



**CAPS**  
independent  
advocacy  
The Consultation & Advocacy  
Promotion Service

# Advance Statements

A service user's guide to  
Advance Statements

Mental Health (Care and Treatment)  
(Scotland) Act 2003

This document was produced by:

**CAPS**

5 Cadzow Place  
Edinburgh  
EH7 5SN  
Phone: 0131 538 7177  
Fax: 0131 538 7215  
e-mail: [contact@capsadvocacy.org](mailto:contact@capsadvocacy.org)

**Advocard**

332 Leith Walk  
Edinburgh  
EH6 5BR  
Phone: 0131 554 5307  
Fax: 0131 555 6092  
e-mail: [advocacy@advocard.org.uk](mailto:advocacy@advocard.org.uk)

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This document provides general  
information on the

Mental Health (Care and  
Treatment) (Scotland) Act 2003.

**This is not legal advice.**

This Act only applies in Scotland  
and came into effect on  
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# Summary

The Mental Health (Care and Treatment) (Scotland) Act 2003 says that you can write an advance statement. You can write down the ways you want to be treated and the kinds of treatment you think are best for you. You can also write down the ways you don't want to be treated. If you become unwell and it becomes difficult for you to make decisions, your advance statement has to be looked at before any decisions about your care and treatment are made.

This guide has information and advice that will help you make an advance statement. Contact your local independent advocacy organisation if you need more information or support to write an advance statement. Information about how to contact local advocacy organisations is on the back pages.

## **IMPORTANT**

The Mental Health (Care and Treatment) (Scotland) Act 2003 gives you the right to make an advance statement about your mental health care and treatment. This is a separate law for Scotland – this law does not apply in England and Wales.

There's a difference between advance statements in Scotland and advance directives in England and Wales. If you are thinking about using a form or looking on the internet for more information, you should check to see whether the information is from Scotland or somewhere else. Contact your local advocacy organisation for more information about forms you can use.

# About Advance Statements

## What is it?

An advance statement says how you want to be treated and the kinds of treatment you think are best for you. It can also say which treatments you don't want to have.

If you become unwell and it is difficult for you to make decisions, your advance statement will be looked at before any decisions about your care and treatment are made.

One of the key principles of the new law is that people making decisions about your care and treatment need to think about your past and present wishes. Your advance statement is one way that people making decisions will know what your wishes are.

## Who can make an advance statement?

Anyone who has experienced mental health difficulties can make an advance statement. It also includes people who have dementia, learning disability or a personality disorder. You do not need to have been in hospital or have been forced to accept treatment to make an advance statement.

When you make your advance statement you have to be well enough to understand and intend the effects of the decisions you are making. Being diagnosed as 'mentally ill' does not mean that you are unable to make an advance statement.

## Whose view is it?

Your advanced statement is about letting other people know what you want. It is about what helps **you** when you are unwell, and what doesn't help you. It should be about **your** needs, wishes and preferences, and not about other people's ideas of what is best for you.

## What can it do?

An advance statement will help people, particularly doctors, to know and understand:

- the types of treatment you want;
- what you think works best for you;
- what you do not want.

However, the people making the decisions don't **have** to do what you say you want. They could still decide to give you a treatment that you've said you don't want, or give you something different from what you wanted.

If this happens, the person who has given you the treatment has to write down why they have not done what you said you wanted. They have to give the reasons for their decisions to:

- you
- your named person (if you have one)
- guardian or welfare attorney (if you have one)
- Mental Welfare Commission.

They also have to put a copy on your medical record.

### **Who has to look at it?**

Anyone who is involved in making decisions about whether you should be detained in hospital or forced to accept treatment, has to look at your advance statement. This includes:

- doctors (GPs);
- psychiatrists;
- Mental Health Officers (MHOs);
- the Mental Health Tribunal.

# How to Make an Advance Statement

## **When can I write it?**

You can write your advance statement at any time you want.

You can take as long as you want to write it – at one time or over several occasions. You can write it on your own, or with someone to assist you. It helps if you can have plenty of time to think about it and write it when you are feeling relatively well.

## **Does it have to be in writing?**

Yes, it does have to be in writing.

It can be:

- handwritten;
- typed;
- done with a computer.

It can be any length – just one sentence, or you can fill in a form. (There are different types of forms available. Contact your local advocacy organisation for more information about the different forms you could use.)

It's recommended that it is written in English. If you write your advance statement in a language other than English you will probably need to have it translated into English before it is witnessed. The Health Board or your Local Authority should be able to help you have it translated into English.

# What could be in my Advance Statement?

## *What you want*

The advance statement needs to make it clear what kinds of care and treatment you are asking for, and what kinds of care and treatment you do not want.

## *What you don't want*

If you don't want a treatment it might be helpful to say why you don't want that treatment. If you prefer one treatment over another it might be helpful to say why you prefer that treatment.

## *Types of treatment*

It's important to remember that your treatment is not just about medication. Treatment includes things that might help you, like:

- nursing care;
- alternatives to medication;
- counselling;
- talking therapies;
- education and training in work;
- training in social and independent living skills.

Treatment could also be something that is not on this list.

## *Some things you could put in your advance statement are:*

- things that have helped you in the past;
- things that have not worked well for you in the past;
- physical health problems that you have;
- any special needs that you have, like language, mobility, vision or special diets;
- people you would like to be told if you are admitted to hospital;
- people you would not like to be told if you are admitted to hospital.

## *Statements about your personal and home life*

The Scottish Executive says that you can add information about your personal and home life and anything else that is important to you, but this is **not** part of your advance statement.

It's important that you know that information about your personal and home life does not **have** to be taken into account by the people making decisions about you, and it does not have to be witnessed.

We think the statement about your personal and home life is just as important as information about your mental health care and treatment.

*Some things you could put in your personal statement are:*

- whether there are arrangements for the place where you work or volunteer;
- whether there are arrangements for any children or dependents you have;
- whether there is someone who will look after your financial matters;
- anything else that you would like the people caring for you to know about.

*Other things to think about*

Things in your life may change in a way you hadn't planned. You may want to make clear the things you want to happen even if things in your life change.

It can be difficult to know in advance what kinds of treatment might be used, and when these will be used if you become unwell.

- new treatments might become available that you did not know about when you made your advance statement;
- new evidence might become available about existing treatments that says they are more or less effective than they used to be.

For example, some kinds of medicines that were prescribed in the past are no longer used. Some new medicines may have fewer side effects than the medicines you were given when you were last treated.

It may help if you say what you would like to happen if new treatments become available or new information is found out that you did not know when you made your advance statement.

*Contact Information*

Your advance statement should have:

- your name and address;
- the name, address and job of the person who witnessed it;
- the name and address of your GP;
- the name and address of your advocate (if you have one);
- the name and address of your named person (if you have one);
- the name and address of your guardian or welfare attorney (if you have one).

### *Signature and date*

Your advance statement should have:

- your signature (you must sign it in front of the witness);
- the date it was witnessed;
- numbered pages.

### **Can I get help?**

Yes. Someone who knows you well, an independent advocate or a worker could support you. It is important that this person does not tell you what to put in your advance statement or have any influence on your decisions.

Sometimes workers or people who know you well have a view about what is 'best for you'. This might not be the same as what you think is best for you. Someone who is independent, like an independent advocate, will be especially careful to support you to say what you want to happen.

### **Making your advance statement: the role of an independent advocate**

The role of an independent advocate is to support you to have your say about the kind of treatment you think is best for you. An independent advocate could help make sure that no-one is putting pressure on you to put something in your advance statement that you do not really want. An independent advocate could also help you to access other information, support or advice that you think you need.

If you have any difficulties in reading or writing, an independent advocate can put your statement in writing for you. An advocate can help you to find someone else to read it to you, so that you can hear if what is written is an accurate record of what you have said.

An independent advocate can support you to make sure your advance statement is witnessed properly and support you to make sure other people have copies.

### **Advice about your advance statement**

Because this law is very new we are not sure how it will work in practice. To help make sure your advance statement is as clear as possible you may want to show it to a health professional or someone else you trust to see if they understand what you have written.

But remember it is **your** advance statement and should be about what **you** want. No one should put pressure on you to put things you do not want in your advance statement.

### **Decision making ability**

When you make your advance statement you have to be well enough to:

- understand the decisions you are making in it, and
- mean (intend) the effects of the decisions you are making in it.

You should be assumed to be able to make decisions unless there are strong reasons for believing that you are not able to.

### **Witnessing**

After you've written what you want, you have to have your advance statement witnessed.

You will need to take it to someone who is one of these:

- clinical psychologist;
- doctor (this could be your GP or another doctor);
- occupational therapist;
- person employed to provide a care service;
- nurse;
- social worker;
- solicitor.

The witness has to sign your advance statement and say that:

- he or she saw you sign your advance statement;
- you are well enough to understand and intend the effects of your advance statement.

You **cannot** witness your own advance statement, even if you are qualified as a witness.

The witness does not have to help you write your advance statement and they do not have to agree with your decisions. If a worker or professional has helped you write your advance statement it is a good idea to get a different worker or professional to witness it for you.

# After you've made an Advance Statement

## **How will people know you've got one, and know where it is?**

You should keep the original yourself, in a safe place.

You should have a copy of it put on the medical record you think is most important. Let your other doctors, your social workers and a Mental Health Officer (MHO) know where your advance statement is being kept.

If you want, you could also give a copy of it to your CPN, key-worker, psychiatrist, social worker, independent advocate or named person. Keep a list of the people you have given a copy to. This will make it easier if you need to replace the advance statement with an up-dated version.

## **Reviewing your advance statement**

You will need to take another look at your advance statement on a regular basis. Even if you haven't been in contact with services for a while it's a good idea to read your advance statement at least once a year. You should take another look at what is written and decide whether it still says what you want it to say. Is it still clear?

After you've had another look at it, it's a good idea to sign and date the statement to show when you reviewed it - even if you don't make any changes. This will show other people that your advance statement is up-to-date.

## **Did it work?**

Any time that your advance statement is used, you should think about how well it worked, or didn't work.

Did you get the kind of treatment that you wanted? If you didn't get what your advance statement said you wanted, were you told why?

The Act says that if you are not given the treatment you want, or you are given treatment that you said you do not want, the person who made the decision about your treatment must explain why they didn't do what you said you wanted. An independent advocate could support you if you'd like to ask the person who made the decision for further information.

## **Changing your advance statement**

You can change your advance statement at any time you want. It does not have to stay the same forever. Your views may change over time. It is important that what is written in your advance statement is as close as possible to what you want. This is how you change it:

### ***1. Withdrawing it***

When you change your advance statement you will have to formally withdraw your original one. You will need to say in writing that you are withdrawing your advance statement. There is a form at the back of this booklet that you could use.

This will have to be signed by a witness to say that you are well enough to understand and intend the effects of withdrawing your advance statement.

After it has been witnessed you should give a copy of it to everyone who has a copy of your advance statement.

### ***2. Making a new one***

To replace your advance statement you will need to go through the same process that you did for your first one. You will need to write a statement of what you want, and have it witnessed.

You may want to discuss what you want to put in your advance statement with someone you trust. This could be your independent advocate, your named person, doctor, lawyer or someone else. However, these people should not tell you what to put in your advance statement.

When you are happy with what is written, you will need to have it witnessed. The job of the witness is to make sure that you understand what has been written and that you mean what it says. Everyone who had a copy of your last advance statement will need to be given a copy of your new one. Keep a list of the people you give it to so that it will be easy to replace if you want to change it again.

# If things go wrong...

## ***Mental Welfare Commission***

The Mental Welfare Commission has been given the job of monitoring how advance statements are working. You or your named person can tell the Mental Welfare Commission if either of you are not happy with the way your advance statement was treated.

Phone: 0800 389 6809 (user and carer advice line)  
0131 313 8777 (all other enquiries)

Email: [enquiries@mwscot.org.uk](mailto:enquiries@mwscot.org.uk)

Website: [www.mwscot.org.uk](http://www.mwscot.org.uk)

Write to: Mental Welfare Commission for Scotland  
Thistle House  
91 Haymarket Terrace  
Edinburgh  
EH12 5HE

## ***Scottish Public Services Ombudsman***

The Scottish Public Services Ombudsman has a role in handling complaints about health and local authority services.

Phone: 0800 377 7330

Textphone: 0790 049 4372

Fax: 0800 377 7331

Website: [www.spsso.org.uk](http://www.spsso.org.uk)

Write to: SPSO  
Freepost EH641  
Edinburgh  
EH3 0BR

## **Advocacy Organisations**

If you are not happy with the way your advocate supported you to nominate a named person you can complain to their advocacy organisation. Their advocacy organisation should support you to make a complaint and tell you how they have dealt with it. Contacts for advocacy organisations are in the last pages.

# Contacts for Independent Advocacy

## Independent Advocacy for Mental Health

### EDINBURGH

#### Individual Advocacy

##### ***Advocard***

Advocard provides independent advocacy services for people in Edinburgh. Advocard could help you by providing a trained volunteer advocate to support you in the community. Advocard can also provide an advocacy worker to support you with issues relating to the Mental Health Act.

Phone: 0131 554 5307

e-mail: [advocacy@advocard.org.uk](mailto:advocacy@advocard.org.uk)

Website: [www.advocard.org.uk](http://www.advocard.org.uk)

Write to: Advocard  
332 Leith Walk  
Edinburgh  
EH6 5BR

Advocard can also provide independent advocacy services for people at the Royal Edinburgh Hospital.

Phone: 0131 537 6004

email: [hospital.advocacy@advocard.org.uk](mailto:hospital.advocacy@advocard.org.uk)

Write to: Advocard  
Andrew Duncan Clinic  
The Royal Edinburgh Hospital  
Morningside Place  
Edinburgh  
EH10 5HF

## **Collective advocacy**

Advocard provides independent collective advocacy in Edinburgh.

Phone: 0131 554 5307  
e-mail: [advocacy@advocard.org.uk](mailto:advocacy@advocard.org.uk)  
Website: [www.advocard.org.uk](http://www.advocard.org.uk)  
Write to: AdvoCard  
332 Leith Walk  
Edinburgh  
EH6 5BR

## ***Patients Council***

Patients Council provides independent collective advocacy services at the Royal Edinburgh Hospital.

Phone: 0131 537 6462  
Fax: 0131 537 6409  
email: [info@patientscouncilreh.org.uk](mailto:info@patientscouncilreh.org.uk)  
Website: [www.patientscouncilreh.org.uk](http://www.patientscouncilreh.org.uk)  
Write to: Patients' Council  
Royal Edinburgh Hospital  
Morningside Terrace  
Edinburgh  
EH10 5HF

## **MIDLOTHIAN**

### **Individual Advocacy**

#### ***CAPS***

CAPS provides independent individual advocacy for people in Midlothian. CAPS could help you by providing a trained volunteer advocate to support you.

Phone: 0131 665 9698

Fax: 0131 665 9699

e-mail: [advocate@capsadvocacy.org](mailto:advocate@capsadvocacy.org)

Website: [www.capsadvocacy.org](http://www.capsadvocacy.org)

Write to: CAPS  
The Drying House  
Eskmills Park  
Musselburgh  
EH21 7PQ

### **Collective advocacy**

#### ***CAPS***

CAPS provides independent collective advocacy in Midlothian.

Phone: 0131 538 7177

Fax: 0131 538 7215

e-mail: [contact@capsadvocacy.org](mailto:contact@capsadvocacy.org)

Website: [www.capsadvocacy.org](http://www.capsadvocacy.org)

Write to: CAPS  
5 Cadzow Place  
Edinburgh  
EH7 5SN

## **EAST LOTHIAN**

### **Individual Advocacy**

#### ***CAPS***

CAPS provides independent individual advocacy for people in East Lothian. CAPS could help you by providing a trained volunteer advocate to support you.

Phone: 0131 665 9698

Fax: 0131 665 9699

e-mail: [advocate@capsadvocacy.org](mailto:advocate@capsadvocacy.org)

Website: [www.capsadvocacy.org](http://www.capsadvocacy.org)

Write to: CAPS  
The Drying House  
Eskmills Park  
Musselburgh  
EH21 7PQ

### **Collective advocacy**

#### ***CAPS***

CAPS provides independent collective advocacy in East Lothian.

Phone: 0131 538 7177

Fax: 0131 538 7215

e-mail: [contact@capsadvocacy.org](mailto:contact@capsadvocacy.org)

Website: [www.capsadvocacy.org](http://www.capsadvocacy.org)

Write to: CAPS  
5 Cadzow Place  
Edinburgh

EH7 5SN

## WEST LoTHIAN

### Individual Advocacy

#### ***Mental Health Advocacy Project***

The Mental Health Advocacy project provides independent individual and collective advocacy in West Lothian.

Phone: 01506 857230

Fax: 01506 852954

Website: [www.mhap.co.uk](http://www.mhap.co.uk)

Write to: Mental Health Advocacy Project (West Lothian)  
Strathbrock Partnership Centre  
189a West Main Street  
Broxburn  
West Lothian  
EH52 5LH

## Other Advocacy Organisations

To find other kinds of advocacy organisations or organisations outside Lothian you can contact the Scottish Independent Advocacy Alliance (SIAA).

#### ***Scottish Independent Advocacy Alliance***

Phone: 0131 260 5380

Fax: 0131 260 5381

e-mail: [enquiry@siaa.org.uk](mailto:enquiry@siaa.org.uk)

Website: [www.siaa.org.uk](http://www.siaa.org.uk)

Write to: Scottish Independent Advocacy Alliance  
69A George Street  
Edinburgh  
EH2 2JG

# Information

## ***Scottish Association for Mental Health***

Provides information and advice on a wide range of mental health issues including the Mental Health Act.

Phone: 0141 530 1000

email: [enquire@samh.org.uk](mailto:enquire@samh.org.uk)

Website: [www.samh.org.uk](http://www.samh.org.uk)

Write to: Scottish Association for Mental Health  
Brunswick House  
51 Wilson Street  
Glasgow  
G1 1UZ

## ***Legal Services Agency***

Provides legal advice and representation on mental health legislation.

Phone: 0131 228 9993

email: [Isaedin@lsa.org.uk](mailto:Isaedin@lsa.org.uk)

Website: [www.lsa.org.uk](http://www.lsa.org.uk)

Write to: Legal Services Agency  
3<sup>rd</sup> Floor  
Princes House  
5 Shandwick Place  
EDINBURGH  
EH2 4RG

## **Some forms you could use**

CAPS and Advocard have produced a form you could use to make an advance statement. If you would like a copy of this form (in paper copy or electronically) contact CAPS or Advocard.

After this page there is a form you can use to withdraw your advance statement. Information about how to use this form is on the back of it.

**Withdrawal of Advance Statement  
Under the Mental Health (Care and Treatment)  
(Scotland) Act 2003**

**My name** \_\_\_\_\_

**My Address** \_\_\_\_\_

**I withdraw the advance statement I made on** \_\_\_\_\_

**Signature** \_\_\_\_\_

**WITNESS**

I certify that in my opinion \_\_\_\_\_ understands and intends the effects of withdrawing their advance statement. I witness his/her signature

**Witness signature** \_\_\_\_\_

**Date** \_\_\_\_\_

**Witness name** \_\_\_\_\_

**Witness profession/job** \_\_\_\_\_

**Witness address** \_\_\_\_\_

\_\_\_\_\_

See the other side for information about how to use this form. For more information about advance statements see the *Service User's Guide to Advance Statements* produced by CAPS and Advocard.

# Withdrawal of Advance Statement

## Under the Mental Health (Care and Treatment) (Scotland) Act 2003

You could use the form on the other side of this page to withdraw your advance statement. You might want to do this if you have made an advance statement and do not want it to be your advance statement any more. This could be because you've changed your mind or because you want to make a new advance statement.

### How to Use this Form

**My name** Write your full name \_\_\_\_\_

**My Address** Write the address where you can be contacted \_\_\_\_\_

**I withdraw the statement I made on** Write the date of your advance statement \_\_\_\_\_

**Signature** Sign your name here, in front of the person who is the witness \_\_\_\_\_

#### WITNESS

You will need to have this withdrawal witnessed by someone who is one of these:

Clinical psychologist	Medical practitioner
Occupational therapist	Nurse
Social Worker	Solicitor
Person employed to provide a care service	

**Witness signature** [The witness will sign here]

**Date** [The witness will print the date here]

**Witness name** [The witness will print their full name here]

**Witness profession/job** [The witness will write their profession or job here]

**Witness address** [The witness will print the address of their employer here]