

WHAT IS A LIVING WILL

A Living Will (otherwise known as an Advance Decision) is a document which sets out the future medical wishes of an individual should they become terminally ill or require medical treatment at a time when they do not have the full mental capacity to make those relevant decisions.

The Term 'Living Will' may be used to refer to an advance statement as well as an Advance Decision. An advance statement is purely informative but should be fully respected by health care professional. It outlines the extent of medical intervention that the individual would like. It is not legally binding. On the other hand, an Advance Decision is legally binding and details of the individual's right to refuse any form of treatment, from antibiotic medication to intravenous feeding and resuscitation.

In England Wales and Scotland a Living Will is considered to be a legally binding document which must be respected by all medical professionals.

Many people view Living Wills as a method which empowers individuals, by enabling them to take control of any medical intervention whilst they are in sound mind. The alternative is for the health care professional to look to close family or friends to make those decisions at what is already a traumatic time.

Living Wills can be particularly useful if strong opinions are held regarding certain treatments due, to personal or religious beliefs, such as Jehovah Witness not wanting a blood transfusion.

A Living Will cannot be used to:

- Refuse treatment if the person has capacity to give or refuse consent to it
- Refuse basic nursing care essential to keep a person comfortable, such as washing, bathing and mouth care
- Refuse the offer of food or drink by mouth
- Refuse the use of measures solely designed to maintain comfort – for example, painkillers
- Demand treatment that a healthcare team considers inappropriate
- Refuse treatment for mental disorder if the person is or is liable to be detained under the Mental Health Act 1983
- Ask for anything that is against the law such as euthanasia or assisting someone in taking their own life.

FAQ

- Is my Advance Decision legally enforceable?

Yes. It is valid in England and Wales as long as it was drawn up when you were over 18 and had the required mental capacity, as long as it is clear, is relevant to the medical circumstances that arise, and at the time you do not have capacity to consent or refuse the treatment.

- How long is my Advance Decision valid for, and do I have to renew it?

Your Advance Decision will be valid from the date you sign it. It is advisable to review and, if necessary, revise it every six months to ensure that it continues to reflect your views. However, failure to do this will not invalidate it. If you do revise your Advance Decision, remember to sign and date it with the current date. Make sure you know who has copies of your Advance Decision so that you can give them the revised version.

- Can my family overturn an Advance Decision?

No. An Advance Decision is a statement of your wishes and cannot be overturned by anyone unless:

1. You have signed a Lasting Power of Attorney to appoint a health and welfare attorney after the Advance Decision, and have given authority to the attorney to accept or refuse treatment to which the advance decision relates
2. You revoke the Advance Decision yourself at a time when you have the required mental capacity.
3. You made your Advance Decision at a time when you did not have the required mental capacity.
4. You were unduly influenced by others to make the Advance Decision.