



PRESS RELEASE

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People to Have More Control over their Future Care

- *Individuals to have greater control over personal decisions when they no longer have the mental capacity to make them.*
- *New right to refuse medical treatment in advance.*
- *Guidance for professionals on how to act in a person's best interests once they have lost capacity.*

Her Majesty's Government of Gibraltar introduced a Lasting Powers of Attorney and Capacity Bill. On Friday 16th February, the Bill was passed unanimously by Parliament. Once the law is commenced, it will provide individuals with the confidence that their wishes will be reflected and protected, should they lose the mental capacity to be able to make decisions at a future time.

The Act will:

- enable anyone over 18 years of age, whilst they still have mental capacity, to appoint a trusted person to make decisions on their behalf at a time in the future when they may no longer have capacity – Lasting Power of Attorney;
- allow a person, whilst they still have mental capacity, to express their preference to refuse specific medical treatment if, at the time in the future when that treatment is to be given, the person has lost capacity to consent to it;
- give statutory guidance to professionals as to how to administer and care for those who no longer have capacity;
- introduce safeguards, on when and for how long, those with mental health conditions, such as, autistic spectrum conditions, dementia, personality disorders and old age, their liberty can be restricted. There are now procedural rules, criteria, limits of time and the requirement of continuing clinical assessments, to protect the citizen against the possibility of arbitrary restrictions of liberty in the specific cases where a significant restriction of liberty may be in the person's best interests;

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- introduce independent capacity advocates, who support people who cannot make or understand decisions, by stating their views and preferences; and
- amend the Medical (Gibraltar Health Authority) Act 1987, to include the power to charge for residential services for the elderly.

A person will now be able to record a statement of their wishes - either financial or health-related - which is registered at the Supreme Court Registry. If capacity is lost in future, the attorney appointed under that document, will have the authority to act. A lasting power of attorney can cover decisions about day-to-day things like what to wear or what to buy, or serious life-changing decisions, like whether to move into a care home or have major surgery.

New criminal offences have been created to deter attorneys from intentionally or recklessly ill-treating or neglecting a person for whom they have been appointed to act in the best interests.

The Minister for Health, Care and Justice, the Honourable Mr Neil F Costa MP, said: “Persons living, amongst other things, with mental disorders, who no longer have the mental capacity to express their wishes, should be able to receive such care and treatment as they need *and want*. It is this second part which is so crucial. A person has the right to choose what may be done with their body or their mind in the event that they lose their mental capacity in the future. The Act is recognition of a person’s autonomy and their right to make choices and be protected.”