

## **OFFICE OF THE BAILIFF**

### **APPOINTMENT OF JUDGE OF THE ROYAL COURT**

Applications are invited for the position of Judge of the Royal Court. This position is currently vacant following the retirement of the previous holder.

The Judge of the Royal Court is appointed by the Royal Court under the provisions of The Royal Court (Reform) (Guernsey) Law, 2008 Law. It is envisaged that the appointment will be made with a retirement age of 68, which may thereafter be extended by the Court to the age of 70, unless the successful candidate were to request initial appointment to a lower age, not being below 65. Previous experience of judicial office or of Crown office is not essential.

#### **Statutory Eligibility Criteria**

To be eligible for the office of Judge of the Royal Court, applicants must have been in practice as:

- an Advocate of the Royal Court of Guernsey, or
- a member of the Bar of England and Wales, the Bar of Northern Ireland, or the Faculty of Advocates in Scotland, or
- a Solicitor of the Supreme Court / Senior Courts of England and Wales, of the Court of Judicature of Northern Ireland, or in Scotland,

for not less than 10 years (or such shorter period as the Royal Court may agree to in any particular case).

Further information about the position can be obtained by contacting Adrian Nicolle, Secretary to the Bailiff, Bailiff's Chambers, Royal Court House, St Peter Port, Guernsey, GY1 2NZ by telephone on 01481 749513 or e mail [Adrian.nicolle@gov.gg](mailto:Adrian.nicolle@gov.gg)

The closing date for applications is **Friday 17<sup>th</sup> July at 4.00 pm.**



## **JUDGE OF THE ROYAL COURT**

### **Royal Court, Guernsey**

#### **INTRODUCTION**

The Office of Judge of the Royal Court was created in 2008. The functions and powers of the Judge of the Royal Court are set out in The Royal Court (Reform) (Guernsey) Law, 2008.

The Judge of the Royal Court may, on being authorised by the Bailiff, preside over the Royal Court and discharge any judicial function of the Bailiff. Judicial work in the Royal Court is shared between the Bailiff, Deputy Bailiff, Judge of the Royal Court and Lieutenant-Bailiffs. Therefore, the Judge of the Royal Court will preside routinely on the full range of cases in the Royal Court and will, as the need arises, constitute the Magistrate's Court. The nature of the work of both Courts is set out in the Annex.

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#### **THE POSITION**

A vacancy arose in February 2020 on the retirement of Judge Finch OBE. A replacement is sought to take office as soon as possible. Whilst the workload is for one full-time equivalent, the Royal Court may consider making two part-time appointments. The successful candidate(s) must be prepared to work in all areas and cannot expect to specialise in one main area of law.

#### **STATUTORY ELIGIBILITY CRITERIA**

To be eligible for the office of Judge of the Royal Court, applicants must have been in practice as:

- an Advocate of the Royal Court of Guernsey, or
- a member of the Bar of England and Wales, the Bar of Northern Ireland, or the Faculty of Advocates in Scotland, or
- a Solicitor of the Supreme Court / Senior Courts of England and Wales, of the Court of Judicature of Northern Ireland, or in Scotland,

for not less than 10 years (or such shorter period as the Royal Court may agree to in any particular case).

## **RELEVANT PREVIOUS EXPERIENCE**

In addition to the above, the successful candidate(s) is likely to have extensive experience of appearing before or working in the Royal Court, Magistrate's Court, and/or, if applicable, equivalent courts in the part of the United Kingdom where he or she practises or sits. The successful candidate(s) should be ready for full-time judicial office in a small jurisdiction with the ability to live within the constraints that such an appointment brings to personal and social life. For an applicant who has been practising in the United Kingdom, any previous judicial experience would be an advantage but is not regarded as essential. Training will be provided as required.

## **OTHER INFORMATION**

The terms of employment will include the following;

- 1.) The post holder(s) may not engage in any other office or employment other than that to which they are appointed or approved by the Bailiff or the Royal Court.
- 2.) The post holder shall not practise as a lawyer in the Bailiwick or elsewhere.
- 3.) It is necessary on occasion for the Courts to sit at weekends or out of normal office hours.
- 4.) The post holder(s) will be entitled to 30 working days leave per annum.

The Judge of the Royal Court in addition to having proven legal experience in a range of criminal and civil work will have the following attributes:

- experience;
- intellectual and analytical ability
- sound judgement
- decisiveness
- adaptability
- good oral and written communication skills and listening skills
- authority and case management skills
- administration and management skills
- integrity and independence
- commitment, conscientiousness and diligence
- common sense
- confidence and bearing
- dignity and courtesy
- empathy
- ability to command the respect of members of the judiciary of the Bailiwick
- ability to command the respect of other persons with whom he or she may deal from time to time

## ANNEX

### **THE COURTS**

#### **(a) THE ROYAL COURT**

The Royal Court is presided over by the Bailiff. When it sits as a Full Court it is constituted by the Bailiff and at least seven Jurats. When it sits as an Ordinary Court it is constituted by the Bailiff and at least two Jurats. Where matters of law and procedure fall to be determined, the Royal Court is constituted by the Bailiff sitting alone and may be so constituted in accordance with section 13 of The Royal Court (Reform) (Guernsey) Law, 2008.

The Judge of the Royal Court will routinely sit instead of the Bailiff or Deputy Bailiff in both Courts.

**The following is a brief summary of the matters dealt with in the Island's Courts.**

#### **Royal Court – Full Court**

##### *Criminal Business*

Trials in respect of all indictable offences committed anywhere in the Bailiwick

Appeals from the Magistrate's Court and the Courts in Alderney and Sark on conviction and sentence

##### *Other Business*

Registration of Orders in Council, etc.

Swearing-in of Crown Appointees, Members of the Judiciary, Jurats of the Royal Court and certain other officials

A limited number of licensing matters including Salle Publique Licences

Appellate jurisdiction in respect of administrative appeals including appeals from administrative tribunals

#### **Royal Court – Ordinary Division**

Most civil (non-matrimonial) matters including:

General civil actions

Insolvencies

Real Property actions

Trust and company petitions and actions

Guardianships

Adoptions

Civil appeals from Alderney and Sark.

Liquor Licences

Interlocutory Applications relating to any of the above, including Injunctions

### Criminal business

The Royal Court – Ordinary Division has jurisdiction to try summary offences arising in Alderney and Sark which are beyond the jurisdiction of the Courts in those islands and, when doing so, is constituted by the Bailiff alone.

### **Royal Court – Matrimonial Causes Division**

Petitions for:

Divorce

Judicial Separations

Annulment and dissolution

Ancillary matters in connection with the foregoing

Applications under The Children (Guernsey and Alderney) Law, 2008

### **Royal Court – other business**

The judiciary also deal with a range of applications for warrants and disclosure orders.

## **(b) THE MAGISTRATES' COURT**

In addition to the role in the Royal Court, the Judge of the Royal Court is expected also to sit from time to time in the Magistrate's Court.

The Magistrate's Court is constituted under the provisions of the Magistrate's Court (Guernsey) Law, 2008 ("the 2008 Law"). The Court is presided over by a Judge of the Magistrate's Court, as appointed by the Royal Court. The work of a Judge of the Magistrate's Court involves a wide spectrum of criminal, family and other civil law cases.

There are currently two full time Judges of the Magistrate's Court who both work in all areas of jurisdiction of the Magistrate's Court. It is the responsibility of the Judge of the Magistrate's Court to be sole judge of the facts and the law and to deliver a reasoned and balanced decision and/or judgment.

## **Jurisdiction of the Magistrate's Court**

The Magistrate's Court was established in 1925 to take over the jurisdiction "en Police Correctionnelle" of the lower division of the Royal Court together with petty debts and holding inquests. There was later added a jurisdiction in matters relating to domestic proceedings similar to that applied in England. The jurisdiction was further amended under the provisions of the 2008 Law.

### Criminal Court

The Magistrate's Court generally exercises summary jurisdiction in criminal law cases which are liable to attract a sentence of a maximum of two years (three years in the aggregate where sentencing in respect of more than one offence) and/or a fine not exceeding twice level 5 of the uniform scale. However, there are a number of Laws that provide the Judge with the authority to pass a sentence with a higher fine. The Magistrate's Court conducts committal proceedings in respect of matters to be tried by the Royal Court.

### Civil Court

The Magistrate's Court has jurisdiction in civil matters where the sum in dispute does not exceed £10,000. These are commonly known as petty debt cases. The Court hears applications under The Access to Neighbouring Land (Guernsey) Law, 2016.

### Family Law Matters

The Magistrate's Court exercises jurisdiction in a range of private and public law family matters. These include child maintenance payments, issues relating to child residence and contact and many other issues which arise from time to time when a relationship breaks down. In public law matters, the Magistrate's Court sitting as the Juvenile Court hears referrals and appeals from the Child, Youth and Community Tribunal and applications brought by the Committee *for* Health & Social Care for Community Parenting Orders.

### Inquests

The Magistrate's Court holds inquests into deaths, at the request of the Law Officers of the Crown who are responsible for the preliminary investigations into all sudden deaths where the deceased person may have either met an unnatural or violent end, died in prison, or in other circumstances where for some reason a doctor cannot sign a death certificate. The Law Officers of the Crown decide whether an inquest will be held, what evidence should be placed before the inquest, and generally arrange for the presentation of the case by the Police.

### Juvenile Court (Criminal)

The Juvenile Court is part of the Magistrate's Court and will sit to consider cases involving juveniles (under the age of 18) who are charged with criminal offences. The Juvenile Court is not open to the public and only those directly involved in the case will normally attend the Court sitting.