



**ACT**  
Government  
Health

# Mental Health, Justice Health and Alcohol & Drug Services (MHJHADS)

Advance Agreement and  
Advance Consent Directions



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There are a number of ways that a person who has decision-making capacity can express their treatment, care or support preferences before possible future temporary or permanent loss of decision-making capacity. These include entering into an Advance Agreement and/or Advance Consent Direction.

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## Advance Agreement

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An Advance Agreement is a written document stating a person's preferences regarding future mental health treatment, care or support. It is used in the event that a person's ability to participate in decisions about their treatment and support is significantly impaired.

The Advance Agreement includes:

- the person's expressed preferences for treatment;
- the person's preferences such as practical arrangements for looking after their property or pets when they are in need of treatment, care or support; and
- contact details about important people such as carers, guardians, legal representatives or a nominated person.

The wishes expressed in a person's Advance Agreement will form the basis of the treating team's approach in supporting the person's recovery and will be taken into account when making decisions about treatment, care or support. The Advance Agreement will be followed providing that the treatment is working for them and is considered in the best interest at the time.

If a person's wishes cannot be followed at the time (for example, if the preferred person is not available to care for the person's property), they can be amended by a doctor's notation in the person's clinical record.

## Making an Advance Agreement

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The preferences stated in the Advance Agreement are discussed and agreed between the person and those identified in their support team, including the persons clinical ('treating team') and other important individuals in the person's life. A close family member, 'nominated person' or significant other may assist the person in developing the Advance Agreement.

The Advance Agreement needs to be written down, and signed by the person, a representative of their 'treating team', and their nominated person (if they have one). It can also be signed by someone who is going to provide *practical help* to the person.

A copy of an Advanced Agreements must also be given to the nominated person (where one is identified); and any member of the person's treating team who does not have access to the person's clinical record (for example, the person's General Practitioner).

Sharing an Advance Agreement with others is also the person's choice. They are not required to provide it to anyone else if they are not comfortable. A person can also give just the relevant sections of the Advance Agreement to those other individuals who might need it. For example, they can leave out information about medication choices in the copy that they might provide to say the individual who takes care of their pets while they are in hospital.

A form for making an Advance Agreement is available on request from mental health community-based services and inpatient units.

## Limitations on an Advance Agreement

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Health professionals will refer to an Advance Agreement for guidance during a time of mental health crisis such as an admission to hospital. The preferences outlined in the Advance Agreement will be used to guide treatment as long as they are in the person's best interest at the time. If a person wants their preferences which are written in the Advance Agreement to be binding, then they need to include these in an Advance Consent Direction (see section below).

Advance Agreements are only valid in the Australian Capital Territory and are not recognised in other states.

It is important that a person's Advance Agreement is easily available for the health professionals and support people who are listed on it. A provider of treatment, care or support needs to take reasonable steps to find out if a person has an Advance Agreement. Mental Health Service clinicians will keep a summary of the Advance Agreement on a person's electronic clinical record which can be accessed when needed.

## Reviewing an Advance Agreement

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An Advance Agreement will expire after 12 months.

Reviewing an Advance Agreement regularly is important to ensure the information is up to date. It might be helpful to do this after any changes to the treatment or times when a person was unwell and the Advance Agreement was used. This will need to be completed with the key members of the Support Team. Please make sure that any changes are signed by the person's doctor or clinical manager so that information on the person's electronic file is also updated.

If no changes are made the date of the review must be recorded.

## Ending an Advance Agreement

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A person can end an Advance Agreement at any time if they have decision-making capacity. A person can end an Advance Agreement by telling a member of their treating team verbally or informing them in writing (e.g. by letter or email) that they want it to cease. A person can choose to end the Advance Agreement on that day or at a future specified date. Additionally, a person can end an Advance Agreement by entering into a new one. If a person ends their Advance Agreement, this must be entered into their clinical record, and they must be told that it has been entered and be given a copy of the information that was entered.

## Advance Consent Directions

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An Advance Consent Direction contains major decisions about treatment that a person consents to receiving if their mental illness or mental disorder means that they do not have decision-making capacity.

An Advance Consent Direction sets out information including the:

- treatment, care or support the person is willing to receive;
- medications or procedures the person is willing, and not willing, to receive;
- people who may, or may not be, given information about the person's treatment, care or support.

A person must consult with their treating team about their treatment, care or support.

An Advance Consent Direction can include consent for Electroconvulsive Therapy (ECT). Refer to the ECT section for details.

## Making an Advance Consent Direction

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To make an Advance Consent Direction a person must have decision-making capacity and have consulted with their treating team, which involves talking to them about options for treatment, care or support for their mental illness or mental disorder.

A close family member, 'nominated person' or significant other may assist the person in developing the Advance Consent Direction.

The Advance Consent Direction needs to be written down, and signed by the person making the Direction, a representative of their 'treating team', and a witness to both the person and the treating team representative. The witness must not be someone providing treatment to the person.

An Advance Consent Direction form is available on request from mental health community-based services and inpatient units.

Copies of an Advance Consent Direction must be given to:

- the person making the Advance Consent Direction; and
- the nominated person (where one is identified);
- any member of the person's treating team who does not have access to the person's clinical record (for example, the person's General Practitioner)
- if the person has a guardian, the ACT Civil and Administrative Tribunal (ACAT);
- The person's attorney if they have a person with power of attorney.

## **Limitations on Advance Consent Directions**

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If a person who has an Advance Consent Direction, does not have decision-making capacity and resists treatment that they have previously given consent to, the treating team can only give the treatment if the ACAT orders that the treatment be given.

The treating team may only give different treatment if they believe that the treatment, care or support for which the person has previously given consent is not safe or appropriate and the:

- person agrees; and
- guardian, attorney, health attorney agree; or
- ACAT orders the treatment, care or support be given.

## **Ending an Advance Consent Direction**

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A person can end an Advance Consent Direction at any time if they have decision-making capacity. A person can end an Advance Consent Direction by telling a member of their treating team verbally or informing them in writing (e.g. by letter or email) that they want it to cease. A person can choose to end the Advance Consent Direction that day or at a future specified date. Additionally, a person can end an Advance Consent Direction by entering into a new one. If a person ends their Advance Consent Direction, this must be entered into their clinical record, and they must be told that it has been entered and be given a copy of the information that was entered.








## Feedback

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Mental Health, Justice Health and Alcohol and Drug Services encourage and support consumer and carer participation and feedback. If you wish to provide comments your first point of contact should be the team leader of the Mental Health Team you are working with. This will allow you to confidentially discuss the matter, and in the case of a complaint seek a resolution at this point. If your complaint is not resolved to your satisfaction at this point, the Team Leader will provide you with the Consumer Listening and Learning Feedback Form. The form should then be sent to the Consumer Engagement and Feedback Team.

If assistance is required to complete the form and ensuring the relevant information is provided, please contact the Consumer Engagement Feedback Team.

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	<b>Phone</b>	6244 2740
	<b>Fax</b>	6244 4619
	<b>Hours</b>	8.30 am to 5.00 pm Monday to Friday
	<b>Mail</b>	Consumer Engagement Feedback Team, GPO Box 825 Canberra ACT 2601
	<b>Email</b>	HealthFeedback@act.gov.au

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**Translation Services:** MHJHADS is committed to providing services that are culturally sensitive and which are easily accessible by consumers from diverse cultural and linguistic backgrounds. Access to interpreter facilities is available throughout the service with 24 hours notice. If an interpreter is required, or you have specific cultural care requirements, please contact your regional team.

**Mental Health Justice Health Alcohol and Drug Services (MHJHADS) is a smoke free environment in line with the ACT Health’s Smoke Free Workplace Policy.**

For more information on the smoke-free environment initiative go to:

<http://www.health.act.gov.au/health-services/mental-health-act/smoke-free-environment>





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