

Advance Decision to Refuse Treatment

Patient Information Leaflet

What is an advance decision?

An **advance decision** allows a person over the age of 18 to refuse a specific treatment in the future when they lack the capacity to consent to, or refuse, that treatment.

The law acknowledges that people have the right to consent to or refuse treatment. This may be done in advance, even if this results in death, **as long as they have capacity to make the decision at the time it is being made.**

Under the Mental Capacity Act 2005, a valid and applicable advance decision has the same effect as a decision that is made at the time by a person who has capacity.

For an advance decision to refuse treatment to be valid, health professionals must try to establish if:

- The patient has done anything since making the advance decision that would clearly suggest that they no longer agree with the advance decision.
- The patient has withdrawn the advance decision.
- Power has been given to an attorney to make the same treatment decision as covered in the advance decision.
- The patient would have changed their mind if they had known more about the current circumstances.

Advance decisions to refuse treatment for mental disorder may not be valid if the patient is, or may be, detained under the Mental Health Act 1983.

For an advance decision to refuse **life sustaining treatment** to apply, the patient must no longer have capacity to make the decision for themselves. The advance decision must also:

- State exactly what treatment is to be refused.
- Set out the circumstances when the refusal should apply.
- State that the refusal is to apply even if there is a risk to life.
- Be in writing.
- Be signed by the patient refusing the treatment, or by another person in the patient's presence and by their direction.
- The signature must be witnessed and signed in the presence of the patient.

An advance decision which is not in relation to life sustaining treatment, does not need to be in writing to be legally binding. However, this is still good practice.

The Court of Protection may be asked to decide whether the advance decision exists, is valid or applicable to the current situation, if the advance decision is called into question.

While a decision is being made by the court, life sustaining treatment or treatment necessary to prevent a patient's deterioration may still be provided.

Advance decisions can only be made to refuse treatment; not to demand a treatment choice. However, you can state what your treatment preferences would be, and this must be taken into consideration by health professionals when deciding what would be in your best interests.

It is strongly advised that if you wish to make an advance decision to refuse treatment that you seek advice from the health professionals involved in your care and treatment. This may be your GP, psychiatrist or consultant.

You may want to seek legal advice.

Once your advance decision to refuse treatment is made, you may want to consider whether it should be added to your medical notes and how people involved in your healthcare will be informed of it. You may want to tell friends, family or carers that it exists and where it can be found.

An advance decision to refuse treatment may be withdrawn or altered at any time either in writing or verbally. It is important that you let anyone who knows about your advance decision of any changes.

You are advised to review your advance decision regularly as treatments and circumstances change over time.

Please make sure you keep a copy of your advance decision to refuse treatment for your records. You may find it useful to make trusted friends and family aware of your decision.

ADVANCE DECISION TO REFUSE TREATMENT

Name:

Address:

Telephone:

Email:

Date of birth:

Do you have any distinguishing features that could be used to identify you in event of unconsciousness?

Name of GP:

Address of GP:

Telephone:

Does the GP have a copy of your advance decision to refuse treatment?

YES

NO

DECLARATION

By signing this form I am not refusing my rights to receive basic care or essential care. This advance decision has been made and signed by me, or nominated person under my direction. I understand that my life may be at risk from refusing treatment.

.....
This document must be signed in the presence of a witness if it contains a refusal of treatment that may result in death.

Patient signature

.....
Nominee:

Printed name:

Date:

Witness signature

.....
Printed name:

Address:

Telephone:

Date:

Relationship to patient:

Detailed instruction

Please write here a clear statement of the decision you would like to make. *E.g. ventilation or cardio pulmonary resuscitation.*

Consider:

- What treatment(s) is to be refused?
- Under what circumstances is this treatment(s) to be refused?
- Why you do not want this treatment(s)?
- Is the treatment you want to refuse potentially life-saving?
- Have you talked with your doctor about your medical history and the implications of refusing treatment(s)?

Detailed instruction

Please use an additional sheet of paper if necessary