



# Guernsey Probate

## A brief introduction to the Ecclesiastical Court

### What is the Court?

The main function of the Ecclesiastical Court today is to grant Probate and Letters of Administration (collectively 'Grants of Representation') in the estates of people who have died owning assets in the Bailiwick of Guernsey (whether or not the deceased was resident in the Bailiwick). It has other (no less important) functions, such as the granting of marriage licences, the granting of faculties for alterations to consecrated church property, and the swearing-in of churchwardens and Notaries Public. But the issuing of Grants of Representation is by far the most important in terms of resources required and income received.

The Court, like any other probate registry, requires the applicant to provide the original will, or an affidavit from a lawyer qualified in the relevant jurisdiction, setting out who are the heirs when there is no will, a death certificate, the value of the estate, proof of a Guernsey asset (and that an asset-holder requires a Guernsey Grant of Probate in order to release assets), and appropriate proof of identity and address.

The Court exercises Guernsey customary law, which means it can adapt and evolve flexibly and with agility.

### Who runs the Court?

Responsibility for the Court lies with the Dean of Guernsey (currently the Very Reverend Tim Barker).

The Court sits each Friday morning; the Dean presides (or, when he is unavailable, one of the Vice Deans). He is accompanied by one of the two registrars (currently Advocates Catherine Fooks and Jason Green). They are responsible for all the legal matters relating to the Probate procedure. Two staff support the registrars.

The legally qualified registrars must be alert to all legal issues which might arise in any particular case, and if necessary elicit further documents or evidence to ensure that each Grant of Representation is in correct form and is issued to the person(s) entitled to it.

The Ecclesiastical Court (and the Probate jurisdiction it exercises) is a personal role and responsibility attached to the office of the Dean (a Crown appointment). Of course, the Dean is a Church of England priest; but the Court is not run by, or answerable to, the Deanery of Guernsey or the wider Church of England.

### How is the Court financed?

The Court is entirely self-financing. Fees are collected for marriage licences, for entering Caveats and for preparing documents which lead to a Grant of Representation being issued, but by far the majority are collected for Grants of Representation in accordance with a fixed proportion of the gross value of the relevant Personal Estate in the sole name of the deceased at the date of death. That proportion is 0.35% (but less for the first £80,000 of gross value), so an Estate with a gross value of £80,000 will attract a fee of £155 and one of £800,000 a fee of £2,675. A fee structure such

as this has been in force for very many years and is seen as fair since smaller Estates attract lower fees, but even for large Estates the fees are comparatively modest (for example the comparable percentage in Jersey is 0.75%). A charge of £20 is also made for each additional document (such as a power of attorney or deed of renunciation) where these are required. There is a maximum tariff charge of £100,000, which comes into play when the relevant Estate exceeds £28m in value.

### **What happens to the fees which are collected?**

The balance remaining (after payment of the running costs of the Court and the retention of working capital) is paid to The Deanery Fund LBG. This is a Guernsey-registered company limited by guarantee and with exclusively charitable objects, not limited to religious purposes nor to purposes connected with the Church of England. Examples in the last few years include grants towards the building of the Community Centre in St Martin's, the Cobo Community Centre, the Caritas Café in Mill Street, the Christmas lights in St Peter Port, the employment of a member services officer by the Guernsey Disability Alliance, the Sanctuary Centre in Sark, supporting the Youth Commission's emotional health and well-being work in Alderney, the restoration of the Little Chapel, a new patients' amenities trolley at the hospital, as well as grants for refurbishment of some rectories and vicarages and the introduction of enhancements to the parish churches.

Under proposals being considered by the States of Guernsey at the time of writing (March 2021), this would cease. The surplus funds would, instead, be paid to the Social Investment Fund for support of the third sector in the Bailiwick of Guernsey.

The Ecclesiastical Court has existed in Guernsey for many centuries and is now unique in still providing the Probate service for our jurisdiction. Of course, great age is not of itself a reason to preserve it. The service it provides, and the speed and efficiency with which it does so, are the key considerations.

If you are dissatisfied in any way with the service you have received, please let us know.

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**For more information, go to our website: [www.guernseyprobate.gg](http://www.guernseyprobate.gg)**