

APPLEBY

GUIDE

COMMERCIAL LITIGATION
IN GUERNSEY



GUERNSEY

Guernsey is a self-governing Crown Dependency with its own legislature, courts and body of law. It is not part of the United Kingdom and it is not an independent state.

The Bailiwick of Guernsey comprises three distinct jurisdictions: Guernsey, Alderney and Sark. Each has its own legislature, courts and laws. Some legislation applies throughout the Bailiwick, and the Guernsey courts exercise specified appellate and other functions in relation to Alderney and Sark. Their legal systems are nevertheless separate and should not be treated as interchangeable.

This overview concerns the legal and court system of Guernsey. References to the wider Bailiwick are made where necessary.

This Overview was last updated in August 2026. It is routinely reviewed by Appleby and updated when changes to the law require it. This Overview is for general guidance only and does not constitute definitive advice. Please contact one of our lawyers if you require more detailed information.

Further publications are available from applebyglobal.com

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COMMERCIAL LITIGATION IN GUERNSEY

INTRODUCTION

Guernsey has its own courts, procedural rules and body of civil law. Commercial disputes are generally heard in the Ordinary Division of the Royal Court.

Civil procedure is governed principally by the Royal Court Civil Rules, 2007, supplemented by legislation, Practice Directions and the Court's inherent and customary law powers. The Rules require the Court to deal with cases justly and proportionately. They also impose an obligation on the parties to assist the Court in doing so.

This briefing provides a practical overview of commercial litigation in Guernsey. Different originating processes and procedural rules apply in some trust, company, insolvency, public law and other specialist matters.

THE ROYAL COURT

The Ordinary Court exercises the Royal Court's general civil jurisdiction. Interlocutory applications, questions of law and case management are dealt with by a judge sitting alone. A civil trial involving disputed questions of fact will ordinarily be heard by a judge and Jurats. The judge determines questions of law and procedure. The Jurats determine questions of fact. A civil trial may instead be heard by a judge alone where the parties elect that course or the judge directs it under the applicable legislation.

COMMENCING PROCEEDINGS

An ordinary action is commenced by serving a summons on the defendant and tabling the corresponding Cause before the Royal Court. The Cause is the plaintiff's principal pleading. It identifies the material facts relied upon and the relief sought.

Not every commercial dispute is commenced by summons. Depending on the jurisdiction being invoked, proceedings may begin by originating application, requête or another process prescribed by legislation or rules. Trust applications, company and insolvency proceedings, judicial review proceedings and statutory appeals may therefore follow different procedures.

LIMITATION AND PRESCRIPTION

Claims must be commenced within the applicable limitation or prescription period. Guernsey does not have a single comprehensive limitation statute. The relevant period, the event from which time runs and the circumstances in which time may be interrupted or suspended depend on the nature of the right and the applicable legislation or customary law.

Limitation should therefore be considered as soon as a potential claim is identified. Specialist advice should be obtained where the deadline is close or the claim is governed by a particular statutory regime.

BEFORE PROCEEDINGS

Guernsey has no general pre-action protocol equivalent to the English civil procedure regime. Even so, the period before proceedings is often important. A prospective party should preserve relevant documents, identify witnesses, consider whether information or assets may be lost and assess whether urgent relief is required.

A letter before action will often set out the claim and the remedy sought, although the appropriate approach depends on the circumstances. In some cases, advance notice may be inappropriate because it would defeat an application for urgent or without notice relief. Settlement discussions or mediation may also be appropriate before proceedings are commenced.

SERVICE

Proceedings must be served in accordance with the Royal Court Civil Rules. Within Guernsey, service is ordinarily carried out by HM Sergeant. An Advocate may agree to accept service on behalf of a party where authorised to do so. The Rules contain separate provisions for service on individuals, companies, partnerships and the States of Guernsey. The Court may permit substituted service where ordinary service cannot reasonably be achieved.

Service outside Guernsey requires the Court's permission. The plaintiff must establish a jurisdictional gateway and show that there is a serious issue to be tried. The claim must be properly justiciable in Guernsey and Guernsey must be clearly and distinctly the appropriate forum. The application is ordinarily supported by detailed affidavit evidence.

RESPONDING TO A CLAIM

A defendant who intends to contest an ordinary action must appear and cause the matter to be entered on the pleading list. The defendant then serves formal Defences. Further pleadings, including a Reply, may follow where necessary.

The Cause, Defences and any Reply define the factual issues for determination. Pleadings should state the material facts relied upon. They are not ordinarily the place for evidence, extended argument or unnecessary narrative.

A defendant may bring a counterclaim. Where necessary, the Court may add parties, consolidate related actions, sever claims or direct that particular issues be determined separately.

A party who fails to appear or to plead within the applicable time may face judgment in default. A default judgment may be set aside in appropriate circumstances, but an application should be made promptly.

AMENDMENTS, FURTHER INFORMATION AND STRIKE OUT

The Court may require a party to clarify its case or provide further information. Pleadings may be amended by agreement or with the Court's permission. The later an amendment is sought, the greater the risk that it will be refused.

The Court may strike out a pleading which discloses no reasonable ground for bringing or defending the claim, constitutes an abuse of process or falls within another ground specified by the Rules. It may also impose sanctions for failure to comply with a rule, Practice Direction or court order.

SUMMARY JUDGMENT

The Court may determine a claim or issue summarily where the plaintiff has no real prospect of succeeding, or the defendant has no real prospect of successfully defending it, and there is no other compelling reason for trial.

An application for summary judgment is supported by affidavit evidence. The jurisdiction is intended to dispose of cases or issues which do not require a trial, not to determine genuine factual disputes which require oral evidence or fuller investigation.

CASE MANAGEMENT

The Royal Court actively manages defended proceedings. A case management conference is usually held after the pleadings have closed, unless the Court dispenses with it. The Court will identify the issues, set a timetable and give directions for the future conduct of the proceedings.

Case management is central to the progress and cost of a commercial dispute. Directions commonly address disclosure, witness and expert evidence, interlocutory applications, the preparation of trial documents and the timetable to trial. The parties are expected to identify the real issues and propose directions which are proportionate to the value, complexity and importance of the case. The Court may order preliminary or separate determination of an issue where that is likely to dispose of or materially shorten the proceedings.

The Court has broad power to give directions designed to ensure that cases are dealt with justly and proportionately. It may vary directions, impose conditions, make unless orders, act on its own initiative and apply sanctions for non-compliance. Relief from a procedural sanction is discretionary and should not be assumed.

The timetable to trial will vary considerably depending on the complexity of the proceedings, the extent of disclosure and expert evidence required, and the Court's availability.

A pre-trial review will usually be held to assess readiness for trial and whether further judicial management is required. The parties may be directed to lodge a pre-trial memorandum dealing with readiness, witnesses, documents, the estimated length of the hearing and any outstanding issues.

INTERIM APPLICATIONS

Interim applications may concern pleading amendments, security for costs, disclosure, preservation of evidence, stays, interim payments, injunctions or other procedural and protective relief. They are generally made by application notice and supported by evidence in affidavit form.

Urgent relief may be sought without notice where the circumstances justify that course. An applicant proceeding without notice must make full and frank disclosure of all material matters, including matters which may tell against the application. The Court will commonly require undertakings and direct a prompt return hearing at which the respondent can be heard.

DISCLOSURE AND INSPECTION

The usual starting point is standard disclosure. Each party must disclose the documents on which it relies, documents which adversely affect its own case or another party's case, and documents which support another party's case.

The duty applies to documents which are or have been within the party's control. A reasonable search must be undertaken. What is reasonable depends on factors including the number and significance of the documents, the complexity of the proceedings, the ease and cost of retrieval and the likely value of any further search.

Disclosure is usually given by a list of documents. A disclosed document is ordinarily open to inspection unless it is no longer within the party's control or inspection is withheld on a recognised ground, most commonly legal professional privilege. The duty of disclosure continues throughout the proceedings.

The Court may order specific disclosure or inspection where the ordinary process is insufficient. It may also direct disclosure in stages or limit it by reference to particular issues, categories, custodians or periods.

Electronic documents should be preserved as soon as litigation is contemplated. This may require suspension of routine deletion policies, identification of relevant custodians and preservation of email, messaging data and other electronically stored information. The scope and method of electronic disclosure should be addressed early and managed proportionately throughout the case.

A party who fails to disclose a document or permit inspection may be prevented from relying on it and may face further sanctions. Documents obtained through disclosure may ordinarily be used only for the purposes of the proceedings, subject to the Rules and any orders of the Court.

EVIDENCE

The Court gives directions for the preparation and presentation of factual evidence. Evidence may be given orally, by affidavit or through written witness statements, depending on the nature of the proceedings and the directions made.

Witness evidence should be confined to facts relevant to the issues and within the witness's knowledge. A witness may be compelled to attend or produce documents by witness summons. The Court may permit evidence by live link, and evidence required from a person outside Guernsey may engage statutory or international evidence-taking procedures.

EXPERT EVIDENCE

Expert evidence is used where the Court required assistance on a matter outside its ordinary knowledge. Its proposed use and scope should be addressed at the case management stage because expert evidence can add substantially to the time and cost of proceedings.

An expert's overriding duty is to assist the Court independently, rather than to advance the case of the party instructing or paying the expert. The Court may limit the issues, disciplines and number of experts, and may direct experts to identify matters on which they agree or disagree.

TRIAL

At trial, the judge controls procedure and determines questions of law. Where Jurats are sitting, they determine disputed questions of fact and apply the law as directed by the judge.

The order of proceedings will depend on the case and the Court's directions. It will commonly include opening submissions, factual and expert evidence, cross-examination and closing submissions. Written submissions are commonly used in substantial commercial cases.

When Jurats determine the facts, the resulting judgment must distinguish the judge's rulings on law and procedure from the Jurats' findings and reasons.

Civil hearings are generally held in public. The Court may sit in private or restrict publication or access where legislation or the interests of justice require it. Commercial sensitivity alone does not necessarily justify departure from open justice, and confidentiality concerns should be raised at an early stage.

JUDGMENTS AND ORDERS

The Court may give judgment at the conclusion of the hearing or reserve its decision. It may determine liability and relief together or in stages. Interest and costs may be dealt with in the judgment or following further submissions.

The resulting order records the relief granted and any steps which a party must take. Where judgment is delivered orally, the parties will commonly seek to agree the form of order. Any disagreement may be referred back to the Court.

The Court may correct an accidental slip or omission in an order. A substantive challenge to the decision must ordinarily be pursued by appeal or some other recognised procedure rather than by asking the same court to reconsider the merits.

SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

Parties may settle a dispute at any stage. Negotiation and mediation are commonly considered in commercial cases, although the suitability and timing of alternative dispute resolution will depend on the issues, the information available and the parties' objectives.

Settlement strategy should be considered from the outset and revisited as the case develops. The Rules make provision for payments into Court and offers to settle. Parties may also make "Calderbank" or other written offers intended to be taken into account when costs are determined. A properly framed offer can have significant costs consequences, particularly once the pleadings, disclosure or evidence have clarified the strengths and weaknesses of the case.

Settlement discussions should be conducted with care. Whether a communication is protected by without prejudice privilege depends on its substance and context, not merely the label applied to it.

COSTS

Costs are in the discretion of the Court. The usual starting point is that the unsuccessful party pays the successful party's costs, but the Court may make a different or more limited order to reflect the parties' conduct, success on particular issues, offers to settle and other relevant circumstances.

Recoverable costs are assessed under a taxation procedure and will not necessarily equal the successful party's actual expenditure. Costs may be assessed on the recoverable basis, or, where the applicable test is met, on the indemnity basis. The Court may also order an interim payment on account of costs.

Costs exposure should be considered throughout the proceedings, not only at trial. Even a successful party may incur substantial irrecoverable costs. Disproportionate steps, unnecessary applications, procedural default and an unreasonable refusal to narrow the issues may reduce recovery or lead to an adverse order. Security for costs may also be sought in appropriate cases, particularly where there is a real concern that a future costs order will not be met.

ENFORCEMENT

Further steps may be required before a judgment produces any recovery. The appropriate enforcement route depends on the terms of the order, the nature and location of the debtor's assets and whether competing creditors or security interests are involved.

Enforcement may include execution against movable assets, registration or other steps affecting Guernsey real property, or insolvency proceedings. Seizure and realisation of personal property is dealt with principally by the office of HM Sheriff. Enforcement against realty may engage the customary law *saisie* procedure.

Asset location, priority and enforceability should be considered before proceedings are commenced and revisited before judgment. Appleby's separate briefings on freezing injunctions, recognition and enforcement of foreign judgments, and taking and enforcing security over Guernsey realty provide further detail.

APPEALS

A civil appeal from the Royal Court generally lies to the Guernsey Court of Appeal, subject to statutory restrictions and any requirement for leave. Particular rules apply to interlocutory decisions, costs orders, consent orders and decisions which legislation makes final.

An appeal is not ordinarily a rehearing of the case from the beginning. The appellate court applies the standard appropriate to the ground of appeal and the nature of the decision being challenged.

Appeal periods are short. The applicable route, time limit and any requirement for leave should be considered immediately after judgment.

A further appeal to the Judicial Committee of the Privy Council requires leave of the Court of Appeal or special leave of His Majesty in Council. The appellate structure is explained more fully in Appleby's briefing on the legal and court system in Guernsey.

PRACTICAL CONSIDERATIONS

At an early stage, the parties should consider:

- the legal basis of the claim or defence and the correct originating process;
- limitation and prescription;
- jurisdiction, forum and service;
- preservation of documents and electronic data;
- the availability and commercial value of interim relief;
- the identity and location of witnesses and experts;
- privilege and the handling of internal investigations;
- litigation funding, insurance and cost exposure;
- settlement strategy; and
- the practical enforceability of any judgment.

Early Guernsey advice is particularly important where the dispute is cross-border, a limitation period may be close, assets may be moved or urgent relief may be required.

For more specific advice on commercial litigation in Guernsey, we invite you to contact one of the following:



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For the convenience of clients in other time zones, a list of contacts available in each of our jurisdictions may be found [here](#).

ABOUT APPLEBY

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