

## We recommend

Anyone needing advice or further assistance, before speaking to an advocate, should contact Citizens Advice.

**citizens  
advice**

### **Guernsey Citizens Advice**

Bridge Avenue  
The Bridge  
St Sampsons  
Guernsey CI  
GY2 4QS

Tel - 01481 242266  
[www.cabguernsey.org](http://www.cabguernsey.org)

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## Always here for you

Should you require, a member of the committee is always available at any time to meet you at The Centre or a location of your choice.

For general enquiries and helpline support, phone

**01481 245121**

## Contact us

### **Address:**

The Guernsey Alzheimer's Association LBG,  
The Centre,  
Rue des Monts,  
Delancey,  
St Sampson,  
Guernsey,  
GY2 4HU



**Email:** [info@alzheimers.gg](mailto:info@alzheimers.gg)  
**Website:** [www.alzheimers.gg](http://www.alzheimers.gg)

## Do you need help with a Power of Attorney or Guardianship?

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advice**

This leaflet is produced for  
Citizens Advice by

**Guernsey  
Alzheimer's  
Association**

This leaflet explains the differences under Guernsey law between **Guardianship** and **Power of Attorney**.

### Guardianship (The Curatelle Rules, 1989)

Allows control over a person's affairs when it is deemed that the person is no longer capable of managing them.

- The first stage is to request the patient's Doctor to confirm in writing that in his/her opinion the patient is unable to manage his affairs.
- The family must then agree that one (or two) of them should be nominated as proposed Guardian. The others form a Family Council (normally three members) \*.
- Once the family have all agreed, they should see an Advocate who will explain the responsibilities and other information that they may need as set out in a Guardianship application form.
- The Doctor will then need to swear an Affidavit in front of a Notary Public
- The Guardian and the Family Council must then attend Court and the Family Council is all called upon to confirm they approve the nomination of the Person applying to be Guardian. The Guardian then takes the Oath.

\* Should the Guardian and/or the Family Council not be the closest relative of the patient, it will need to be explained as to why the closest relatives are not applying.

### Powers of Attorney (The Powers of Attorney and Affidavits (Bailiwick of Guernsey) Law 1995)

Allows an individual with mental capacity (the "donor") to confer authority/power on another, or group of others, (the "attorney") to do, on behalf of the donor, anything which the donor could lawfully do himself.

A Power of Attorney may be used, for example, by a donor, who is out of the island for some time, to grant the power to sell his house to an attorney as the donor is to be unable to attend court.

- A Specific Power of Attorney states one or more specific functions which can be carried out on the donor's behalf.
- A General Power of Attorney gives, as it states, general powers to carry out any functions on the donor's behalf.
- A donor must have the mental capacity to be able to confer the power, or powers, on the attorney. (This is unlike the situation regarding Guardianship where a guardian is appointed to manage the affairs of an individual who is mentally incapable of doing so himself).
- Once a donor becomes mentally incapable the Power of attorney will lapse under Guernsey Law.

- A Power of attorney can be revoked by the donor at any time.
- A Power of Attorney must be sworn in accordance with the terms of the Power of Attorney and Affidavits (Bailiwick of Guernsey) Law 1995.
- Enduring Powers of Attorney cannot currently be created under Guernsey law however they may be recognised by the Royal Court of Guernsey if certain conditions are met. This does involve an application to the Royal Court of Guernsey.
- The grant of any Power of Attorney should only be considered after receiving appropriate legal advice.

#### Note:

The corresponding laws in Jersey and the UK differ to the Bailiwick of Guernsey laws.

The information contained in this leaflet has been verified by an Advocate of the Royal Court of Guernsey - October 2015