

Press Release

Date: 12th June 2020

New ‘Capacity Law’ approved by States of Alderney

A new Bailiwick law to support people who lack the capacity to make crucial decisions, or who wish to plan for the eventuality, has been approved by the States of Alderney and passed to the Privy Council for Royal Assent.

The draft Capacity Law introduces Lasting Powers of Attorney, allowing a person to nominate one or more people to act on their behalf in matters of property, finance, health and welfare, and covers several key aspects of caring for vulnerable people including:

- A statutory test to decide whether a person has the mental capacity to make important decisions.
- How best to help a person who refuses medical treatment or social care.
- A Protective Authorisation Scheme in compliance with the European Convention on Human Rights that allows the detention of people who lack capacity, overseen by a Capacity Professional.
- The appointment of independent Capacity Representatives to support those who lack capacity and do not have family or friends to help them.
- The provision of legal aid to those appealing against compulsory and other related decisions.

The Mental Health Review Tribunal will be renamed the Mental Health and Capacity Review Tribunal (MHCRT) to take account of the expanded remit to hear appeals brought forward under Capacity Law.

A Code of Practice will ensure the best interests of everyone who may be assessed to lack capacity. They will be assumed to have capacity unless it is established that they lack capacity, and a person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success.

James Dent, Chairman of Alderney’s Policy & Finance Committee noted that he had for some time been advocating and supporting this legislation and it was “an important element in wider moves to address the inadequacies in how we have been dealing with disability and inclusion.”

The full details can be read in the attached document as presented to Guernsey’s Committee for Health & Social Care and the States of Alderney.

<http://www.alderney.gov.gg/CHttpHandler.ashx?id=125964&p=0>

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