

Lasting Powers of Attorney in Guernsey

Briefing Summary: The States of Guernsey have introduced both The Capacity (Bailiwick of Guernsey) Law, 2020 (the "Law") and The Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022 (the "Ordinance"). The Ordinance comes into effect on 1 April 2022 and will permit persons living in Guernsey to create lasting powers of attorney (an "LPA").

Service Area: Trusts and Private Wealth

Location: Guernsey

Created Date: 06 May 2022

The Law and Ordinance must be read together, and introduce two forms of LPA: one for financial affairs (a "**Financial LPA**"), and one for health and welfare (a "**Welfare LPA**"). A principal may appoint one or more attorneys to act jointly or severally (or jointly in respect of some issues and severally in respect of others) for each type of LPA

To create a valid LPA, the principal must:

- be 18 or older, have capacity, and not be acting under any undue influence;
- use a prescribed form issued by the Greffe (LPAs not in prescribed form will be effective if they differ only "immaterially");
- register the form with the Greffe and pay the prescribed fee (£80 for one LPA, £100 for two); and
- appear in person at the Greffe.

The persons who may act as attorneys differ depending on the type of LPA:

- for a Welfare LPA, an individual who has reached the age of 18; or
- for a Financial LPA, an individual who has reached the age of 18 or a person holding a full fiduciary license.

This is a welcome move by the States. Guernsey residents may now for the first time create LPAs as part of their personal and financial planning, offering them the comfort that a trusted person will be able to appropriately manage their affairs during any loss of capacity. The simplified process of registering an LPA is also less time consuming and costly than the former necessity of involving the Royal Court in appointing a guardian or curateur. Overall, this is a significant improvement to local law that should simplify planning and increase peace of mind for local people.

Key Contacts

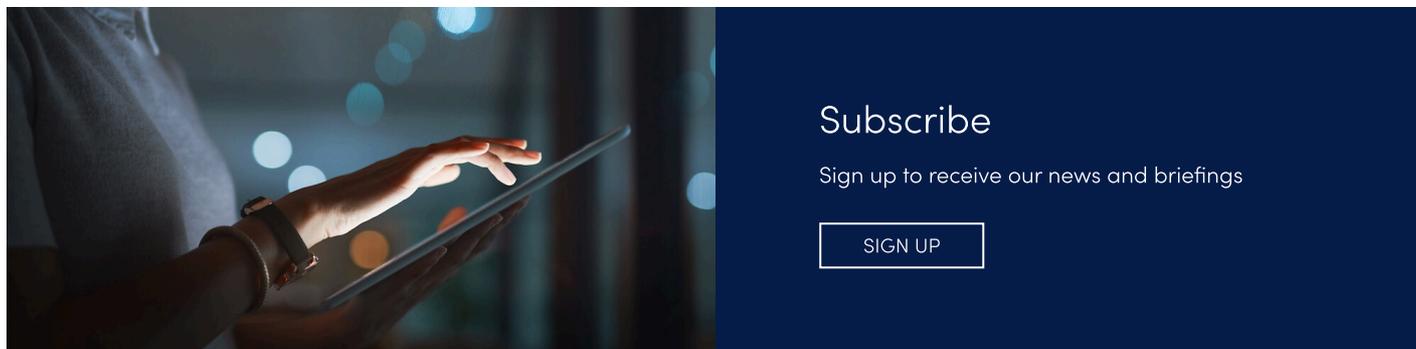


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