

Advance Decision to Refuse Treatment (ADRT)

Standard Operating Procedure (SOP)

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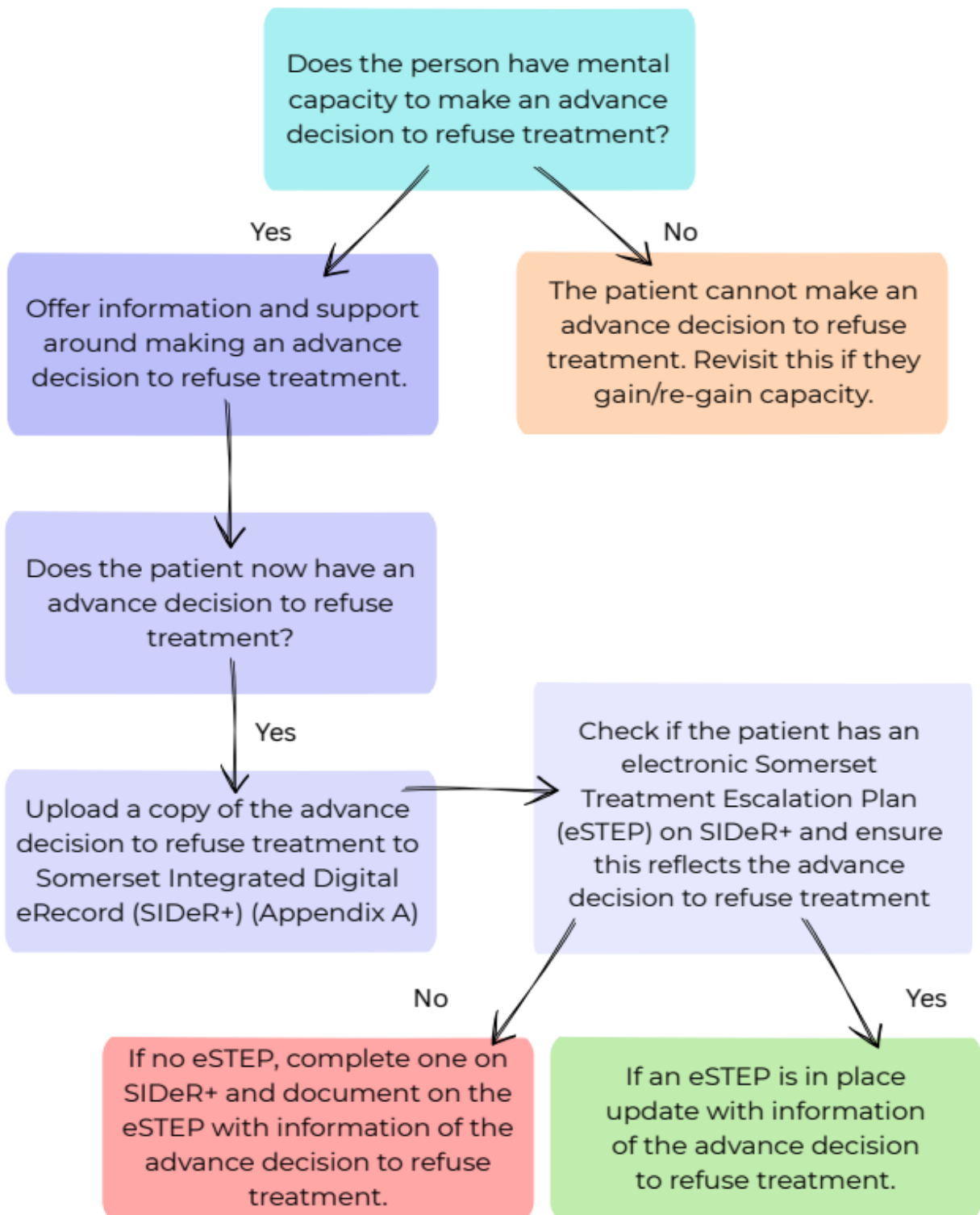
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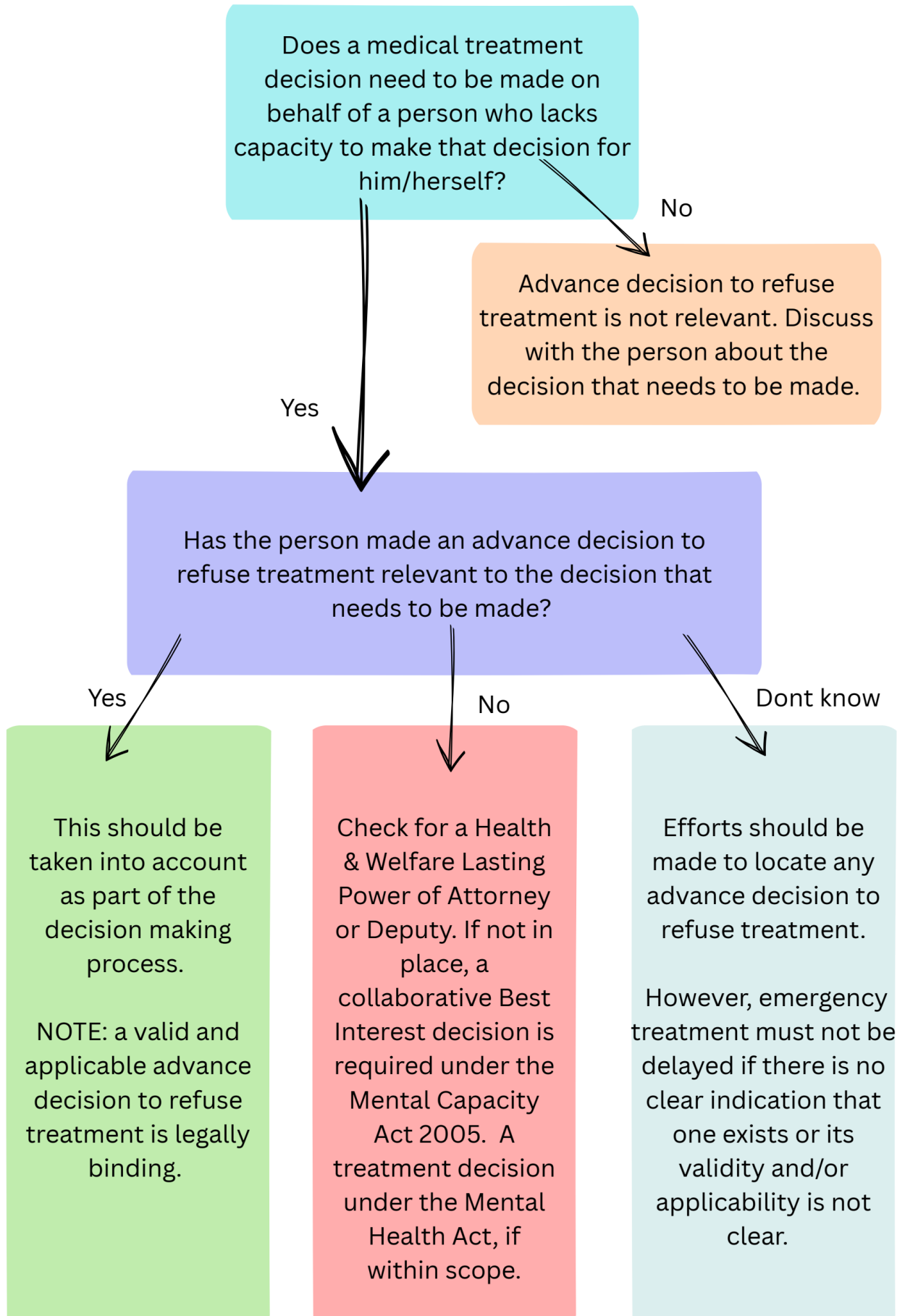
CONTENTS

	FLOW DIAGRAMS:	
1.0	1.0 FLOW DIAGRAM 1: Making an Advance Decision to Refuse Treatment	3
	1.1 FLOW DIAGRAM 2: Responding to an Advance Decision to Refuse Treatment	4
	1.2 FLOW DIAGRAM 3: Advance Decision to Refuse Treatment checklist. To confirm whether an advance decision to refuse life-sustaining treatment is valid.	5
2.0	INTRODUCTION	6
	DEFINITIONS:	
3.0	3.1 What can be included in an Advance Decision to Refuse Treatment?	6
	3.2 What makes an Advance Decision to Refuse Treatment applicable (when will it be used?)	6
	3.3 What makes an Advance Decision to Refuse Treatment valid?	7
	3.4 What makes an Advance Decision to Refuse Treatment for life sustaining treatment applicable?	7
4.0	ROLES and RESPONSIBILITIES	7
5.0	EMERGENCY TREATMENT	8
6.0	DOUBT, DISAGREEMENT and LEGAL SUPPORT	9
7.0	REFERENCES and FURTHER GUIDANCE	10
	APPENDIX:	
8.0	APPENDIX A: SIDeR+ ADVANCE DECISION TO REFUSE TREATMENT EFORM QUICK REFERENCE GUIDE	11
	APPENDIX B: ADVANCE DECISION TO REFUSE TREATMENT UPLOADED TO SIDeR+ LETTER	12
	APPENDIX C: WITHDRAWAL OF AN ADVANCE DECISION TO REFUSE TREATMENT FROM SIDeR+ QUICK REFERENCE GUIDE	13

1.0 FLOW DIAGRAM 1: Making an Advance Decision to Refuse Treatment

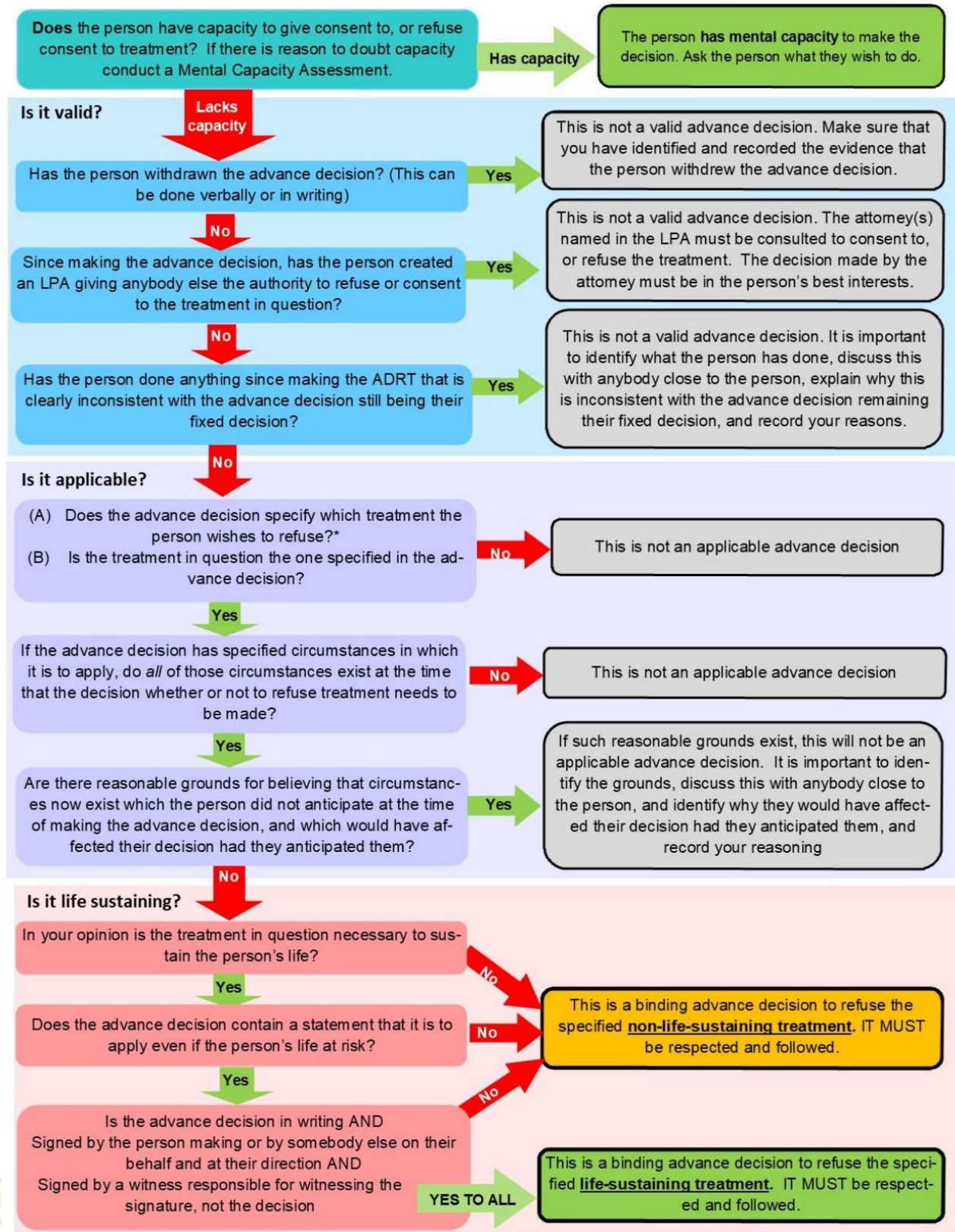


1.1 FLOW DIAGRAM 2: Responding to an Advance Decision to Refuse Treatment



1.2 FLOW DIAGRAM 3: Advance Decision to Refuse Treatment checklist.
To confirm whether an advance decision to refuse life- sustaining treatment is valid.

ADVANCE DECISION TO REFUSE TREATMENT (ADRT) CHECKLIST



*NB: It is possible to use layman's language to specify both treatment and circumstances. Adapted from: ADRT A guide for Health & Social Care Professionals. National end of life programme (2013)

Permission to use Flow Diagram 3 given by Royal Devon University Healthcare NHS Foundation Trust. This is not a substitute for the Act or law- it is not intended as legal advice. Please see Section 6.0 if in doubt or there are any disagreements and how to access legal support.

2.0 INTRODUCTION

2.1 The Mental Capacity Act 2005 provides legislation about an advance decision to refuse treatment (ADRT) under sections 24, 25 and 26. This Law provides adults over the age of 18 with mental capacity at the time, the ability to make a legally binding decision to refuse specific medical treatments in the future. Guidance for practitioners about what to do when someone has made an advance decision to refuse treatment can be found in the Mental Capacity Act Code of Practice, Chapter 9.

2.2 An advance decision to refuse treatment should be made if a person wants to avoid specific medical treatments.

2.3 The advance decision to refuse treatment will only apply when the adult lacks capacity to make the decision required about their treatment or care.

2.4 An advance decision to refuse treatment is legally binding in England if it meets certain criteria, known as valid and applicable. If valid and applicable, an advance decision to refuse treatment has the same effect as a decision made by a person with mental capacity and doctors must follow it. There is no need for a best interest's discussion because the patient has made their decision, and it is to be treated as if it is their decision at the time when a question of treatment arises.

2.5 An advance decision to refuse treatment is sometimes known as a living will or an advance directive. The legal name is advance decision to refuse treatment.

3.0 DEFINITIONS

3.1 What can be included in an Advance decision to refuse treatment?

An advance decision to refuse treatment can be used to refuse any medical treatment, including anything intended to prolong or sustain life (known as life sustaining treatment).

Life sustaining treatments can include:

- Cardiopulmonary resuscitation (CPR)
- Mechanical ventilation, both invasive (intubation) and non invasive (CPAP)
- Clinically assisted nutrition and hydration
- Antibiotics (for life- threatening infections)

3.2 What makes an Advance Decision to Refuse Treatment applicable (when it will be used)?

- The person has been assessed as lacking the mental capacity to make the decision in question. (*An advance decision is not applicable if at the time the person still has capacity to consent to or refuse to it*).
- It applies to the situation they are in.
- It applies to the specified treatment offered.

3.3 What makes an Advance Decision to Refuse Treatment valid?

- It is made by an adult aged 18 and above with mental capacity
- It clearly explains the treatments to be refused
- It clearly explains the situations the persons refusal should apply in
- The person has not done anything that goes against what is written in the advance decision to refuse treatment. This includes nominating someone as a Lasting Power of Attorney for Health and Welfare with authority to make the decision (that the advance decision to refuse treatment relates to) after they have made their advance decision to refuse treatment.
- There is no reason to believe the person has changed their mind or withdrawn the advance decision to refuse treatment since making it.
- If refusing life sustaining treatment, it must be written down, signed, witnessed (and signed by the witness) and dated. An advance decision to refuse treatment only needs to be signed and witnessed if refusing life sustaining treatment, not otherwise.
- There are no particular formalities about the format of an advance decision to refuse treatment. It can be written or verbal, unless it deals with life sustaining treatment, in which case it must be written.
- The person has not been pressured to make the advance decision to refuse treatment

3.4 What makes an Advance Decision to Refuse Treatment for life sustaining treatment valid?

If the treatment is life sustaining, an advance decision to refuse treatment is not valid unless it includes a sentence to the effect, that it is to apply to that treatment, even if their life is at risk and:

- 1) It is in writing,
- 2) It is signed by the person or by another person in the presence of the person making the advance decision to refuse treatment and by the persons directive,
- 3) the signature is made or acknowledged by the person in the presence of a witness and
- 4) the witness signs it or acknowledges his signature in the persons presence.

4.0 ROLES and RESPONSIBILITIES

4.1 As a healthcare professional have a conversation with a person about their treatment, health and care. Find out if the person has an advance decision to refuse treatment and any other advance care plans which may express their preferences and wishes.

4.2 Ensure people are aware of the different advance care plans to record their wishes. Other advance care plans include an advance statement of wishes, a Lasting Power of Attorney and a Somerset Treatment Escalation Plan.

4.3 The primary responsibility lies with the person making the advance decision to refuse treatment to make sure it is valid and clear. The advance decision to refuse treatment should be discussed with anyone they have nominated Lasting Power of Attorney for Health and Welfare decisions.

4.4 Anyone who has made an advance decision to refuse treatment is advised to regularly review and update or adjust it as necessary. Decisions made a long time in advance are not automatically invalid or inapplicable, but they may raise doubts when deciding whether they are valid and applicable. A written decision that is regularly reviewed is more likely to be valid and applicable to current circumstances, particularly for progressive illnesses. It would be good practice to encourage the individual to review and update an advance decision to refuse treatment at a new stage in their illness, if there has been development of new treatments or if there has been a major change in personal circumstances.

4.5 All staff involved in providing medical treatment must take reasonable steps to check whether an advance decision to refuse treatment exists, comply with it, upload it to SDeR+, and record its existence in the medical notes

4.6 If a person has an advance decision to refuse treatment, an advance statement or a Somerset Treatment Escalation Plan these must be uploaded to the persons SDeR+ record. (Appendix A). A confirmation letter can be sent to the person (Appendix B).

4.7 If a person is detained under the Mental Health Act (1983) the healthcare practitioner needs to consider the law in relation to treatment for a mental disorder as this may take precedence over the advance decision to refuse treatment.

4.8 If a person wants to withdraw their advance decision to refuse treatment the healthcare professional can delete this from the SDeR+ system along with copies in other systems. See appendix C.

5.0 EMERGENCY TREATMENT

5.1 Emergency treatment must not be delayed to look for the advance decision to refuse treatment if there is no clear indication that one exists. Professionals may be legally liable if they disregard the terms of an advance decision to refuse treatment, or if it is known that the advance decision to refuse treatment exists and is valid and applicable to the proposed treatment.

5.2 However, under the Mental Capacity Act, if there are any significant doubts about the validity of an advance decision to refuse treatment the professional will be obliged to treat the person under best interests until clarification is obtained. This would need to be clearly recorded.

6.0 DOUBT, DISAGREEMENT and LEGAL SUPPORT

6.1 A healthcare professional will be protected from liability for carrying out or continuing the treatment having taken all practical and appropriate steps to find out if the person has made an advance decision to refuse treatment, they do not know or are not satisfied that a valid and applicable advance decision exists.

6.2 A healthcare professional does not incur liability for the consequences of stopping, withholding or withdrawing a treatment from the person if, at the time, he reasonably believes that an advance decision to refuse treatment exists which is valid and applicable to the treatment.

6.3 In the event that there is doubt or disagreement about the validity or applicability of an advance decision to refuse treatment, all staff have a responsibility to discuss with their professional Lead (for example, Mental Capacity Act Lead) who will if appropriate refer to the relevant care group Director or Chief Medical Director.

6.4 However, if the matter remains unclear, legal advice should be sought with a possible view to seeking clarification as to the validity or applicability of the advance decision to refuse treatment from the Court of Protection. The Trust employs an external Legal team with extensive experience in healthcare and public sector legal matters. All access to this legal team is currently to be made via Ben Edgar-Attwell, Deputy Director of Corporate Services.

6.5 Nothing in an advance decision to refuse treatment stops a person providing life sustaining treatment or doing any act he reasonably feels necessary to prevent a serious deterioration in a person's condition whilst a decision is sought from a Court.

6.6 The Legal team are also available out of hours in an emergency. When legal advice is required out of hours this can be accessed via the On- Call teams. Please contact the Clinical Site Team for assistance in these circumstances.

7.0 REFERENCES and FURTHER GUIDANCE

(QR codes and websites operational as of February 2026)

- Compassion in Dying: Information and template advance decision to refuse treatment forms

<https://compassionindying.org.uk/>



- Gov.UK: Make, register or end a lasting power of attorney

<https://www.gov.uk/power-of-attorney>



- Mental Capacity Act (2005) namely section 24, 25 and 26.

<https://www.legislation.gov.uk/ukpga/2005/9/section/24>



- Mental Capacity Act Code of Practice – Chapter 9 (page 158)

<https://assets.publishing.service.gov.uk/media/5f6cc6138fa8f541f6763295/Mental-capacity-act-code-of-practice.pdf>



- Mental Health Act (1983) as amended by the Mental Health Act (2007)

<https://www.legislation.gov.uk/ukpga/1983/20/contents>



Trust Policy, procedure or guidelines available on RADAR:

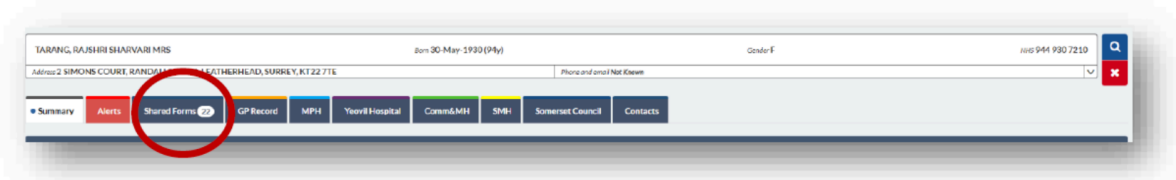
- Guidelines for the treatment of patients refusing blood products. Key Words – Jehovah Witness, Transfusion.
- Somerset Treatment Escalation Plan Policy.

8.0 APPENDIX A: ADVANCE DECISION TO REFUSE TREATMENT EFORM QUICK REFERENCE GUIDE



Advance Decision to Refuse Treatment (ADRT) eForm Quick Reference Guide

Launch SIDeR+ and navigate to/click on the Shared Forms tab.



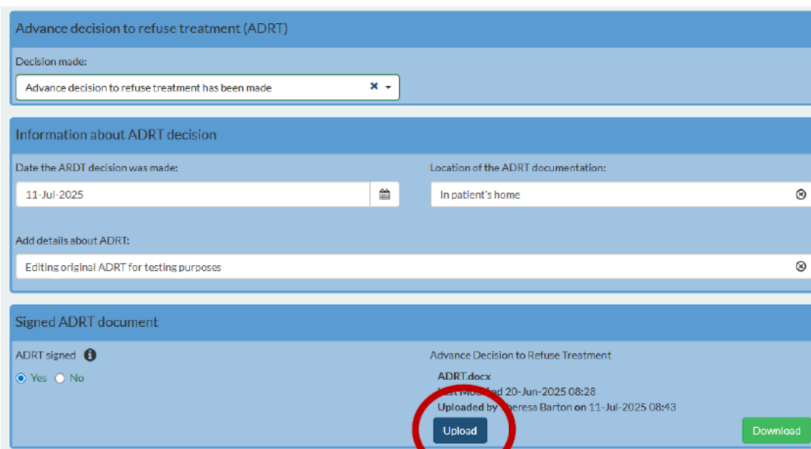
Scroll to the ADRT form in the list. If a form already exists, the tab will be blue, and the right-hand icon will say 'Edit'.



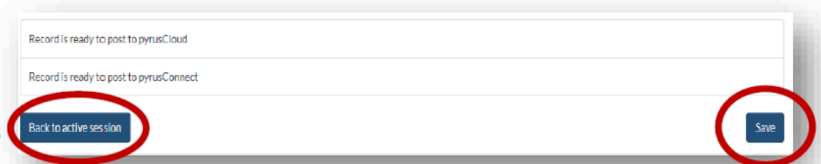
If a form does not yet exist, the tab will be grey, and the icon will say 'Create'.



Input/update information in the blue section of the form, as appropriate. Upload the signed/dated ADRT form using the upload button as shown. **This is a legal document.**



Click the 'Save' button in the bottom right-hand corner, then 'Save' on the next screen as shown, to save the form on SIDeR+, send a copy to the GP record and also to SystemOne (Please wait until both boxes turn green before clicking the 'Back to Active Session' button).



If you have any issues accessing SIDeR+, please contact your IT Service Desk in the first instance.

For all other enquiries, please contact somicb.sider@nhs.net

8.1 APPENDIX B: EXAMPLE LETTER TO PERSON CONFIRMING ADVANCE DECISION TO REFUSE TREATMENT UPLOADED TO SIDeR+



Somerset
NHS Foundation Trust

Hospital/Unit

Road

Town

POSTCODE

name@somersetft.nhs.uk

Dear

I am pleased to confirm that your Advance Decision to Refuse Treatment document has now been uploaded to the Somerset Integrated Digital e Record (SIDeR+). This is a shared Somerset system for health and social care professionals to access. It may be viewable in the NHS app- please speak to your GP about this access.

It is important that you review your Advance Decision to Refuse Treatment regularly to ensure your decision is still valid and applicable. If you have made a Lasting Power of Attorney for Health and Welfare decisions after you made an advance decision to refuse treatment this may mean the advance decision to refuse treatment is not valid.

If you want to withdraw your advance decision to refuse treatment, please ask your healthcare professional to remove this from SIDeR+.

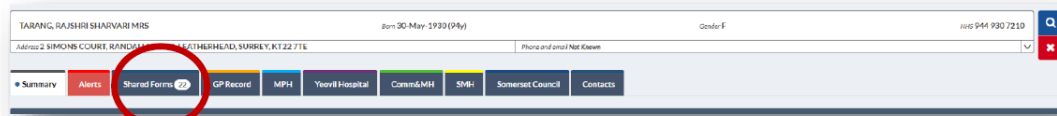
I cannot guarantee that the document would be immediately available to all staff attending to you in an emergency situation or the healthcare professional may provide treatment whilst they locate an advance decision to refuse treatment and/or check that it is valid and applicable to the treatment being provided.

Yours sincerely

8.2 APPENDIX C: WITHDRAWAL OF AN ADVANCE DECISION TO REFUSE TREATMENT FROM SIDeR+ QUICK REFERENCE GUIDE

Advance Decision to Refuse Treatment (ADRT) Withdrawal Quick Reference Guide

Launch SIDeR+ and navigate to/click on the Shared Forms tab.



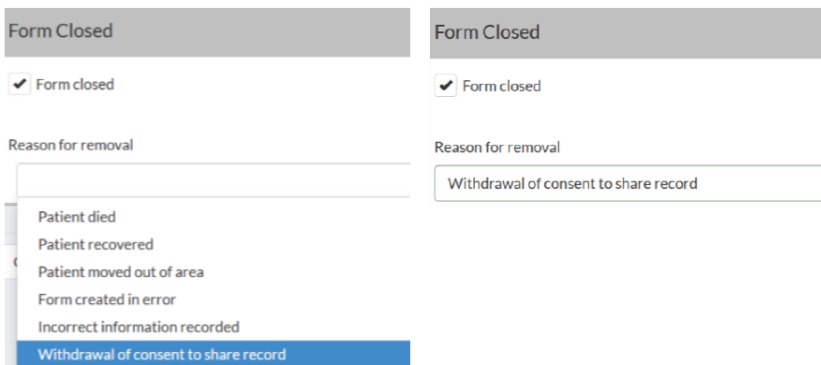
Scroll to the ADRT form in the list.



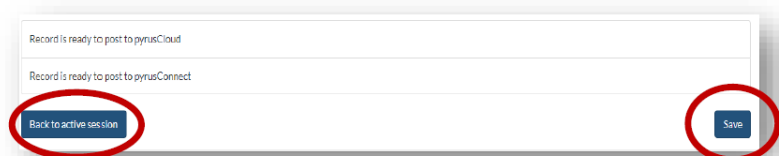
Scroll to the bottom of the form and click on the arrow in the Close Record section



Select the appropriate closure option



Click the 'Save' button in the bottom right-hand corner, then 'Save' on the next screen as shown. (Please wait until box boxes turn green before clicking the 'Back to Active Session' button).



If you have any issues accessing SIDeR+, please contact your IT Service Desk in the first instance.

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