

# Legal Review



## CONVEYANCING FEES - ARE THE DAYS OF THE TARIFF NUMBERED?

by Richard Ogier,  
Partner, Collas Day -  
Property Department

The cost of purchasing property in Guernsey often attracts adverse comment. Whilst a significant proportion of the cost is made up of duties payable to the States of Guernsey, the fees paid to Advocates are considered by many to be excessive.

The fees charged are fixed by a tariff (approximately 3/4%) of the price paid for the property, ignoring any amount apportioned to contents sold with the property. The tariff has applied for many decades and has obviously increased the cost to purchasers in line with the increase in property prices generally.

In the modern day, it is generally considered that tariff fees are contrary to the interest of the consumer. However to date, despite occasional airings in the political arena, no direct efforts to end the tariff have been made. It continues to be a rule of professional conduct for advocates that the tariff is charged in the case of the purchase of properties.

Competition legislation has recently been introduced in Jersey. The States of Guernsey are currently considering the position.

One result of the introduction of the legislation in Jersey, has been a unanimous decision by the Jersey Law Society to remove from its Code of Conduct the prohibition against any member undertaking professional work at a fee lower than any relevant scales fixed by the Jersey Royal Court or the Society. Previously conveyancing fees, in identical fashion to Guernsey, had been fixed as a percentage of the property price. Indeed they were higher, being 1% of the price.

The removal of the restrictions on competition in Jersey have provoked discussion as to the likely effect on the amount of fees which will be charged and the impact on the consumer generally. In particular, Advocate Geoffrey Crill has written a very well reasoned article in which he raised the following issues:-

1. Removal of the restrictions is likely to benefit the wealthy, who will undoubtedly pay less in fees for higher value properties, but not the less well-off (and in particular first-time buyers) who may pay more than at present, especially as smaller properties (and in particular flats) can often involve more work than larger properties.
2. Some Advocates firms may opt out of handling all or some residential conveyancing, whilst others may favour an aggressive pricing and marketing policy hoping to benefit from the volume that this attracts and on the basis of improved efficiencies.  
  
Advocate Crill comments that the client may well suffer as a result of the work involved being handled by less competent persons and also having less choice as regards the firms who are willing to undertake the work.
3. The number of lawyers practising in the 'Private Client' area of the law may reduce or disappear completely. This area deals with a variety of matters which are not regarded by many modern entrants to the profession as exciting (e.g. the preparation of Wills, administration of estates, divorces, leases and other property matters).

In view of the similarity of the Guernsey and Jersey systems, it is easy to associate Advocate Crill's comments with the possible effects in Guernsey if the tariff is abolished. In my view, if this were to happen, it would make considerable sense for the system of conveyancing in the Island to be thoroughly reformed so as to become more certain and simpler to operate.

Collas Day | [Advocates](#)

P.O. Box 140, Manor Place,  
St. Peter Port, Guernsey, GY1 4EW.  
Telephone 01481 723191  
Facsimile 01481 711880  
Email: [inbox@collasday.com](mailto:inbox@collasday.com)  
Website: [www.collasday.com](http://www.collasday.com)