

Advance Decisions to refuse treatment

The Mental Capacity Act allows adults with capacity to set out a refusal of specified medical treatment for a time when they might lack the capacity to consent or refuse that treatment. Advance decisions may be written or verbal, but must state precisely what treatment is to be refused, in medical OR everyday language. It may also set out circumstances when the refusal should apply including possible future changes.

There is no set form for a written advance Decision. The code of practice suggests a list of things it is helpful to include. Other organisations provide suggested templates for example, www.alzheimers.org.uk/advanceddecisionform

Healthcare professionals should record verbal advance decisions in a person's healthcare record.

Advance decisions to refuse life-sustaining treatment must be in writing, signed and witnessed and must include a statement saying that it applies even if life is at risk. Further information about witnessing the signature on an advance decision is available in the code.

An Advance Decision to refuse treatment for a mental disorder can be overruled if the person is detained under the Mental Health Act. Special provision applies to ECT.

If an AD is not valid or applicable, it should be considered as an indication of a person's wishes and feelings.

Written Statements about wishes and feelings

People may also make an advance statement about their preferred care or treatment for a future time when they may lack capacity to make that decision. However, such statements about preferred treatment are not binding in the same way as advance decisions to refuse treatment. They must be considered in best interest decision-making

It is not possible to make a binding advance decision to refuse care. Advance statements about care preferences including living arrangements must be considered as part of best interest decision-making. If a person has put their care preferences in writing, the decision maker must consider them carefully and record their reasons for not following the written wishes including the reasons why it was not in the person's best interest.

Professionals must follow a valid and applicable advance decision, even if they think it goes against a person's best interests.

Professional must start from the assumption that a person had capacity at the time they made the advance decision unless they are aware of reasonable grounds to doubt that.

An AD is not valid if:

The person has withdrawn it while they had capacity.

It is overridden by a later LPA that relates to the specified treatment

The person has acted in a way that is clearly not consistent with the decision

It is not applicable if:

The person who made it has capacity to consent to or refuse the treatment.

It does not refer specifically to the treatment in question

Any circumstances included in the AD are absent.

There are reasonable grounds for believing that circumstances exist that the person did not anticipate at the time of the decision and which would have affected the decision had they been able to anticipate them.

Advance Decision to refuse medical treatment

Full name _____

Address _____

Date of birth _____

GP surgery _____

I sought advice from a healthcare professional before making this decision

Yes. Name and date _____

No.

Details of the treatment I am making an advance decision to refuse.
(include details of any circumstances you would accept the treatment)

Signed _____ date _____

Reviewed on: Initial _____ date _____

Initial _____ date _____

Initial _____ date _____

I want this decision to apply, even if my life is at risk. No.

Yes. (If yes, a person must sign below to witness your signature)

Witness Signature _____ date _____

Address _____

It is recommended that the witness is NOT a partner, spouse, relative, anyone who stands to benefit under your will, or your power of attorney.