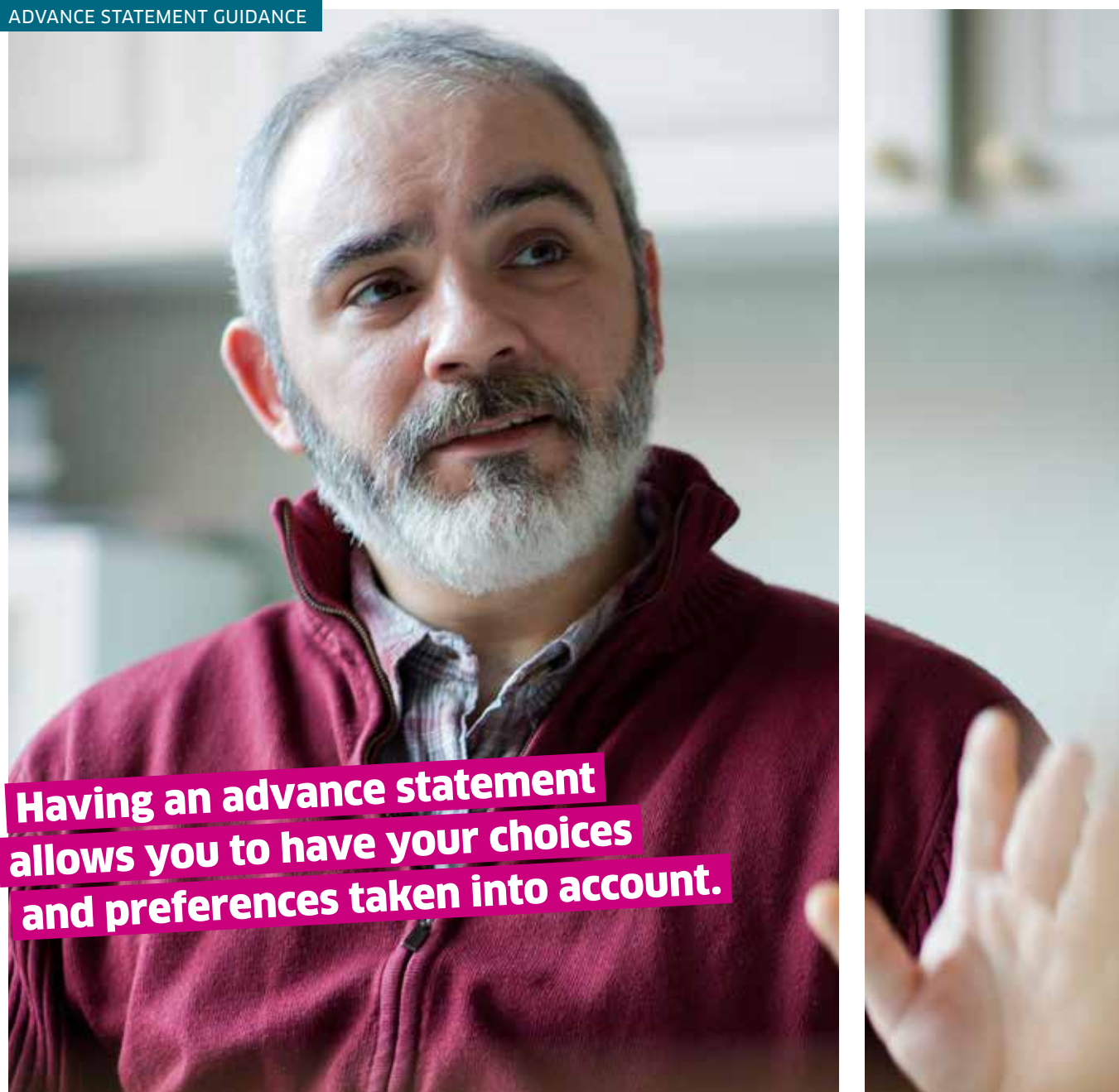


My Views My Treatment

Know your rights and have
your say about your mental
health care and treatment



Having an advance statement allows you to have your choices and preferences taken into account.

What is an Advance Statement?

An advance statement is a written statement made by you when you are well setting out the care and treatment you would prefer or would dislike, should you become mentally unwell in the future. Anyone treating you for a mental disorder has a duty to find out and take into account your wishes about how you would like to be treated. However, this may be difficult if you become so unwell that your ability to make decisions about your treatment or to make your views clear has become significantly impaired.

Having an advance statement allows you to have your choices and preferences taken into account.

You can make an advance statement if you can understand what you are putting into your statement and the effect it might have on your future treatment. You can make a statement even if you are under 16, so long as you understand what you are putting into your statement.

Your advance statement will only come into force if, in the future, you become too unwell to make decisions about your treatment and are receiving compulsory treatment under the Mental Health Act.

Anyone who makes decisions about your treatment must read your advance statement and consider your wishes. This includes your doctors, and, the Mental Health Tribunal.

Why should I bother with an advance statement?

An advance statement is not a guarantee that your wishes will be followed, but it is a guarantee that they will be taken into account. When you are well you may feel it is unlikely that it will be required, or you may be uncomfortable with writing down your wishes for future treatment. But it does make sense to protect your rights.

You probably have insurance of some sort; for your car or home or mobile phone. That doesn't mean you expect to have a crash or lose your phone, but you make sure you are protected in case these things happen. In the same way that your insurance policy is there to protect you should you need it, an advance statement is there to protect your rights should you require care and treatment when you are unable to make your wishes clear. It helps to ensure the professionals caring for you are aware of your views about your treatment.

Having an advance statement doesn't mean that the professionals caring for you won't discuss your present wishes with regard to your care and treatment. Any professional, such as a doctor, nurse, or social worker or mental health officer, still has a duty to take into account your present wishes about your care and treatment.



How can an Advance Statement help?

Alison has recently returned home following a long spell in hospital when she was very unwell. She is settled, enjoying life and catching up with friends and family. It took trials of three different medications before one was found which suited her, she is happy to take this as there are no troublesome side effects but is worried about what might happen in the future if she became unwell again. She discusses this with her community psychiatric nurse and decides to make an advance statement. This says that she would not want to have drug A as it made her put on lots of weight, she would not want drug B as it caused painful muscle spasms but if she does need medication she would be happy taking drug C.

By writing an advance statement, Alison made sure that, if she becomes unwell again in the future and unable to make decisions, her point of view will be considered when decisions about her care and treatment are made.



Advance statement guidelines

An Advance Statement must be:

- Made when you are able to understand and make decisions about your treatment (this is called capacity)
- In writing
- Signed by you
- Signed by a witness to certify that you are able to make an Advance Statement

The witness must be a:

- Doctor (medical practitioner)
- Clinical psychologist
- Occupational therapist
- Manager of a care service
- Registered nurse
- Social worker
- Solicitor

What does capacity mean?

Capacity is a legal term, which means you are able to understand, retain, use or weigh up the information needed to make a decision, and to communicate your wishes.

What should your witness discuss with you?

Your witness will discuss your wishes and the reasons behind them.

They will want to make sure that you understand what is in your statement.

It may be helpful to discuss your advance statement with members of your care team but remember that it is your statement and while they may make suggestions for you to consider, what goes into your advance statement is your decision.

The witness does not have to agree with the content of your advance statement. They are only signing to say you have capacity.

An Advanced Statement should be:

- Dated
- Clearly written

What can be included in an Advance Statement?

- Whether or not you would prefer to be treated in hospital or in the community.
- Which forms of medications or treatments you do or do not want to receive and why.
- Which other therapeutic interventions you do or do not want to receive and why.

It is a good idea when stating your wishes in an advance statement to give reasons for these – for example by saying

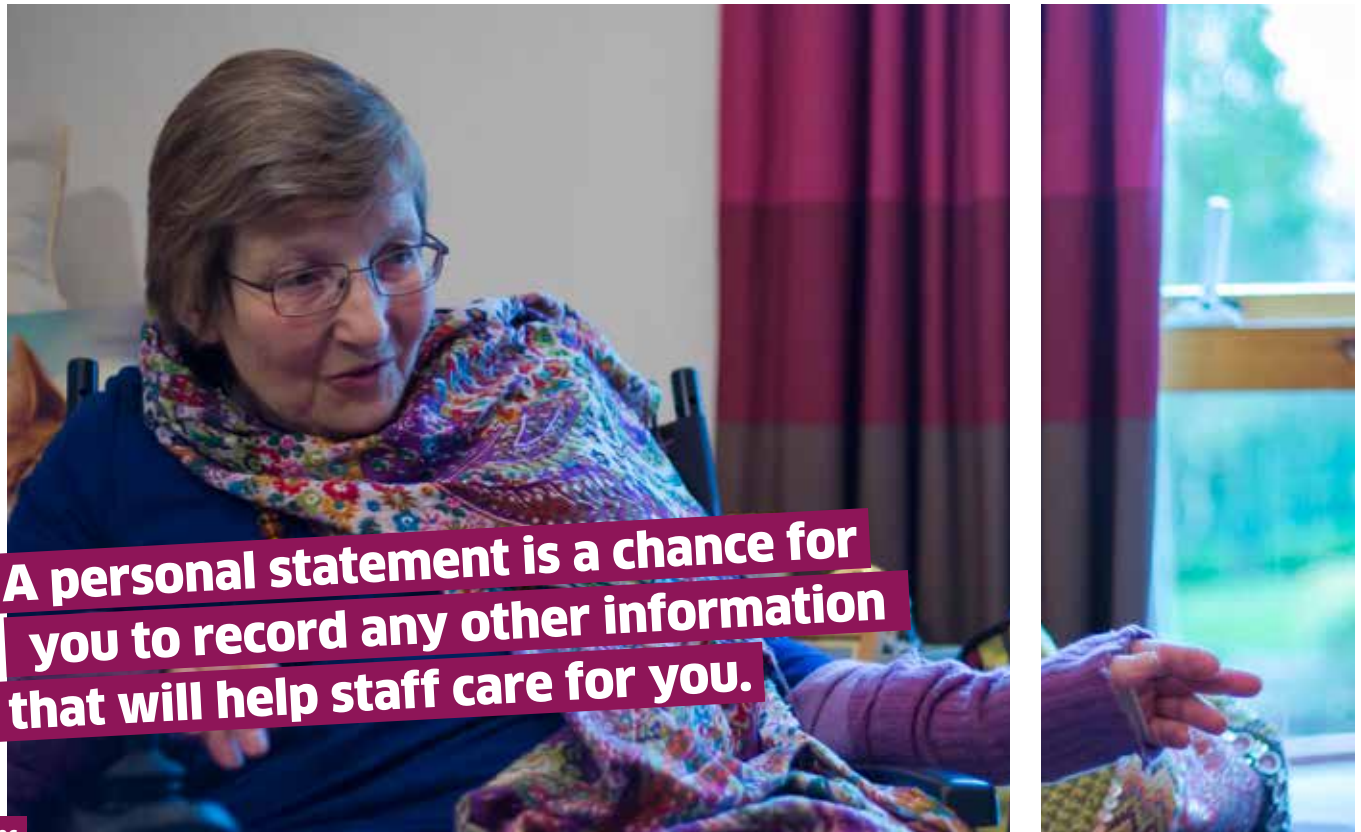
“I prefer individual therapy to group therapy because I am uncomfortable with strangers when I am unwell.”

Your Advance Statement should not include:

- Requests for particular treatments that are not normally available or authorised for prescription within the NHS.
- Preferences such as single rooms or particular wards (although these can be included in a Personal Statement – see below).

What is a Personal Statement?

A personal statement is a chance for you to record any other information that will help staff care for you. This can include who to contact if you become ill, who you would like information shared with, arrangements for looking after your home or pets, and any other information regarding your physical health, dietary or spiritual needs, and family circumstances. This information can assist staff in providing you with care and treatment which best meets your needs. Under the principles of the Mental Health Act your personal statement must be taken into account when making decisions about your care. Your personal statement doesn't need to be witnessed but it should be signed and dated by you.



A personal statement is a chance for you to record any other information that will help staff care for you.

Advance Statements – Step by step

- 1.** You must write your advance statement according to the guidelines on pages 4-5. A suggested template is on our website: www.mwscot.org.uk
- 2.** You should discuss your advance statement with the person who will act as your witness. In order for that person to sign as a witness, they must agree that you have the capacity to make an advance statement.
- 3.** You should give a copy of your advance statement to your doctor or consultant so that it can be included in your medical notes. You could send a copy to the medical records department at your local hospital. You may also give a copy to your carer or family member, mental health officer or solicitor.
- 4.** It is a good idea to read through your advance statement periodically as peoples views can change over time. We would recommend that you review it after any further periods of illness, or every year or so.
- 5.** Keep a list of who has a copy of your advance statement. If you later decide to change your statement you will need to send them a copy of your withdrawal or new statement.
- 6.** If you wish to withdraw or change your statement, you must do so in writing. This written change must be signed by a witness who certifies that you have the capacity to understand and make a decision with regards to your care and treatment. Please ensure the correct people get a copy of your new statement to avoid error or confusion.

Might my advance statement be overlooked?

There are safeguards to ensure that professionals caring for you are aware of your advance statement. There is a duty on professionals treating you to enquire if there is an advance statement and to check your notes to see if one exists. If a copy of your advance statement is included in your medical notes the hospital should ensure this is labeled and can be located quickly.

Can my advance statement be overridden?

An advance statement can be overridden if the professional giving your care or treatment does not think what you have written would be in your best interests at that time. If this happens there are safeguards in place to ensure that this is reviewed and the professionals involved have to justify their decision

- 1.** The doctor or Mental Health Tribunal must provide an explanation in writing of their reasons for their decision and the circumstances.
- 2.** This written explanation must be provided to:
 - You
 - Your 'named person'
 - Your welfare attorney
 - Your guardian
 - The Mental Welfare Commission
- 3.** The Mental Welfare Commission will review the written explanation. If they are not satisfied with the explanation, they will ask for more information from the professional who made it.
- 4.** If the Commission believes that the override was not justified, they may write to you to explain what they are doing to investigate further.

It must also be placed in your medical records

Summary of Rights

As a person with a mental illness or learning disability, during your care, treatment and support you have the same rights as others to:

- Be treated with dignity and respect for your privacy, beliefs and individual needs.
- Not be discriminated against.
- Be given opportunities to use and develop your skills.
- Receive information about and be involved as much as possible in any assessment, planning and decision making about your care and treatment.
- Access the support of an independent advocate.
- Have your choices respected and taken fully into account.
- Involve relatives, friends or carers who are important to you in your care, who will be provided with the information they need.
- Receive care, treatment and support that benefits you and is the least restrictive option.
- Access information and help to challenge any restrictions placed upon you.
- Be kept safe and protected.

More information, as well as further downloadable guides, is available on our website:

www.mwscot.org.uk

More detailed information on this topic can be found in our Good Practice Guide on Advance Statements.

You can contact our Advice Line for service users and carers on:

0800 389 6809 or **0131 313 8777**

mentalwelfare 
commission for scotland

www.mwscot.org.uk

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