



# Collas Crill calls for change to Jersey's succession law

November 2015

**An independent report commissioned by Collas Crill has found that Jersey's succession law, relating to the ability of physically disabled people to make wills, contradicts the European Convention of Human Rights (ECHR).**

Collas Crill commissioned the report after acting on behalf of the late Anthony Yves Le Couilliard, who developed paralysis of the hands due to a cancerous tumour and lost his ability to write.

Due to Mr Le Couilliard's condition he instructed an independent party to sign the will on his behalf, which is standard practice in such circumstances in many other jurisdictions including Guernsey and England. This being the first case of its kind in Jersey, there were no local guidelines to follow. The Court found that without further court applications it was unable to accept that the will was valid and therefore the Court declared that he died intestate (without having made a will). The Court noted that it was a matter for the States of Jersey legislative panel, and not the Court, to change the law of the Island.

The report, undertaken by Meryl Thomas, a Visiting Professor at the Jersey Institute of Law, found that most jurisdictions which abide to the ECHR provide other ways for those who are unable to sign their name to make a will and that there was no legitimate reason for Jersey's law to take a contradictory approach.

Nuno Santos-Costa, managing partner of Collas Crill in Jersey, said: "*The circumstances surrounding Mr Le Couilliard's case are incredibly sad. To say that, under Jersey law, a person who has full mental capacity but yet due to a medical condition is unable to sign his/her name is barred from making a will is not in line with modern legal thinking and, as highlighted by the report, the approach of Jersey is contrary to the modern approach of the jurisdictions which abide to the ECHR. It is incredible to think that if Professor Stephen Hawking was a Jersey domiciled individual, he would be unable to make a valid will.*

*"I hope that by submitting this report to the States of Jersey Legislative Panel, the States will consider it prudent to amend the law thereby allowing residents who find themselves in a similar position to that of Mr Le Couilliard, the right to leave a will in respect of their estate."*

Mr Le Couilliard's widow, Nicki Le Couilliard, also hopes that the States of Jersey will amend the law so that other physically disabled individuals and their families do not have to deal with the same problems her family faced.

*"When Tony was first diagnosed with a tumour he never believed he wouldn't survive it. When a nurse asked Tony "Have you made a will?" he was horrified someone would even suggest such a thing.*

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*"As time went on and Tony became more unwell, the subject of a will was mentioned again. Sadly, by the time Tony decided it was right to make a will, he had lost all use of his hands. Nevertheless Tony had a will drawn up in accordance with his wishes.*

*"I know that Tony would want me to continue the fight for the right for men and women like him who, for whatever reason, cannot hold a pen to be allowed to make a will under Jersey law and to have their last wishes adhered to just like every other able-bodied person", she said.*

Ray Cooper, Chief Executive of local brain injury charity Headway, said: *"Headway Jersey strongly supports the initiative taken by Collas Crill and Mrs Le Couilliard in seeking a change to the law in this connection. The charity deals with many difficult and emotional cases and everything that can be done to make situations as stress free as possible should be done. We hope that a change can be put in place as soon as possible."*

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