

DISCLAIMER

This Factsheet provides an outline of Advanced Care Directives as they exist in South Australian common law and in statute. This factsheet is **not intended to be a substitute for professional legal advice** and no reliance should be placed on the information as if it were such. Please consult YLP Legal should you have any question regarding the creation of an Advanced Care Directive or your duties as a substitute decision maker.

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Introduction

An Advanced Care Directive ('ACD') is a legal document. It is an important step in planning your future, particularly regarding your health and wellbeing. An ACD allows you to set out your values and wishes to guide decisions about your future healthcare and other personal matters.

Who can create an ACD?

If you fulfil the following requirements you can legally create an ACD:

- ✓ You are an adult (18+)
- ✓ You are of sound mind
- ✓ You have legal capacity

When can an ACD be used?

- When you are no longer considered legally capable of making your own decisions.
- An ACD will continue to have legal effect until the donor passes away, or if you complete a new ACD document (which will then replace the old one).

Why do you need an ACD in addition to a will or a power of attorney?

An ACD is sometimes colloquially referred to as a 'living will', however an ACD is not a Will and there are limits to what can be included.

An ACD does not involve:

- Making financial decisions.
- Making legal decisions.
- Dividing of assets, etc.

The important thing to remember is that an ACD is a document for decision making whilst you are still alive.

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What is a substitute decision maker?

- The role of a substitute decision maker begins when the ACD is put into action, when you are no longer considered legally capable of making your own decisions.
- If you formally appoint a substitute decision maker then they will be able to make decisions on your behalf during that time.

What are some examples of what may be included in an ACD?

ACDs allows you to create instructions regarding:

- Values and wishes e.g. where you live, what you wish to eat, etc.
- Outcomes you wish to avoid.
- If there is any healthcare you wish to refuse, and in what circumstances.
- End of life arrangements generally.
- Appointing Substitute Decision-Makers.

What happens if you do not create an ACD?

- You will receive health care regardless of whether you have an ACD.
- There is no legal requirement to create an ACD, however it is highly encouraged.
- Creating an ACD will give you, and your loved ones, peace of mind around your care arrangements.

Can you amend an ACD?

No, the legislation provides that ACD's cannot be amended once fully executed. Should the need arise for you to amend your ACD then you will need to create a new ACD if you still have legal capacity and are of sound mind.