

COMPASSION

IN DYING

SUPPORTING YOUR CHOICES AT THE END OF LIFE

FACTSHEET - Making sure your Advance Decision is legally binding

Advance Decisions are legally binding under the Mental Capacity Act 2005. Compassion in Dying can send you a free Advance Decision form which is legally binding if filled in correctly. This factsheet can help you to do that. If you have questions, contact Compassion in Dying.

INFORMATION LINE: **0800 999 2434**

Mental capacity

You have mental capacity if you can make a decision, and understand the consequences of it.

What do I have to do to make my Advance Decision legally binding?

When making your Advance Decision:

1. You must be over 18.
2. You must have mental capacity. Compassion in Dying's free Advance Decision form has a section called the **GP declaration**. Your doctor can sign this to show that you had mental capacity at the time when you made your Advance Decision.

See **FACTSHEET – Talking to your doctor about your Advance Decision** if you have difficulties speaking to your doctor about your Advance Decision.

3. You must not have been forced by others to make decisions.
4. You must be specific about which treatments you want to refuse in specific situations. Speak to your doctor about which treatments you would be likely to be given.
5. You must keep your Advance Decision up-to-date.

Asking for treatment

The refusal of treatment is legally binding with an Advance Decision. You can refuse any treatment, including life-sustaining treatment (i.e. resuscitation, artificial nutrition and hydration, or breathing machines).

You can also ask for treatment in an Advance Decision, although this is not legally binding. It is still a good idea to include the treatments you want to ask for in your Advance Decision. Doctors should try to follow your wishes if they can.

Can I change my mind?

If you change your mind you can change your Advance Decision to reflect this. See **FACTSHEET – Updating your Advance Decision** for more information.

If you have mental capacity, you can override your Advance Decision verbally at any time.

Do I need a solicitor?

You don't have to use a solicitor to make an Advance Decision, although you can if you wish. Many solicitors offer this service, although there is likely to be a fee.

Advance Decisions have to contain certain wording to be legally binding. Compassion in Dying's free Advance Decision form already contains this wording, so you don't need to use a solicitor.

How can we help?

- We can send you a free **Advance Decision** form and help you to fill it in
- Call our free **Information Line** if you have questions about making sure your Advance Decision is legally binding

181 Oxford Street
London W1D 2JT
Information Line 0800 999 2434
Email info@compassionindying.org.uk
www.compassionindying.org.uk