



## Scott Duff & Co Solicitors

The reasons why you may consider making an advance decision can be summarised as follows:

- It can enhance autonomy and, in theory, extend it to the end of your life.
- It can rebut, or endorse, the presumption of consent. There is a strong presumption in favour of a course of action which will prolong life.
- It is, even if not valid and applicable, evidence of your wishes.
- It can safeguard your dignity and privacy if you are incapacitated against unwanted or unwarranted treatment. In some cases, this can result in precarious or burdensome existence, without providing anything medically necessary or beneficial for you.
- It could be a catalyst for improved communication between you and your GP, family and friends, on treatment options at the end of life.
- It could reduce care costs.

# Advance Decision

- It enables you to plan for possible future incapacitation
- It relieves others (both the medical team and your family) of the responsibility of having to make a decision without any predetermined guidelines to go by and thereby increase confidence in end-of-life decision-making.

### Legal Status

Healthcare professionals must follow an advance decision if it is valid and applies to the particular circumstances. If they do not they could face criminal prosecution or civil liability.

An advance decision will not be considered valid, if you:

- have withdrawn the decision (which does not need to be in writing);
- do something which is clearly inconsistent with the advance decision being your fixed decision;
- have subsequently made a health and welfare lasting power of attorney, giving the authority to give or refuse consent to the treatment which the advance decision relates. This does not prevent you making a health and welfare lasting power subject to an advance decision.

It will not be considered applicable if you:

- have capacity to give or refuse treatment;
- the treatment is not the treatment specified;
- the circumstances contemplated have not occurred;

- there are reasonable grounds for believing that there have been changes in circumstance, which would have affected the decision if you had known about them at the time you made the advance decision.

**AN ADVANCE DECISION WHICH RELATES TO LIFE-SUSTAINING TREATMENT MUST SATISFY THE FOLLOWING:**

- It is in writing;
- It is signed by you or by another person in your presence and by your direction;
- The signature is made or acknowledged by you in the presence of a witness;
- The witness signs it, or acknowledges his signature, in your presence; and
- The decision is verified by a statement by you to the effect that it is to apply to life sustaining treatment even if life is at risk.

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