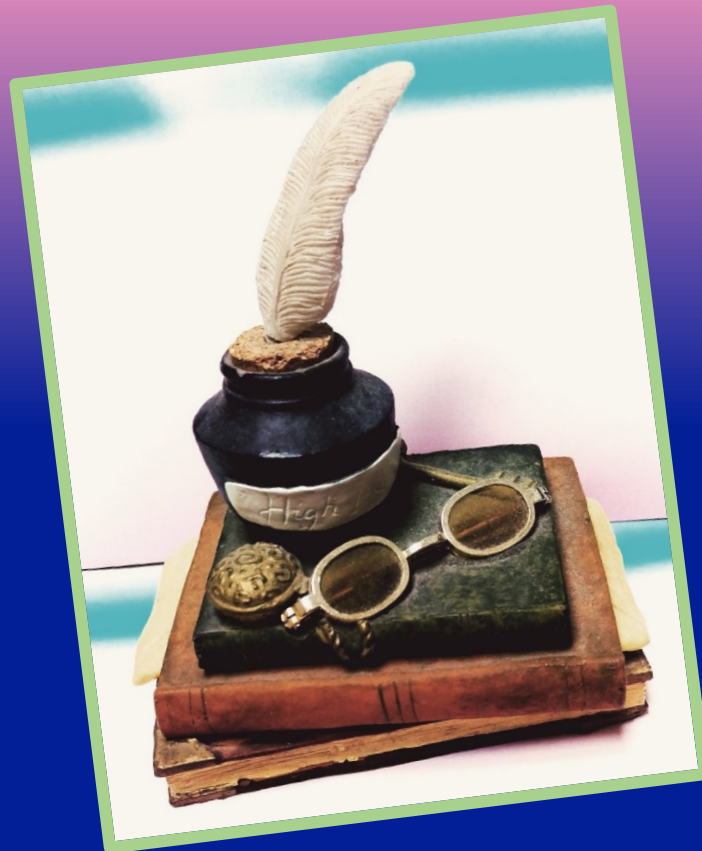
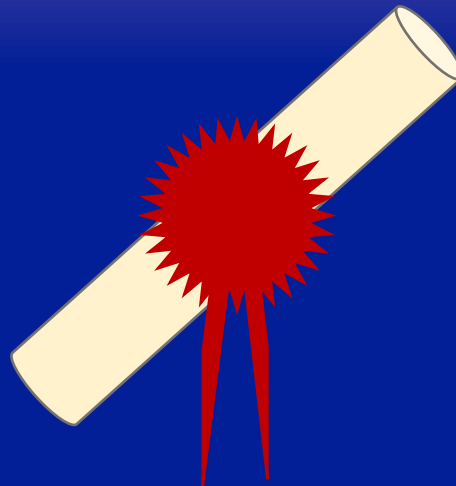


Family Forward Planning



Thinking About the Future?

There is now in Gibraltar a new law in force which enables people to plan ahead in relation to their health and personal welfare and/or their property and financial affairs, should they ever lack the capacity to make these decisions in future.

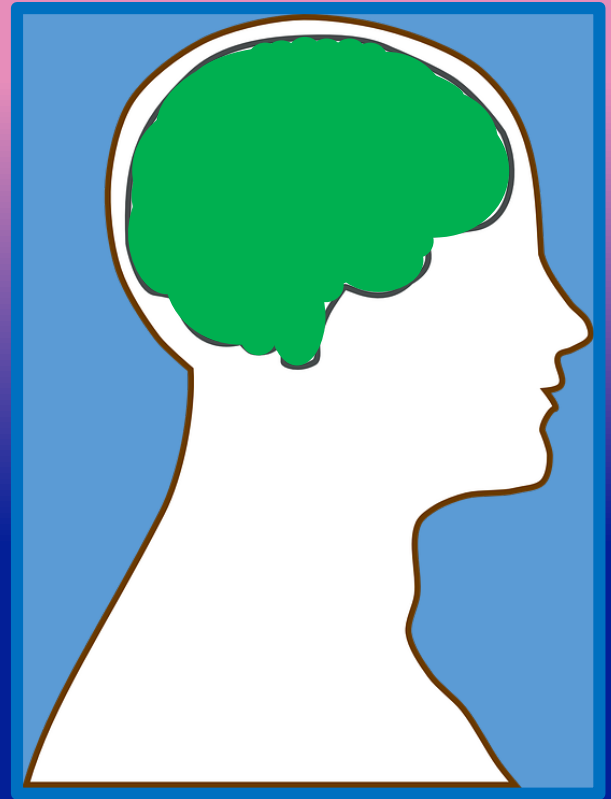


Lasting Power of Attorney

- The provisions of the Lasting Powers of Attorney and Capacity Act 2018 establishes and makes provision relating to persons who believe that at some point in the future they may lack capacity to manage their health and welfare, and/or property and financial affairs.
 - It allows such persons to give authority to one or more individuals jointly to make certain decisions on their behalf, and provides for the creation and registration of lasting powers of attorney. The powers which the person will be provided with will be clearly set out in a legally binding document, which must be signed by the person who is giving the power in the presence of two or more witnesses.
- You must be aged 18 years or over to create a lasting power of attorney. Likewise, the person who is granted the power must be aged 18 years or over.

Advance Decisions to Refuse Treatment

- A person who is aged 16 years or over and has capacity to make the decision in question regarding treatment may make an 'advance decision' regarding future treatment.
- In this instance, the person would specify that certain treatment is not to be carried out or continued by the person who is providing healthcare, in the event that the person in question lacks capacity in future to consent to/refuse medical treatment.



Who Lacks Capacity

A person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.

A person is assumed to have capacity unless the contrary is shown.



Thinking Ahead – Making a Will

When you make a Will, you are deciding who should inherit your property. The Will sets out the persons who you want to become the beneficiaries of your Will and name the Executor as the person responsible to manage your estate and ensure that your wishes are carried out after your death.



Legality of the Will

So that a Will is legally valid, you need to ensure that :-

- It is made in writing
- Signed in the presence of two witnesses
- The person making it is of sound mind and is not a minor
- It is made on a voluntary basis
- The witnesses are not beneficiaries of the Will



Any changes to a Will can be made by a codicil which will have to be executed in the same manner as the Will in the presence of two witnesses. In cases where the Will is to be substantially amended, a new Will should be made revoking all former Wills and Testamentary dispositions.

Probate

Upon the death of the testator, the Executor must apply to the Supreme Court of Gibraltar in order to obtain a Grant of Probate of the Will which names the Executor as the person appointed to manage the estate of the deceased. The Executor will ensure that the estate is distributed in accordance with the wishes of the deceased as set out in the Will. There is no inheritance tax payable in Gibraltar so the estate can be distributed free of any estate duty liability.



Contact Us

Attias & Levy is one of the leading law firms in Gibraltar. We have a dedicated team who attend to your every need and ensure that all transactions are carried out quickly, efficiently and effectively.

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