

Advance Care Directive Fact Sheet

What is an ACD?

An ACD is a person's instructions about their future health care and treatment. A person may give an ACD to specify health care treatments they would like to receive or refuse should they become a person with impaired decision-making ability. A person (adult) has impaired decision-making ability in respect of a health care decision if they are unable to understand, retain, use or weigh information relevant to the decision; or communicate the decision (whether by speech, gesture or other means).

Health care is defined as any care, health service, procedure or treatment (including medical or dental treatment) provided by a health practitioner for the purpose of diagnosing, preventing, assessing, maintaining or treating a physical condition or mental illness.

When can a person give an ACD?

A person may give an ACD if he or she:

- (a) has decision making ability; and
- (b) understands what an ACD is; and
- (c) understands the consequence of giving an ACD.

A person may instruct an adult acting on their behalf to complete an ACD form if they are unable to do so. The adult acting on behalf of the person giving the ACD must complete the ACD form according to the directions and preferences of the person instructing.

When does an ACD come into effect?

An ACD comes into effect when a person becomes unable to make or communicate decisions about their care and treatment.

How can a person give an ACD?

A person may give an ACD in writing, orally or by any other means that enables the directions, preferences and values of the person giving the ACD to be documented.

A person intending to give an ACD in writing may complete the approved ACD Form or request the approved ACD form be completed by an adult acting on his or her behalf.

Registration of an ACD

There is no mandatory requirement to register an ACD. An ACD made in accordance with the Act will be valid even if it is not registered with the Tribunal.

A person may register his or her ACD with the Tribunal. A person must complete and file an ACD Registration Application Form ('ARA Form').

The person must provide the Tribunal with their ACD and the ARA Form either in person at the Tribunal premises or via post.

The Tribunal has the discretion to refuse a registration where the ACD does not comply with the formal requirements set out in the Act.

Revoking or varying an ACD

A person may revoke an ACD at any time if they have decision-making ability and understand the consequences of revoking the ACD.

If the ACD is registered with the Tribunal, the person must complete and lodge the Notice of Revocation of a Registered ACD Form with the Tribunal.

A person may not vary a registered ACD. An application can be made to the Tribunal pursuant to the Act, seeking the Tribunal varies the ACD. If a person has decision making capacity a new directive must be made to change the terms of an ACD.

Role of the Tribunal

The Tribunal may hold a hearing concerning an ACD and can make determinations about :

- a review of a matter dealt with by the Public Guardian concerning an ACD;
- the validity of an ACD;
- revoking or varying an ACD where the person who gave the ACD has impaired decision-making ability; and
- advice and directions from the Tribunal concerning an ACD.