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ADVICE NOTES

## **In Scotland, an advance refusal of life-sustaining treatment has no formal legal status under the 2000 Act.**

It is different in England and Wales under the Mental Capacity Act 2005 ([relevant sections here](#)). But what happens if someone makes an advance refusal while in England and then moves to Scotland? This came up in a recent request for advice from us.

We think that the advance refusal does not have the statutory force that it would have in England or Wales. Despite this, practitioners must have regard to its contents.

In some situations, treatment that is in conflict with an advance refusal of this type could be an assault (e.g. blood transfusions for Jehovah's Witnesses). We recommend clear documentation of the reasons for any treatment given in this situation and, if possible, specific advice from experts in medical law.





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