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ADVOCATES

Tribunals in Guernsey

by Peter Atkinson

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Many people are familiar with attending the Court in Guernsey, even if only for buying a house or making a will. In the past, members of the public would also have gone to Court to resolve a dispute or to pursue an appeal, but times are changing. Now, in several specific matters, claimants will have to appear in front of a tribunal – not the Court – to pursue their claim.

A tribunal is usually created by statute and is a less formal and potentially faster source of justice. Convened at the instance of a Registrar or the Chairman it has the power and authority of a court, and is made up from a panel of people with experience in the particular subject. The Chairman is often either a senior or retired professional with relevant expertise, and sits with two other members.

Traditionally in the Bailiwick of Guernsey, the Royal Court has presided over judicial proceedings and has been the court in which the vast majority of hearings have taken place. But the use of tribunals is set to increase.

The Guernsey Tax Tribunal has been in existence for many years but Guernsey now has two new tribunals. The Employment and Discrimination Tribunal has been created to hear claims in employment matters, and the Planning Tribunal has been established by the new Land Planning and Development Law. This law came into force in April 2009. Previously appeals from decisions of the Environment Department (formerly the IDC) would have gone straight to the Royal Court but now they will first be heard by the Planning Tribunal.

Proposals recently approved by the States of Guernsey for the review of disciplinary proceedings in respect of the Guernsey Bar foresee the creation of another three-member tribunal. This will give members of the public a new course of action if they feel the conduct of their advocate has been unprofessional. Again, there will be a right of appeal to the Royal Court.

The increased use of tribunals in Guernsey is encouraged as it adds to the depth of experience of those who are available in Guernsey to sit in judgement on matters requiring particular expertise.

Clients should not fear appearing before tribunals. They are likely to benefit from the knowledge and expertise which the tribunal brings to the judging of matters. There is always an ultimate right of appeal in the event that the client still feels aggrieved.

In almost every case where a tribunal has been constituted by law, there is a right of appeal to the Royal Court. Persons who disagree with the findings of a tribunal may therefore have the right to appeal upwards to the Royal Court, and in certain cases then to the Guernsey Court of Appeal.

The Royal Court will continue to be the primary forum for legal proceedings in Guernsey, but tribunals will form an important part of the public's right of access to a legal review. The increased use of tribunals is likely as more areas of the law require oversight by experienced practitioners and specialised assessors.

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