

# Living Wills

- **What is a living will?**
- **Is the GP responsible for informing other clinicians of the existence of a living will?**
- **What's the advice from the GPC about living wills?**
- **Do you have a model letter that could be used to write to solicitors?**
- **Do I need to be aware of any further information in relation to the mental capacity act 2005?**

## **What is a living will?**

Every adult with mental capacity has the right to agree to or refuse medical treatment. To make your advance wishes clear you can use a living will. Living wills can include general statements about your wishes, which aren't legally binding, and specific refusals of treatment called 'advanced decisions' or 'advance directives' or 'advance statement'.

## **Is a GP responsible for informing other clinicians of the existence of a living will when the time is appropriate?**

A Solicitor/patient requested that not only should a GP insert an Advance Statement (Living Will) so that it remains at the top of the notes, but should also take on the responsibility of informing other clinicians of the existence of the will when the time is appropriate. The committee agreed that whilst it is reasonable for GPs to arrange to tag their patient's records (paper and electronic) to show the existence of an Advance Statement (Living Will) GPs could not guarantee that every doctor caring for the patient would know. The patient and/or their representative should retain the will and the responsibility for informing future carers. Many patients carry on their person in the form of a card or bracelet information of the existence and whereabouts of the Living Will. Acknowledgement of receipt of a copy of the Living Will may be accepting a duty of care unless you make it clear in the acknowledgement that you cannot accept responsibility for action.

## **What's the advice from the GPC about Living Wills?**

Storage of an advance statement and notification of its existence are primarily the responsibility of the individual. A copy of any written advance statement should be given to a person's General Practitioner. People close to the patient should be made aware of the existence of an advance statement and be told where it is. Some individuals carry a card, bracelet or other measure indicating the existence of an advance statement and where it is kept. Once an advance statement has been made, it should be readily accessible when the need arises. It is the responsibility of the individual to ensure that his or her statement is available. General statements, made by healthy individuals, are best lodged with their General Practitioner. This will allow the G.P. to provide the information to other health professionals on referral or, in emergency situations, to provide the information on request. For chronically ill patients, who are treated by a specialist team over a prolonged period, a copy of the advance statement should be in both relevant hospital files and the G.P. record.

**Do you have a model letter that could be used to write to solicitors?**

The following wording maybe used in a letter to Solicitors:

*"Dear (insert name of solicitors) Thank you for sending me a copy of an advanced directive (living will) of my patient (insert name of patient). I can confirm that I have today placed a copy of this document in her medical records, and I can also confirm that the existence of this document has been noted on her electronic record. You may wish to advise your client that should there arise any situation in the future where it might be appropriate for the contents of the document to be taken into consideration when deciding upon your client's medical care, there is a possibility that if I am not personally involved in her care, or should for any reason the notes not be available to me or those in attendance at the time, she may consider it wise to ensure that other arrangements are in place (e.g. other members of the family being aware of this document) to ensure that her current medical attendants are advised accordingly. Yours sincerely"*

**Do I need to be aware of any further information in relation to the mental capacity act 2005?**

It's recommended that you refer to our advice on **'LIVING WILLS' UNDER THE MENTAL CAPACITY ACT 2005**. This document gives you further information on what one should be aware of when presented with a living will.