



Factsheet

Advance Decision

Many of us have strong feelings about donating our organs, but have you thought about what should happen if you became so ill that you were unable to consent to or refuse medical treatment?

The British Medical Association agrees that, if you expressed your wishes in advance, these should be considered when deciding long-term treatment or care. Consider how you feel about life-support machines. What would you want if you were in a coma?

An Advance Decision (also known as a Living Will or an Advance Refusal of Treatment) is a set of instructions which documents a person's wishes regarding the medical care they receive should they be unable to make decisions or communicate them. The introduction of the Mental Capacity Act 2005 in April 2007 now means that Advance Decisions are recognised in law. The Act sets out the statement that everyone has the capacity unless proved otherwise. Doctors and other healthcare workers must take these wishes (advance statements) into account.

Normally, treatment can only be given by doctors and health professionals with your consent. If you are unable to give consent, they treat you according to your 'best interests'. The courts have confirmed that if you set out your wishes in advance, they will be valid at the time treatment is required, even if you have become incapable of giving consent.

The Advance Decision is your instruction to the doctor who might be treating you in the future. These instructions cannot be ignored unless

- The Advance Decision does not apply to the particular situation
- The Advance Decision is unclear

The Advance Decision only refers to the refusal of medical treatment. In England and Wales an advance refusal of treatment is binding as long as:

- You are an adult over 18 years
- You made the refusal when you were mentally capable of making the decision.
- You meant your Advance Decision to apply in the kind of situation which later arose and you understood the consequences of your decision
- It was your decision and not influenced by anyone else



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Iron gran's life and last moments

By Sophie Radice

An Advance Decision cannot authorize the doctor to do anything unlawful such as practice euthanasia or act against their clinical judgment. The Advance Decision must not include a refusal of basic care for example, the management of cleanliness, the provision of nutrition, hydration or pain relief.

Putting your wishes into an Advance Decision can relieve some of the responsibility for making decisions from your family, friends and health care practitioners.

The British Medical Association has issued a statement supporting the use of Advance Decisions and directed doctors to take their patients wishes into consideration. They must not give patients any treatment they have refused.

It is important that your Advance Decision is entered into your medical notes, so that it is seen should there be an emergency. Your General Practitioner should have a copy and also one should be sent to any hospital that is treating you. Another copy should be given to someone who may be consulted over your treatment, such as your next of kin.

An Advance Decision needs to be drafted carefully and must be obvious what treatment you are refusing or consenting to have and in what circumstances.

There should be a statement included in the document to the effect that you understand what you are doing and have the legal capacity to make such a directive. It is advisable to give the reasons for your Advance Decision so that there can be no question as to your competency to make the directive or have not based your decision on incorrect information. You should state:

- What you know about the treatment to which you are consenting or refusing
- Your belief about why that treatment has been given in the past or may be given in the future
- The reason why you are making the decision now

Your Advance Decision will only come into force when you are unable to make decisions about your care. Until that time, you can make your decisions without reference to any Advance Decision.

The wishes stated in an Advance Decision are not final and you can change them at any time while you are mentally capable of doing so. You should ensure that you record any changes in your wishes and keep the relevant individuals informed.

If you decide at any time that you no longer want an Advance Decision, it is wise to destroy all copies and notify any doctor who is treating you as well as your next of kin.

For further advice on how this affects your own circumstances, contact us for an appointment

Thinking about it now, Gran had been talking about her "living will" for the past decade, to most of the members of her vast clan. Few of us could bear even thinking about the death of this small, powerful woman around whom the whole family revolved, and we tended to try to change the subject.

About six years ago, she wore me down and forced me to read her living will, otherwise known as the Advance Medical Directive, which said: "I wish it to be understood that I fear degradation and indignity far more than death". She made me, along with my father, the cosignatory on her living will. My uncle was cited as next-of-kin and, importantly, her doctor also signed it.

One day, just before her 90th birthday she became ill and was admitted to hospital.

The doctor explained that acute pneumonia had set and that although they could take her away and put her on a respirator and perhaps try and drain the fluid from her lungs, this would not prolong her life much longer and would be a frightening and invasive action. He referred to the living will he had seen by her bedside. He suggested that we could agree to give her a mild sedative and that she would then be able to die naturally and peacefully. After a family discussion, we agreed. She was given a sedative and her breathing relaxed. After about half an hour the pulse in her neck became weaker until it stopped.

The next morning my first feeling was not one of grief that I had lost my amazing grandmother, but of gratitude. I felt grateful that Gran had been brave enough to persevere with her reluctant relatives so that when it came to it, we knew what she wanted.