

Time for Islanders to use new law to record wishes about assets and care

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January is the traditional time of year for writing or updating your will, but Islanders should also consider a Lasting Power of Attorney (LPA) to record their wishes about their assets and personal care should they lose mental capacity.

That's the view of lawyer Simon Lofthouse from Ogier's Jersey Private Client & Trusts team, who says that since the law enabling LPAs came into force in October, many Islanders have taken the opportunity to put in place LPAs to ensure that their wishes are respected if for whatever reason they are unable to make decisions for themselves in the future.

An LPA enables you to appoint a loved one, trusted friend or a professional as your attorney, to make decisions on your behalf regarding your property and financial affairs and your health and welfare in case you should ever lose capacity – including advance decisions to refuse medical treatment.

Simon, who advised on LPAs in the UK for several years before moving to Jersey, said that the welcome introduction of the new law finally allows Islanders to safeguard themselves and their loved ones against the uncertainty and legal upheaval that can be caused by the loss of capacity.

Although an LPA can be a simple document, Simon urges caution and strongly recommends that anyone considering an LPA should first obtain legal advice on the full effect of an LPA, and what restrictions, instructions or guidance you might wish to include in your LPA.

LPAs can be widely drafted to cover situations including the sale of your home, end of life treatment or moving into care.

Appointing an attorney under an LPA is an onerous step so care should be taken when choosing your attorney.

Simon said: "People should consider reviewing their wills every few years, especially after a change in family circumstances or the purchase or sale of property assets – and now that the new law is in effect, it makes sense to consider LPAs alongside your wills as part of your estate planning.

"LPAs allow you to plan ahead for when you are at your most vulnerable, preventing legal headaches by deciding now who should make decisions on your behalf when you can no longer do so. In my experience, LPAs can often be a comfort by helping relieve some of the emotional burden from your family and loved ones who may be faced with making very difficult decisions at an already fraught time.

"Because it relates so closely to the process for making or updating a will, we advise clients who are thinking about their wills at this time of the year to also consider putting in place LPAs for peace of mind and comprehensive estate planning."

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