management company, it is the responsibility of the Directors of the company to consult and make the application.

In cases where there is no overlying management company, then an application can be made on behalf of all owners by one resident with written permission/authority from all other owners.

Applicants should consider taking legal advice to ensure full understanding and compliance with the law.

Q. If the application is being made by several owners in respect of a block of flats, do they all need to attend Court for the hearing of the application or is it sufficient for one applicant to attend and represent all?

A. One owner can represent all owners provided written authorisation has been given by all. Please note that any such application MUST name all owners.

Q. Where can I obtain a plan of the site the subject of the application?

A. By application to the Cadastre (www.gov.gg/cadastre)

Q. What happens after the application has been granted?

A. Once the Court has granted the application, this allows the applicant(s) to place their Notice in the La Gazette Officielle via the Guernsey Press. They will also need to contact Traffic & Highway Services as they will guide you in terms of obtaining signs, books of parking tickets etc.

CRIMINAL COURT

Q. I am giving evidence in a criminal matter and I am very nervous – can I bring a friend with me?

A. Anyone attending Court with you will have to sit in the Public Gallery. You can contact the Witness Support Service prior to your appearance and they will talk you through what to expect and can arrange for a member of their team to accompany you in Court.

Q. My son/daughter/ward is due to appear before the Criminal Court. Can I accompany them?

A. If your son/daughter/ward is a juvenile then they may have an appropriate adult with them in the dock.

Q. Can you tell me when my son/friend/neighbour is going to appear for trial/sentencing/review?

A. It is not our policy to inform members of the public of forthcoming hearings either in Criminal or Civil Courts. Listings can change at very short notice and it would be administratively impossible for us to contact individual members of the public to advise them of any changes.