



## **The Court of the Seneschal of Sark**

### **Public access to the Seneschal's Chambers**

We believe it would be useful for members of the public to understand why access to the Seneschal and Deputy Seneschal is now on an appointment basis.

At its simplest, beyond the border of Sark you would not expect:

1. Members of the public to be able walk straight off the street into a judge's chambers.
2. To have a meeting with a notary or advocate without booking an appointment beforehand.
3. To meet the advocate or notary in their office surrounded by private files and documentation, as opposed to a private meeting room where there are no confidential papers lying around.
4. To be able to meet any of the above when they are dealing with another matter.

Before we go on to the detail, let's explain when we are normally available. As you might expect, both the Seneschal and Deputy Seneschal have work beyond what they do for the Court. The hours we list are set to fit comfortably with our other duties, though we do vary these as needed, for example when sitting in Court or dealing with some other pressing judicial matter.

<b>Seneschal</b>	<b>Tuesday to Friday, 2pm-4pm</b>
<b>Deputy Seneschal</b>	<b>Monday, 1pm-3pm</b>

In the event that either are unavailable then it is usual for the days to be covered by the other, for example: if the Seneschal is off-island then the Deputy Seneschal will be available each day, but at their normal hours of 1pm to 3pm.

You can contact either the Seneschal or Deputy Seneschal to arrange an appointment for notary services by either telephone or email, numbers and email addresses are listed in the contact area of our website.

For anything else Court related then please contact our Court Clerk, the Greffier. All communication and timetabling goes via the Greffier, there are good reasons for this and these will be covered later in this document.

We will now move on the detail of why the above is essential.

### **Impartiality & Prior Knowledge of the Case**

A judge should not know anything about a case until papers are formally filed with the Court through the Greffier. Even cases which start off as simple non-contentious matters can change direction and become litigious. The need to maintain impartiality at all times is the key reason why members of the public do not have access to a judge's chambers. Neither do advocates, unless both parties are present so that impartiality is retained. The latter is rare and only by invitation. Judges are encouraged to correspond through the Court Clerk/Greffier and any correspondence or conversation should be on record.

The overriding objective under the Court of the Seneschal Civil Rules includes dealing with cases justly which includes ensuring that the parties are on an equal footing. It is easy to get drawn into conversations when someone walks into the office, sitting themselves down to start talking and it is not immediately obvious where the conversation is leading. Often, before you know it, you have already broken that golden rule and you have become party to information you should not have heard outside of the Court Room.

The consequence of this is the Seneschal/Deputy Seneschal needing to recuse themselves and if they do not, there is a real risk that one of the parties will make an application for appeal. Either way, this is not good for the island's reputation of being capable of administering the law justly and fairly and, as an island, brings us further under scrutiny. It also costs the island more money as the cost of utilising the services of the Guernsey judiciary are very much higher than if the case is able to remain on Sark.

It is common practice that any questions on Court procedure or about particular cases should be addressed to the Court Clerk/Greffier. Our Greffier has long been aware that this is the appropriate procedure.

### **Duties and Obligations**

We have a duty of trust and confidentiality to those who are part of the Court system. We also have a legal obligation to protect the data of those people under the General Data Protection Regulations.

When we are sat at our desk, we are dealing with private case papers. These papers are open on the desks and if a sizeable case, can be spread out. There are also case files we need to look at or are working on beside the desk and paperwork is often dropped off by the Greffier for us to consider. There are also case files sat, with the parties' names clearly visible, on the shelves on the wall: the office is small and short of space and the use of the shelves makes sense and lever arch files are more practical to use but do not fit in filing cabinets.

All this sensitive and private paperwork is visible when someone walks into the office meaning we are breaching our duty of confidentiality and our obligations under the data protection regulations. At least when someone makes an appointment, it gives us the opportunity to prepare the room so that the private papers are put out of sight. We cannot hide the lever arch files which remains a problem we need to solve but we are at least limiting the risk of sensitive data being read.

This is why advocates and notaries will see clients in meeting rooms and not their private offices. This point was also picked up during the investigations carried out for the Venne Report (available from our website).

### **Working Smart**

Appointments are a necessary part of any professional job, in order to manage one's time effectively. We are employed to work only very limited hours; it is essential to be able to organise our work schedule and prioritise the matters which need to be dealt with more urgently.

This is also why it is common practice to book an appointment with an advocate or notary in advance.

### **Venne Report**

Our Court faced some criticism in the Venne Report; concerns over a lack of impartiality and confidentiality only being a couple of the issues raised. We are using the feedback in that report as guidance on what we need to do going forward to get things right. This is not an easy job and it won't happen overnight.

### **Historical Factors**

We have had a number of conversations with various judges when considering the matter as to whether the Seneschal's Office should be open to the public. The consensus was that it was not appropriate for a judge's chambers to be accessible to the public. They of course do not offer any notarial services but aside from providing that service, their opinion is relevant. One judge proffered a reason why the office may have been open to the public: from the time when the roles of Speaker and Seneschal were merged. The role of Speaker being a political office where it would be appropriate to engage with members of the public. We think there must be a lot of truth in that supposition.

### **What we are not here to do**

We do not provide legal advice. The appointment system also allows us to screen the reason why people are making an appointment. If it is for matters beyond requiring notarial services, their initial point of contact should be the Greffier.

### **Conclusion**

The actions we take are for a reason; nothing is done lightly or without aforethought and we treat the positions of Seneschal and Deputy Seneschal with the respect which they deserve.

As such, we have been working with and receiving guidance/advice from qualified judges on Court procedure; doing our best to ensure that the foundation stones are in place so that the Court operates on as professional a level as possible going forward.