



## Advanced medical decisions

An advance medical decision, often referred to as an 'advance directive' or 'living will', is a written statement of your wishes about medical treatment if you become terminally ill or incapacitated. An advance medical decision allows people to refuse specified treatment in specified circumstances. As an example it could be used if you were in a coma or had an illness in which life is nearing an end and there is no likelihood of recovery. You cannot however specify treatment you would like to receive in an advanced medical decision and it is restricted to refusal of treatment only.

You are completely free to refuse life sustaining treatment in an advanced medical decision; however, you must have the mental capacity to make that decision. The Mental Capacity Act 2005 gives clear legal status to advance medical decisions, which means that health professionals must follow them, if they are valid and applicable to the specified treatment and circumstances.

It is important that an advance medical decision is well drafted so it is valid. It needs to specify the type of treatment you wish to refuse and give clear detail of the circumstances when it would apply. You should discuss your wishes with your immediate family. The document is not intended to be a substitute for discussion with medical staff and it is always recommended that you talk fully with your doctor about your treatment. An advance medical decision does not ask a doctor to do anything against existing law, but it is useful when decisions have to be made on prolonging an individual's life.

It allows a decision to be made in advance of being unconscious or mentally incapacitated and unable to communicate your wishes at the time.

An advance medical decision will be valid if: -

- You have the mental capacity to make the decision to refuse treatment;
- Your refusal was intended to apply in the kind of situation which later arose;
- You understood fully the consequences of such decision in that kind of situation and,
- There was no undue influence made by anyone else on your decision to make the advance medical decision.

If you change your mind at a later date, an advance medical decision is not final and irrevocable and can therefore be changed by telling your doctor. However, it is sensible to destroy the document and all copies of it and prepare a cancellation statement.

Wards advise that you discuss the document with your GP and ensure regular review. Wards will help you with regular review of your advance medical decision.

The document gives some clients peace of mind that at a time when there is no prospect of recovery or having a return of quality of life, they will be kept comfortable but not be given treatment that would prolong their life. Take our advice about how the Advance Decision could impact on your Health and Welfare Lasting Power of Attorney as you must ensure the two documents dovetail and your wishes are protected.

### Disclaimer

This Fact Sheet has been prepared to provide you with basic information about advance medical decisions. It is not to be treated as a substitute for getting full and specific advice from Wards Solicitors.

Please contact Jenny Pierce the Head of our Wills, Trusts and Mental Capacity Team in the first instance.

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