

Planning for your future healthcare



Who we are

Age Scotland is the national charity for older people. We work to improve the lives of everyone over the age of 50 so that they can love later life.

Our vision is a Scotland where everyone can love later life.

Our mission is to inspire, involve and empower older people in Scotland, and influence others, so that people can make the most of later life.

Our three strategic aims are to:



Help older people to be as well as they can be



Promote a positive view of ageing and later life



Tackle loneliness and isolation

How we can help

We know that growing older doesn't come with a manual. Later life can bring changes and opportunities to your life and you may need to know about rights, organisations and services which are unfamiliar to you.

That's why we provide free information and advice to help you on a range of topics including benefits and entitlements, social care, legal issues such as Power of Attorney, housing and much more. All of our guides are available to download for free from our website, or you can contact our helpline team to have copies posted to you for free.

The Age Scotland **helpline** is a free, confidential phone service for older people, their carers and families in Scotland looking for information and advice.

Later life can bring times when you just need someone to talk to. Our **friendship line** is part of our wider helpline and older people can call us for a chat. We're here to listen, provide friendship and offer support.

For information, advice and friendship



Call us free on: 0800 12 44 222
(Monday – Friday, 9am - 5pm)



Visit [agescotland.org.uk](https://www.agescotland.org.uk)
to find out more.

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Planning for your future medical care

If you have a serious health problem, or are concerned about medical treatment you may need in future, you might want to make plans about the treatment you would or would not want to receive. You could also decide who you would want to make decisions on your behalf if in future you could not make or communicate decisions for yourself.

Decisions about future healthcare are best made when you have time to think and to discuss them with your family and healthcare team. This guide looks at some of the options you could consider.

What is mental capacity?

Mental capacity refers to the ability to make decisions for yourself and act on them. Some people may have had limited capacity all their lives. Others may have a reduced capacity caused by a progressive illness such as dementia, or may suddenly lose capacity after a stroke or an accident.

In Scotland, if somebody is incapable of managing their finances or making decisions about their welfare, the Adults with Incapacity (Scotland) Act 2000 provides protection for them. The Act states that a person may not have mental capacity if they are unable to:

- make or act on decisions
- communicate decisions
- understand decisions, or
- remember decisions.

Mental capacity can vary throughout the day, from day to day or over a longer period of time. It may not affect every kind of decision. For example:

- someone may struggle to make decisions in a morning, but can make informed choices more easily in an afternoon
- someone may not have the capacity to make complex decisions about the pros and cons of medical treatment, but they may have the capacity to make decisions about where they live and who they want to spend time with.

For more information see our **Guide to Mental Capacity in Scotland**.

Advance directives

What is an advance directive?

An advance directive, sometimes called a living will or an advance decision, is a document which allows you to set out decisions about your future medical treatment whilst you still have the mental capacity to make decisions for yourself.

There may be circumstances where you would prefer to refuse certain lifesaving medical treatment, perhaps for cultural, religious or personal reasons. You may, for instance, want to refuse a treatment that would prolong severe discomfort or lead to a significant decrease in your quality of life. There may also be treatment you would really want, even in situations where it might not be clear whether the treatment would help you.

How to make an advance directive

You need to be sure that your advance directive will be respected if it is ever needed, so it is best to discuss what you want to say with a doctor, as well as your carer and family. Many people will use a solicitor to write the document when they are arranging their Power of Attorney and Will.

Talk to the people involved in your treatment to get a clear idea of what you might want to include, particularly in relation to the medical condition you have. An advance directive is not legally binding in Scotland, but it should be taken into account by doctors when making decisions about your treatment.

To avoid possible legal challenges later on, you need to show that you had mental capacity when you created the advance directive. It is possible that a family member may challenge your decision later if they do not agree with you, at a time when you can no longer speak for yourself. If you use a solicitor to create your advance directive they can make sure it is clearly written, witnessed, that you understand the document and that you have not been pressured or influenced by someone else.

Advance directive forms (called advance decisions in England) are available from some charities, including **Compassion in Dying**. You can download an Advance Decision pack including a form from their website <https://compassionindying.org.uk/> or call them on **0800 999 2434**.

Some specialist charities also provide information and advice, including:

Marie Curie www.mariecurie.org.uk / **0800 090 2309**

Macmillan www.macmillan.org.uk / **0800 808 0000**

Your healthcare team should only take your advance directive into account in the circumstances that you specify. It will not affect your treatment under any other circumstances.

An advance directive will only be referred to if you have lost the capacity to make your own decisions about your treatment.

What to do with your advance directive

Once you have made your advance directive it is important that everyone involved in your care is aware of your decision. You should give a copy to your GP, Power of Attorney and any specialist medical professional working on your treatment, and keep a copy yourself. You may also want to discuss it with your family and friends so they understand what your wishes are.

Changing your mind

If you are no longer happy with what you have included in your advance directive you can change or cancel it. This might happen if your condition changes or if you begin to feel differently about your treatment options. If you do change or cancel your advance directive, make sure your doctor, Power of Attorney, medical specialists and family know about this.

Advance statements

Advance statements are for people living with mental illnesses including dementia, learning disabilities and personality disorders. They differ from advance directives as they are not for decisions about end of life treatment. They allow you to set out what treatment you are and are not comfortable with for your mental illness so the people treating you know what you want if decisions need to be made when you do not have mental capacity. You should make your advance statement in consultation with your health and care professionals and your friends and family.

An advance statement could say which treatments you would prefer or those you would not want; there may be certain medications with side effects that you do not want to experience. An advance statement cannot force a doctor to give you certain treatments; it will be taken into account alongside all other aspects of your care and treatment when decisions are made. If a doctor does decide to go against your decision they must give reasons in writing to you, your Power of Attorney (if they have welfare powers) and the Mental Welfare Commission.

It is important to inform everyone involved in your care of your advance statement. You should also regularly review it to ensure you are happy with what is included. If you are unhappy with it, you can change it or cancel it. If you choose to do this you should inform everyone involved in your care and welfare.

The legal framework of advance statements is set out in the Mental Health (Care and Treatment) (Scotland) Act 2003.

The **Mental Welfare Commission** provides information about advance statements, including guidance for individuals, guidance for professionals and a template you can use. For advice on mental health and incapacity law contact their Advice Line **0800 389 6809** or see their website **www.mwscot.org.uk/law-and-rights/advance-statements**.

Do not attempt cardiopulmonary resuscitation (DNACPR) forms

Cardiopulmonary resuscitation (CPR) is a way of trying to restart the heart and breathing if they stop. It can include:

- repeatedly pushing down firmly on your chest
- using a mask or tube to help you breathe
- using electric shocks to try to restart your heart

You can discuss with your healthcare team whether you would benefit from CPR if it were needed. This discussion should include your wishes, your health, the likelihood of success and whether it would have a serious impact on the quality of your life.

If you do not want CPR or if your healthcare team decide that it would not work, they can decide in advance not to try it. This will be recorded on a form called a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) form. This will be kept with your health records and you could have a copy at home where it can be easily found. DNACPRs are different from advance directives as they only concern CPR and not any other treatments.

If you want to review your decision about CPR you should discuss this with your healthcare team: if they believe CPR will not work, you cannot insist on receiving it.

If you are unhappy with a decision made about CPR you can ask for a second opinion or make a complaint.

NHS Scotland has a patient information leaflet called **Decisions about cardiopulmonary resuscitation** that you can search for on the Scottish Government website www.gov.scot/publications.

Anticipatory care planning

An anticipatory care plan is usually developed by a patient, with their healthcare team, when they know they have a condition that is going to get worse. It covers more issues than an advance directive and also looks at how you can stay as well as you can.

NHS Inform has information about anticipatory care planning on their website **www.nhsinform.scot** or you can call them for information on **0800 224488**.

The plan will normally include information about

- your views, priorities and concerns
- what you want to happen if your health declines or there is a crisis
- your Power of Attorney and Will, or plans to arrange these
- your views about end of life care

You can see an example of an anticipatory care plan at

<https://ihub.scot/project-toolkits/anticipatory-care-planning-toolkit/anticipatory-care-planning-toolkit>

Power of Attorney

Granting Power of Attorney involves creating a legal document which gives someone else the authority to make specific decisions on your behalf if you need help or lose the capacity to make those decisions yourself. The person (or people) you grant these powers to is known as the Attorney. Power of Attorney can cover decisions about your welfare, your money or both. The Attorney must make decisions on your behalf based on what you have said in your Power of Attorney document. For people with conditions like dementia a Power of Attorney can be valuable in making sure their wishes and instructions are still respected if they can no longer express them.

Some people make an advance directive part of their Power of Attorney document; if you want to do this you should get legal advice to make sure your wishes are clear. Including an advance directive in a Power of Attorney document does not make the advance directive any more legally binding, and you should take all the same steps to tell medical professionals, friends and family that you would if you were making a separate advance directive. If you have a welfare Attorney then they will be responsible for reminding those treating you of your wishes. It is important that you grant the power to someone you trust to follow your guidance.

A Power of Attorney must be made while you still have the mental capacity to do so. Everyone should consider the benefits of putting a Power of Attorney in place and not delay in doing this as capacity can be lost suddenly through accident or illness.

For more information see our guide **Power of Attorney in Scotland**.

What happens if I don't have a plan?

If you cannot make decisions for yourself and have not granted someone welfare Power of Attorney the doctor responsible for your care will talk to your family and friends to find out your likely wishes. The final decision about treatment will rest with medical staff, who must make the decision they think is in your best interests. The formal steps they need to take are set out in law; they need to complete a **Certificate of Incapacity** under Section 47 of the Adults with Incapacity (Scotland) Act 2000 to show that they have followed the proper process.

Useful organisations

Age Scotland helpline **0800 12 44 222**

The Age Scotland helpline provides information, friendship and advice to older people, their relatives and carers.

If you need an interpreter call **0800 12 44 222** and simply state the language you need e.g. Polish or Urdu. Stay on the line for a few minutes and the Age Scotland helpline will do the rest.

You can call us on **0800 12 44 222** for a copy of our publications list or download / order copies from our website at **www.agescotland.org.uk**.

Office of the Public Guardian Scotland

The Office of the Public Guardian are the official government body for registering a Power of Attorney and can give information about Power of Attorney and legal options if people have lost mental capacity.

Tel: **01324 678 300**

www.publicguardian-scotland.gov.uk

Mental Welfare Commission

The Mental Welfare Commission promotes the welfare of individuals with mental illness, learning disability and related conditions by empowering individuals and their carers and influencing and challenging service providers and policy makers.

Tel: **0131 313 8777**

Freephone **0800 389 6809** for service users and carers

www.mwscot.org.uk

Patient Advice and Support Service (PASS)

The Patient Advice and Support Service is an independent service which provides free confidential advice and support to patients, their carers and families in their dealings with the NHS. They can help you to give feedback, make comments, raise concerns or make a complaint about treatment and care provided by the NHS in Scotland.

You can contact the service by

- phoning **0800 917 2127**
- using the contact form on their website
www.cas.org.uk/pass/pass-contact-form

Disclaimer

While we aim to ensure that the information in this document is factually correct at the time of production, Age Scotland cannot be held liable for any errors or omissions. Please ensure that you have an up to date guide and that it clearly applies to your situation.

No leaflet can ever be a complete guide to the law, which also changes from time to time. Legal advice should always be taken if you are in doubt.

Please note that the inclusion of named agencies, companies, products, services or publications in this guide does not constitute a recommendation or endorsement by Age Scotland.

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How you can help

Our vision is a Scotland where everyone can love later life.

All the information and advice we provide is free and completely impartial and in helping people access their rights and entitlements, it can be life changing.

We are an ageing population and more people than ever are coming to us for support. You can help us be there for those that need us most.



Make a donation

No matter how small or large, donations make a massive difference and help us continue our important work.

- ▶ Call **03330 15 14 60**
- ▶ Visit **age.scot/donate**
- ▶ Text **LATERLIFE** to **70085** to donate £5.*



Fundraise

Whether it is having a bake sale, running a marathon or knitting small hats for the Big Knit, there are so many ways to raise vital funds to support our work. To find out more, call **0333 323 2400** or visit **age.scot/fundraise**.



Leave us a gift in your Will

By choosing to leave us a gift in your Will, you can help Age Scotland to continue being there for vulnerable older people in the years to come. To find out more, call **0333 323 2400** or visit **age.scot/legacy**.

* Texts cost £5 plus one standard rate message

Let's keep in touch



Sign up to our newsletter

Our regular newsletters by email contain details of our campaigns, services and how you can support our work.

Sign up today by visiting **age.scot/roundup**



Follow us on social media

Our social media channels are a great way to keep up to date with our work and issues that affect older people.



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[/AgeScotland](https://www.linkedin.com/company/AgeScotland)

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Head office

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Age Scotland helpline

0800 12 44 222

Email

info@agescotland.org.uk

Visit our website

www.agescotland.org.uk

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