



THE OFFICE OF THE
**Data Protection
Authority**

The Data Protection (Bailiwick of Guernsey) Law, 2017
("the Law")

Established in the Bailiwick

This guidance note intends to help you understand whether you are 'established' in the Bailiwick of Guernsey for the purposes of the Law. This is because entities that are established within the Bailiwick are required to register with the ODPa.

The term established in the Bailiwick is defined in section 111 of the Law. An entity is established in the Bailiwick of Guernsey if it is a controller, processor or other person (including legal person) that:

- ✓ is a **Guernsey** person, **Alderney** person or **Sark** person,
- ✓ maintains in the Bailiwick:
 - (i) an **office, branch or agency** through which the person carries on an activity, or
 - (ii) a **regular practice**,
- ✓ causes or permits any processing equipment in the Bailiwick to be used for processing personal data **otherwise than for the purposes of transit** through the Bailiwick, or
- ✓ is engaging in effective and real processing activities through **stable arrangements** in the Bailiwick,

It is recognised that there may be circumstances where a controller or processor that does not usually process personal data in the Bailiwick may be captured by the above definition. An example of this might be a UK-based consultant who makes occasional visits to Bailiwick clients. To require registration in such circumstances would be excessive.

Therefore the *Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020* contains an exemption (regulation B1 - 'Exemptions from registration') that states that an entity acting as a controller or processor does not have to register with the ODPa if it is only processing personal data 'occasionally'.

Taking the UK consultant visiting the Bailiwick as an example, provided these visits are genuinely occasional, and not as part of any stable processing arrangements within the Bailiwick, the consultant would not need to register with the ODPa.