

Representing Yourself In Civil Court Actions

Frequently asked questions about acting for
yourself in court

A blue speech bubble containing the text "citizens advice" in white lowercase letters.

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1. What is a civil action?

A civil action is a claim by an individual or company, usually brought for the recovery of a specified sum of money or for monetary damages, or you may also want to ask the court to make some sort of order in your favour. If, for example, you have a dispute regarding a boundary you may want the court to make a finding of fact and give a declaration as to where the boundary lies.

2. How does this differ from a criminal case?

A criminal case is one that is brought by the Crown against individuals or groups of individuals for alleged breaches of the law.

3. Can I represent myself in Court or do I have to employ an advocate?

Everyone has the right to represent themselves in Court and there is no requirement for you to employ an advocate to appear on your behalf.

4. Will I be at a disadvantage if I do not have professional legal advice?

It is always sensible to take professional legal advice before contemplating court action. If you are appearing in court on your own behalf the court will take care to make appropriate allowances for the fact that you are not legally qualified.

If you are from outside this jurisdiction you should be aware that Guernsey law and procedures are very different from those found in England and Wales and in Scotland.

5. Can I get any other assistance apart from an advocate?

If you are representing yourself in Court, you may be permitted to have a "litigation friend", sometimes known as a "McKenzie friend", to come into court with you. They cannot address the court on your behalf, but can take notes, offer advice to you, and prompt you to ask particular questions. Speak to the Deputy Greffier before going into court and ask if this will be permissible.

6. Can I get legal aid?

In the first instance you should visit an advocate that offers legal aid who will go through the green form process with you to assess both the strength of your case and whether you meet the financial qualifications. You may still be required to make a contribution even if you are eligible. More information is available on <https://gov.gg/article/120148/Legal-advice>.

7. Which Court do I bring my claim in?

A plaintiff or claimant can bring an action before the Magistrate's Court for a sum of up to £10,000. This is called a petty debt action. A claim involving a larger sum, or a declaration must be pursued through the Royal Court.

8. How do I begin an action?

You begin an action by instructing HM Sergeant to issue a summons. If you want to issue a petty debt claim you can get an application form from the public counter at the office of HM Sheriff and HM Sergeant, in the Court building.

9. I thought I needed to instruct an advocate before issuing a summons?

You do not need to instruct an advocate before issuing a summons for the magistrate's court and you no longer need to instruct an advocate before issuing a summons in civil proceedings before the Royal Court.

10. Magistrates Court procedures

First you must apply to the Bailiff for leave to issue a summons. If you want to issue a petty debt claim you can get an application form from the public counter at the office of HM Sheriff in the Royal Court building.

11. Royal Court procedures

i) **How do I start?** First you must apply to the Bailiff for leave to issue a summons. You do this by collecting two forms from the Greffe, *Application Form A* and *Summons Form B* (or if the action is for eviction *Summons Form B for Evictions*). These forms need to be completed and accompanied by a written summary of the facts that you intend to rely on in support of your action. The forms and the summary now need to be returned to the Greffe when you will also need to pay a Court fee which will vary depending on the type of action you are bringing.

The Bailiff will then consider your application. He will usually do so on the basis of the papers submitted. Sometimes he will want the claimant to appear before him in court, either to give directions or to clarify his understanding of the claim or both. This will usually happen at a Friday Interlocutory Court not before 10.00 a.m.

If the application is granted, H.M. Greffier will send you a letter containing *Form A* which will have been certified to show that your application to serve a summons has been granted. Your *Summons Form B* will also be returned, together with a copy of *Cause Form C* and a copy of the *Royal Court Costs and Fees Rules 2014*.

ii) **What happens next?** Go to the Greffe counter and ask H.M. Sergeant to issue the summons to the person or business against whom you have the claim. Then lodge a copy of the *Cause Form C* bearing H.M. Sergeant's certificate of service with H.M. Greffier by close of business on Wednesday and you will then come to Court for the first time at 9.30 a.m. on the following Friday where the claim will be tabled before the Ordinary Court.

If you are summoning for an eviction however, you may need to be heard on a Tuesday. If so, you should lodge your paper by close of business on Thursday so that it can be tabled after 10.15 a.m. in Tuesday Ordinary Court (at which Jurats are present).

iii) **What happens after my claim has been tabled in court for the first time?** If the matter is one other than an eviction, then the person against whom you have made your claim will be required to table his defences to it. They may also lodge a counter claim against you to which you in turn may reply with defences.

iv) **When is a matter ready for trial?** The claim and defences are generally referred to as the pleadings. When the pleadings are closed, the matter is ready for trial. Depending on the complexity of the case it may take some time for the pleadings to be finalised. Any issues that need to be dealt with before the pleadings are ready will be dealt with by a judge sitting alone at what are called interlocutory hearings.

v) **What happens when the pleadings are closed?** When the pleadings are closed the matter is ready for trial. A date will be given to the parties by the court together with any directions for

the filing of papers for the trial. A date will also usually be fixed for a pre-trial review at which the presiding judge will make sure that everything is ready.

vi) **Who will preside at the trial?** The Bailiff, Deputy or Lieutenant will preside at the trial, he or she may be accompanied by three Jurats who will sit as the judges of fact.

vii) **What papers will I need for a trial?** The parties will usually be expected to agree a joint bundle of papers to put before the court. The chief documents that this bundle will contain will be the pleadings. Prior to the trial, on a day set by the judge, you will be expected to lodge six copies of the bundle with the court, one for the judge, one for any witnesses, one for the Greffe and three for the Jurats.

viii) **How much will all this cost me?** All appearances before the court especially at Royal Court level will be charged. The level of charge depends on what is being sought from the court and the size of the claim. For details about charging you should consult the *Royal Court Costs and Fees Rules* a copy of which is available from the Greffe. You should note that once a trial date is booked the Plaintiff will be required to pay a deposit to the court (£160 in 2015) for every half day. If the claim is settled up to two weeks before the trial is due to begin the deposit will be refunded. If settlement is reached after the expiry of the two-week deadline then the money is retained by the court.

ix) **What happens if I lose my claim?** The general rule in civil cases is that the unsuccessful party will pay the costs of the successful party. Costs are a matter within the discretion of the court. There are two basic types of costs award, standard costs and indemnity costs; with standard costs any questions as to the reasonableness of the costs are resolved in favour of the paying party and when costs are on an indemnity basis

questions are resolved in favour of the receiving party. Generally, costs are awarded on the standard basis, which works out at about 50-60% of actual costs. Indemnity costs are much closer to the actual costs of litigation but are infrequently awarded.

12. Alternative Dispute Resolution

Alternative dispute resolution in the form of mediation and arbitration is encouraged by the Guernsey courts.

13. Speaking to your opponent's Advocate before the hearing

The Advocate acting on behalf of the Claimant/Respondent may wish to speak to you before you go into court to try and narrow the issues to be raised in court or reach agreement on particular points. This is perfectly normal and can help to save time in court.

14. What to expect in court

The Greffier, or a Deputy Greffier, will sit in front of the Judge. In some cases, such as childcare proceedings, or criminal cases involving juveniles, the Judge may have two members of the Juvenile Court Panel seated either side of them.

When the Judge enters the room you should stand up, and only sit down after they have sat down. When the Judge gets ready to leave the room, you should stand up until they are out of sight.

When the Judge asks you to present your case, tell the Judge what it is you are requesting and why you are requesting it. Once you are finished, the other side will be able to ask you questions.

The other side will then present their case. If they say something that you do not agree with, do not interrupt them, but write down the point that you disagree with and raise it when it is your turn to ask them questions.

Decisions are not always given straight away, and so do not be surprised if you have to wait a couple of weeks for the Judge to make their decision.

15. How to address the bench

The Judge should be addressed as either Sir or Ma'am. Only speak to the Judge when you are told it is your turn, and never interrupt the Judge.

16. Make sure that you attend court in good time

All court sittings are held in the Royal Court buildings in St Peter Port (just opposite the Sunken Gardens). There is no designated parking for the court, and only very limited short-term public parking, so you may have to park some distance from the court.

There are a number of court rooms, so make sure that you allow yourself plenty of time to pass through security, find your court room, and arrange your papers. If you are unsure which court room to go to and security officers are unable to help, you can ask at the public counter at the Greffe, which is on the first floor, and they will be able to direct you.

It is very important that you arrive on time because if you are late, your case can be dismissed, or the Judge may make a decision without hearing your side.

If something prevents you getting to court in time, you should call the Greffe at the earliest opportunity and ask to speak to the Deputy Greffier dealing with your case. Tell them why you are going to be late, and what time you hope to arrive. However, even if you do this, there is no guarantee that they will be able to delay the hearing, so it is very important that you do all you can to arrive in good time.

17. What do I bring to court?

Ensure that you have copies of any evidence that you may want to refer to, or any legislation that you believe to be helpful to your case. If the opposition has provided you with a court bundle (a file of papers) that they will seek to rely on in court, you should ensure that you have read this fully, and take it into court with you.

You must not take any food, drink or recording equipment into court with you. Unless the case directly involves your child, and you have been directed to bring them to court, children will not be allowed into the court room. Make sure that your mobile phone is switched off.

18. What do I wear when appearing in court?

It is important that you dress smartly when appearing in court (a jacket, collar and tie / smart business attire). The Judge can refuse to hear your case if they believe that you are not dressed respectably (for example, avoid wearing denim, shorts and flip-flops).

19. Where to find legal information

Guernsey Legal Resources website

The Guernsey Legal Resources website (www.guernseylegalresources.gg) contains original and amended versions of Guernsey legislation enacted and published since 1990, as well as judgments (decisions) handed down by the Court. The website is free to access, but you will have to complete a small on-line registration form to access the judgments section, which is headed “unreported judgments” on the left-hand navigation bar.

You may also find it helpful to refer to Practice Directions, which can also be found on the Guernsey Legal Resources website. These set out procedures that aim to achieve uniformity in the manner with which matters are considered by the court, and cover topics such as the manner in which an application should be submitted to the court and timetables and deadlines for submission of paperwork to the court.

The Greffe

Paper copies of all legislation, including earlier items not yet available on the Guernsey Legal Resources website, can be purchased from the Office of Her Majesty’s Greffier, Royal Court House, Guernsey, GY1 2PB.

Guille-Alles Library

The Guille-Alles Library in St Peter Port has some basic law books that may be of assistance to you in outlining how the legal system works, as well as some more detailed books in relation to specific topic areas. However, it should be noted that the majority of books will be written with regard to the English legal system, which has different procedures and legislation to that in Guernsey. When looking at specific topic areas you will find it more helpful to seek out books produced by locally based authors, such as the *Laws of Guernsey* produced by Advocate Gordon Dawes.

Commonly used terms

Claimant – the person who is making the claim. A Claimant may also be referred to as the Plaintiff.

Defendant – the person against whom the claim has been made.

Petitioner – the person who is filing (petitioning) for divorce.

Respondent – the person being asked for a divorce.

Affidavit/witness statement – sworn written evidence.

Pleadings – the legal basis on which the Claimant/Plaintiff is claiming against the defendant or the defendant is resisting the claim.

General disclaimer

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**Open Monday, Tuesday, Thursday 9.30 am to 4.00 pm
Wednesday 9.30am to 6.30pm and Friday 9.30 am to 12.30 pm**

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