

## Capacity and Liberty Assessor Appointment

26 November 2018

### **Purpose**

The purpose of this briefing paper is to advise on the role of the Capacity and Liberty Assessor.

### **Background**

Assessments of Significant Restriction on Liberty are a robust process to allow the Minister to proportionately and justifiably restrict the Article 5 ECHR rights of persons lacking capacity. The appointment of a Capacity and Liberty Assessor, the assessment process and the assessment must be undertaken to an extremely high standard to ensure that the Minister can be confident that any restrictions are proportionate and necessary, and as such lawful.

The Capacity and Self-Determination (Capacity and Liberty – Assessors) (Jersey) Regulations 2018 ensure rigour in selecting Capacity and Liberty Assessors to ensure any external scrutiny of their appointment and function will be transparent, accountable and robust. Jersey has undertaken considerable research to ensure that lessons are learnt from the mistakes made in implementation of the Deprivation of Liberty Safeguards under the UK's Mental Capacity Act 2005, and to ensure that the Jersey model of Significant Restrictions on Liberty are a fit for purpose and ECHR compliant system.

Presently, the Minister designates Capacity and Liberty Assessors by Order via Article 40 of the Capacity and Self-Determination (Jersey) Law 2016. Capacity and Liberty Assessors are designated from registered persons in order that the Minister can be satisfied in terms of the nature and level of professional qualification required for the role.

### **Recommendations**

1. Lisa Chapman (locum) is a UK Best Interest Assessor and is a registered person in terms of the Health Care (Registration) (Jersey) Law 1995 – registration number 5020. Ms Chapman is employed by the States of Jersey to carry out Capacity and Liberty Assessments as part of her duties. In order for her to commence this work, she must be designated as a Capacity and Liberty Assessor.