



mental welfare
commission for scotland

Advance directives refusing life sustaining treatments

Advice notes

June 2021



Our mission and purpose

Our Mission

To be a leading and independent voice in promoting a society where people with mental illness, learning disabilities, dementia and related conditions are treated fairly, have their rights respected, and have appropriate support to live the life of their choice.

Our Purpose

We protect and promote the human rights of people with mental illness, learning disabilities, dementia and related conditions.

Our Priorities

To achieve our mission and purpose over the next three years we have identified four strategic priorities.

- To challenge and to promote change
- Focus on the most vulnerable
- Increase our impact (in the work that we do)
- Improve our efficiency and effectiveness

Our Activity

- Influencing and empowering
- Visiting individuals
- Monitoring the law
- Investigations and casework
- Information and advice

Advance directives refusing life sustaining treatments

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 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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