

Life sustaining treatment

Specific rules apply to advance decisions for life sustaining treatment



- Decisions must be put in writing. If the person is unable to write, someone else should write it down for them.
- The person must sign the advance decision. If they are unable to sign, they can direct someone to sign on their behalf in their presence.
- The person making the decision must sign in the presence of a witness to the signature. The witness must then sign the document in the presence of the person making the advance decision. If the person making the advance decision is unable to sign, the witness can witness them directing someone else to sign on their behalf. The witness must then sign to indicate that they have witnessed the nominated person signing the document in front of the person making the advance decision.
- The advanced decision must include a clear, specific written statement from the person making the advance decision that the advance decision is to apply to the specific treatment even if life is at risk.
- If this statement is made at a different time or in a separate document to the advance decision, the person making the advance decision (or someone they have directed to sign) must sign it in the presence of a witness, who must also sign it.

Life-sustaining treatment is treatment which a healthcare professional who is providing care to the person regards as necessary to sustain life.

For further information regarding our training courses, workshops and consultancy please contact us via one of the following methods.

Empowerment Matters

Liscard Business Centre
The Old School
188 Liscard Road
Merseyside CH44 5TN

Tel: 0151 2035714

Email & Phone

info@empowermentmatters.co.uk



Empowerment Matters



@EmpowermentMatt

Mental Capacity Act Information Sheet 2



ADVANCE DECISION TO REFUSE TREATMENT

The Mental Capacity Act 2005 was implemented by parliament in 2007 and is a vitally important piece of legislation for England and Wales. Applying to all people over the age of 16 it offers the opportunity to plan ahead as to how decisions should be made about you if you ever lose the capacity to decide how you would want to be cared for or make decisions about medical treatment. It also provides a framework and a safeguard for anyone who is currently unable to make decisions for themselves for a number of reasons to ensure they are at the heart of decision making when decisions are being made on their behalf. Certain professionals are legally required to abide by it including doctors, nurses, paid carers, dentists to name a few.

This information sheet is for you to understand what an advance decision is and how you can make your wishes known about future medical treatment as well as the limits of this.

It also gives guidance and information about your responsibilities if you are working within the framework of the Act and providing care, treatment or services for a person that lacks capacity and you are made aware that an advance decision exists.

In this leaflet:

- What an Advance Decision is and how to make one
- What rights does person's next of kin have?

What is an advance decision?

It is a general principle of law and medical practice that people have a right to consent to or refuse treatment. The courts have recognised that adults have the right to say in advance that they want to refuse treatment should they lose capacity in the future – even if this results in their death. An advance decision is a written or verbal statement that enables someone aged 18 and over, while still capable, to refuse specified medical treatment for a time in the future when they may lack the capacity to consent to or refuse that treatment. An advance decision does not afford the right to request certain treatment only to refuse it.

An advance decision is viewed as a contemporaneous decision i.e. regardless of when it was made it is taken as the person's decision at the time it needs to be made. Someone may wish to make an advance decision because they have an existing medical condition and wish to plan for future treatment should they lose the ability to make their own decisions. Others may have specific views on treatment they don't wish to have.

- To make an advance decision you must state precisely what treatment you wish to refuse.
- It may help to give some detail of circumstances or when you would not want it to be considered i.e. if those circumstances changed (for example a woman who became pregnant may not wish the decision to be considered at that point).
- There is no requirement for an advance decision to be written (unless it is refusing life sustaining treatment) but it may be helpful if you do write it that you include your name, date of birth, address, GP details as well as sign it. You may also wish to ensure close friends or family know about its existence or ask your GP to keep a record of it.
- Advance decisions can be verbal statements to close friends, family or medical professionals but it may be useful to ask for someone to record these for example your GP in order for medical staff to know this is your decision.
- You may wish to speak to a lawyer or medical professional for further guidance to ensure your wishes are understood as you intended.

Checklist of considerations

Next of kin status

When a person is admitted to hospital they provide details of their next of kin, the person to be contacted in case of an emergency. This can be anyone and is a personal choice. The term next of kin however has no legal standing other than affording that person the right that their next of kin is contacted. Someone may nominate a next of kin although no longer have a relationship with the person but would wish him or her to be informed of an emergency situation. Nobody can consent to treatment on behalf of another adult. The final decision for a person who lacks capacity to make a decision is always made by the person responsible for providing the treatment, unless the person has formally nominated an Attorney*

Valid and applicable stipulation

An advance decision to refuse treatment must be valid and applicable to current circumstances. If it is, it has the same effect as a decision that is made by a person with capacity: healthcare professionals must follow the decision.

Before healthcare professionals can apply an advance decision, there must be proof that the decision:

- exists, is valid and is applicable in the current circumstances.
- an advance decision refusing all treatment in any situation (for example, where a person explains that their decision is based on their religion or personal beliefs) may be valid and applicable.

Protection from liability

Healthcare professionals will be protected from liability if they:

- stop or withhold treatment because they reasonably believe an advance decision exists, and that it is valid and applicable.
- treat a person because, having taken all practical and appropriate steps to find out if the person has made an advance decision to refuse treatment, they do not know or are not satisfied that a valid and applicable advance decision exists

Recording patients views

Healthcare professionals should record a patient's statement of any refusal for treatment outlining the circumstances and specific treatment refusal as well as recording how they know this information and if there were any witnesses, to ensure there is a written record of the advanced decision.