

Lasting powers of attorney set to be introduced in the Bailiwick

May 2020

Clients often ask whether they are able to put in place a lasting power of attorney so that chosen individuals could manage their affairs for them, should they become unable to do so. For a number of years the Bailiwick of Guernsey has been looking to update its legislation to ensure that individuals are empowered to make decisions about their own lives and, where possible, to allow them to plan for the future.

Guernsey's law has taken a significant step forward recently with the approval by the States of Guernsey of draft legislation to allow individuals to make lasting powers of attorney both in relation to health and welfare, and also property and financial affairs – [The Capacity \(Bailiwick of Guernsey\) Law, 2020](#).

These powers of attorney will enable individuals to nominate a person or persons of their choice, over the age of 18 (or additionally, in cases of property and financial affairs, those holding full fiduciary licences) to act in relation to their affairs, alone or jointly with another individual, and are likely to be hugely welcomed by the general public and business community.

Of additional interest to some will also be the ability to make Advance Medical Directives, commonly known as Living Wills. These documents will allow an individual who is able to make decisions about their own affairs to put in place a declaration that they do not wish to receive specified medical treatment, should they no longer have the capacity at the point of treatment to express their wishes.

Individuals will also be able to put in place Advanced Care Plans to outline what treatment or care they wish to receive if or when they lose capacity, how that treatment or care is delivered, and could even include wishes and preferences for end-of-life arrangements including funeral planning.

Independent Capacity Representatives can also be appointed to assist individuals who lack capacity and challenge decisions made on their behalf. Furthermore, Protective Authorisation Schemes will be available to ensure that individuals who lack capacity remain in safe environments for their treatment and care and there will also be a potential power for the States to make safeguarding provisions for vulnerable individuals over the age of 18.

This new law, once introduced, will be a welcome addition to many. There is no timeframe yet for when it will come into effect however it is deemed priority legislation and therefore we would anticipate this to be sooner rather than later.

Our team at Collas Crill is poised and ready to assist you in relation to any queries that you may have and to guide you through the process. If you would like to discuss these matters further, or should any corporate clients have interest in online presentations on the law, please get in touch with Joanne Seal or Stephanie Setters in our international private client team.

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