

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY J.M. MACON OF ST. SAVIOUR
ANSWER TO BE TABLED ON TUESDAY 10TH OCTOBER 2017**

Question

Under Jersey law, what is the status of living wills and what significance, if any, do the Island's courts give to living wills?

Answer

The law on the subject is set out in the decision of the Royal Court in *Attorney General v X* (2004 JLR 1). In that case the Royal Court upheld the right of a legally competent adult to give an advance directive refusing certain treatment, which would be effective both while he or she maintained the necessary mental capacity and after he or she had lost that capacity. For a living will to be legally binding the individual must have had mental capacity when he or she made it, have envisaged the type of situation that has subsequently arisen, and have understood the consequences of the decision.

Further, Part 3 of the Capacity and Self-Determination (Jersey) Law 2016 (the "2016 Law"), which is to be implemented in 2018, will provide a statutory foundation for advance decisions to refuse treatment ("ADRT"). The 2016 Law will enable persons aged 16 or more to make a decision in advance to refuse treatment if they should lose capacity to give or refuse consent in the future. The effect of a valid ADRT will be the same as a decision made by a person with capacity to refuse treatment, so that medical professionals will be required to act in accordance with it.