

The Ecclesiastical Court: Transfer and review

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In the Bailiwick of Guernsey, the Ecclesiastical Court has overseen the proving of Wills and issuing of letters of administration - known collectively as "Grants of Representations" - for centuries.

Questions have been raised in recent years however as to whether this function should remain with the Ecclesiastical Court.

Whilst its other functions have decreased over the years, the Ecclesiastical Court's authority in relation to personal estate matters has been retained, with Guernsey being one of very few places in the world (save for Sharia law jurisdictions) where this task is undertaken by a religious institution.

The applications for Grants of Representations made to the Ecclesiastical Court relate to estates of both locals and non-locals who die with assets held in the Bailiwick and the Court's jurisdiction is customary, allowing procedures and approaches to the issuing of Grants of Representations to be flexible and decided by the Court itself.

Each year the surplus income produced by the Ecclesiastical Court undertaking the probate function passes to the Deanery Fund LBG, which funds charitable work in Guernsey. Over the course of a year, this income can range from a few hundred thousand to well over a million pounds.

While previous considerations of the Court's function have concluded that its process is efficient and cost-effective, critics of its link with the Church of England have often been vocal, questioning whether this connection is appropriate in modern society.

At a meeting of the States of Guernsey last week, the transfer of the "Grants of Representation" from the customary jurisdiction of the Ecclesiastical Court to the Royal Court of Guernsey was approved.

Under the approved transfer to the Royal Court, the surplus income produced will instead pass into the Bailiwick's general revenue. However, in order to enable funds to continue to be used to benefit charitable works, for the first two years, a grant of £400,000 will be made from general revenue to the Social Investment Fund, which helps to fund local charities. After two years, this will be reviewed as part of the States budget.

While it is possible that this transfer of functions could well signal a future change in the fees payable during the probate process, for the time being the suggestion is that the present tariffs and fees, which have been in place since 1987, are reasonable and should, at least initially, be maintained.

There is no proposal for a statutory framework – such as that in place in Jersey – to detail how the function of issuing Grants of Representation should be undertaken by the Royal Court. Therefore the current ability of the Ecclesiastical Court to be flexible in its approach to applications will be retained by the Royal Court.

The approval of the transfer of the Ecclesiastical Court's function is very much the beginning of the process, however the above recommendations on the costs and processes relating to Grants of Representation in the Bailiwick reflect previous comments

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made by the States; that there will be no resulting difference in services or costs.

Once the transfer takes place therefore there may be little change in process and service, other than the name of the body issuing the Grants.

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