

Your Legal Questions

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Q. What is a Living Will?

A. A Living Will, also known as an Advance Directive, offers you an opportunity to express your views in relation to certain types of treatment, including life-sustaining treatment.

When you are ill you can usually discuss treatment options with your doctor and then jointly reach a decision about your future care. However you may be admitted to hospital when unconscious or unable, on a temporary or permanent basis, to make decisions about your treatment or communicate your wishes e.g. if you have a stroke or develop dementia. In such situations (where you lack capacity) doctors have a legal and ethical obligation to act in your best interests. One exception to this is if you have made an advance decision refusing treatment. If this decision is valid and applicable to the circumstances, medical professionals providing your care are bound to follow it - whether or not they think it is in your best interests. The term "living will" has no legal meaning but is generally used to refer to an advance decision or statement about healthcare. An advance decision offers the opportunity to express your views, in particular, to refuse certain types of treatment, including life-sustaining treatment. It is also possible for you to make a Lasting Power of Attorney for health and welfare matters if you wish to give someone else, or more than one person, the power to make decisions about your care and treatment if you are not able to do so yourself. Your attorney must take your advance decision/statement into account when deciding what is in your best interests.

An appropriately qualified Solicitor can advise you generally on these arrangements and ensure that a legally valid document is drawn up to make your wishes clear. It should be noted that Living Wills should be regularly updated to ensure their validity.

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