

# Jersey's new Capacity and Self-Determination Law will make much needed improvements, says Ogier probate specialist

Islanders are being encouraged to take part in a new consultation on a draft law in Jersey that will safeguard the dignity and wellbeing of people who may not have the capacity to make decisions for themselves.

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 [Julie M.jpg](#)

The new Capacity and Self-Determination Law will replace Jersey's customary laws on curatorship and make much needed improvements, says Ogier's head of probate, partner Julie Melia.

She said: "As well as having a focus on people who no longer have the capacity to make decisions, the aim of the new law is to also enable those who have not yet lost capacity to plan for the future.

"If implemented, the new law will create a scheme of legal principles and safeguards governing decisions made by and on behalf of persons who lack capacity to make such decisions themselves."

A person's capacity to make decisions may be impaired, whether temporarily or permanently, by mental health problems, a stroke, head injuries or dementia.

"The fundamental premise is that we are all assumed to have capacity unless otherwise shown, and cannot be treated as being unable to make a decision unless all practicable steps to assist have been taken unsuccessfully," said Julie.

It is made clear that all acts done, or decisions made on behalf of a person who lacks capacity, must be done or made in that person's best interests.

New provisions would be introduced to entitle anyone aged 16 years or over, with capacity, to make advance decisions to refuse treatment.

It would also be possible to grant a lasting power of attorney providing for matters of health and personal welfare, or property and affairs, giving people the comfort of knowing that they will have a say in their care and treatment where they are not able to express their wishes at the time.

The consultation is now open, with public meetings taking place this month. Anyone wishing to comment on the draft Law has until 13 November 2015 to do so.

Go to <http://www.gov.je/Government/Consultations/Pages/CapacitySelfDeterminatonLaw.aspx> for details on how to take part in the consultation.

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