
Advance Decisions and Advance Statements

An Advance Decision, sometimes called a Living Will, is a legally binding document setting out what circumstances you would want to refuse specific medical treatment in the future.

An Advance Statement is similar to an Advance Decision, but it isn't legally binding and can also be made verbally, although we wouldn't recommend this.

Advance Decisions

This would come into effect if you ever lost capacity to consent to treatment for some reason. This could be because you have suffered an accident, are unconscious, or you are suffering from a condition that means you are no longer able to make decisions about the care you receive.

Advances in medical science, together with the fact that people are living longer, means that it is important to realise that you have a choice in relation to the medical care you choose, or choose not, to receive in certain circumstances.

Every Advance Decision is different because it is tailored to reflect the views of the person who has made it. Some points to consider may include your views about blood transfusion or dialysis, organ transplant, chemo-, radio- or other such therapy, and artificial nutrition (i.e. food administered other than by mouth). Your Advance Decision can also state in what circumstances you would want to refuse life-sustaining treatment, but you can't use it to request or authorise assisted suicide.

In some cases, it can be important to include an explanation for the reasons behind your wishes, such as religious beliefs, to provide context to your decision.

As well as telling your loved ones, it is important to tell your doctor about any Advance Decision you make, and have a copy lodged with your medical records. If you make an Advance Decision, you should also keep it under review, in case your wishes or feelings change in the future.

There is specific information that needs to be included in your Advance Decision, especially if it contains a refusal of life-sustaining treatment, otherwise it may not be valid. The information is set out in the Code of Practice to the Mental Capacity Act 2005.

Advance Statements

You would make an Advance Statement to set out your care preferences, such as where you would ideally like to live, or the type of care and support you would want receive, if you could no longer decide for yourself.

Unlike an Advance Decision, an Advance Statement isn't where you would set out in what circumstances you would want to refuse specific medical treatment in the future.

Your Advance Statement can be used to list people, such as your partner, family or other loved ones, who you would like to be consulted by health care professionals, who may be making decisions about your care.

What about Lasting Powers of Attorney for Health & Care?

Advance Decisions and Statements aren't the same as Lasting Powers of Attorney for Health and Care.

Unlike Advance Decisions and Statements, a Lasting Power of Attorney for Health and Care lets you choose one person or more to make decisions about things like your daily routine (e.g. what to eat and what to wear), medical care and moving into a care home for example. You can also give your Attorney the authority to give or refuse consent to life-sustaining treatment on your behalf.

In our experience, more people choose to put Lasting Powers of Attorney for Health and Care in place, than have Advance Statements or Decisions. You may decide to have all of these documents however, depending on your own wishes and feelings.

What about both?

If you have made, or are going to make, an Advance Decision **and** a Lasting Power of Attorney for Health and Care, it's important to ensure that the documents don't contradict each other, and that your Attorney has the decision-making powers you want them to have. You should also let your Attorney know and discuss the content of your Advance Decision and/or Statement with them.

It is sensible to review any Advance Decision or Advance Statement you have made in the past, especially if you made it before 1 October 2007, which is when the statutory requirements under the Mental Capacity Act 2005 came into force.

If you'd like more information call **01904 866139**
or email hello@rochelegal.co.uk



Roche Legal is a trading name of Roche Legal Limited - Company No. 09667485.

Roche Legal Limited is authorised and regulated by the Solicitors' Regulation Authority - SRA No. 624200.

Roche Legal Limited is registered with the Information Commissioner's Office - Registration No. ZA144874.

Rachel Roche LL.M TEP is a Full Member of the Society of Trust and Estate Practitioners and a Full Accredited Member of Solicitors for the Elderly.

This factsheet has been prepared by Roche Legal and contains general advice only which we hope will be of use to you. Nothing in this factsheet should be relied upon as a basis for any decision or action without the appropriate legal advice, tailed to your individual circumstances. Roche Legal © 2016.