

Background: Making decisions

Capacity

People have the legal right to make their own decisions about things such as what medical treatment to accept or where to live, as long as they have the capacity to do so. This applies to people with dementia too. As dementia progresses, however, it can get harder for people to make their own decisions.

The law says that it must always be assumed that someone can make their own decisions, until it is shown that they no longer have capacity to do so. Where decisions are made for people who lack capacity, such decisions must be in the person's 'best interests'.

When working out 'best interests' it is important to take into account both the past and present wishes and feelings of the person with dementia, even though they may be quite different.

Advance decisions

People who can still make their own decisions sometimes write 'advance decisions' (also called 'advance directives' or 'living wills') to say what kind of care or treatment they want in the future when they are no longer able to decide for themselves. Advance decisions to refuse treatment are legally binding, as long as they have been properly made.

Some people see advance decisions as a good way of making sure their wishes are followed in the future. Others believe that we can never 'second-guess' what we will want in the future, and that an advance decision may lead to bad care.

Welfare attorneys

People who are still able to make their own decisions may choose someone they trust to make decisions for them in the future. The person chosen is known as a 'welfare attorney'. The welfare attorney must always act in the best interests of the person with dementia when making decisions.

Welfare attorneys have many advantages over advance decisions, as they have up-to-date information about the decision to be made. However, there are concerns that some people may find it too expensive or complicated to nominate a welfare attorney.