



# What you need to know about Advance Care Directives

ADELAIDE OFFICE:

Level 1 / 48 Carrington St  
Adelaide SA 5000

PHONE: 08 8212 4334

FAX: 08 8212 5054

GLENELG OFFICE:

1 Byron St Glenelg SA 5045

PHONE: 08 8294 5253

FAX: 08 8295 8462

EMAIL: [admin@scales.net.au](mailto:admin@scales.net.au)

[scales.net.au](http://scales.net.au)

SCALES  
+PARTNERS  
*Lawyers*

# What is the Advance Care Directive?

An Advance Care Directive is a document by which you can appoint a Substitute Decision Maker to act on your behalf in circumstances where your decision making capacity is either temporarily or permanently impaired.

It gives directions and expresses your wishes and values regarding your future health care, residential and accommodation arrangements, and personal affairs. It specifies outcomes or interventions that you wish to avoid.

## What is a Substitute Decision Maker?

---

A Substitute Decision Maker is a person you appoint to act on your behalf during your lifetime, in circumstances where your decision making capacity is either temporarily or permanently impaired.

## Do I have to appoint a Substitute Decision Maker?

---

You do not have to appoint a Substitute Decision Maker. It is possible for you to just make directions and express your wishes in an Advance Care Directive without appointing a Substitute Decision Maker. However, we strongly recommend that you do so.

## Why would I need to appoint a Substitute Decision Maker?

---

If you, for example, became senile or suffered from Alzheimer's disease, your Substitute Decision Maker can take the appropriate steps to have you admitted to a nursing home or suitable institution, and can make decisions as to your medical care. An Enduring Power of Attorney is not sufficient for this task, as it is limited to your financial affairs.

The intent is to have someone look after your well-being when you are unable to do so for yourself because of your mental incapacity. The Substitute Decision Maker can only act when you are incapable of making these decisions for yourself.

A Substitute Decision Maker can be any adult you choose whom you trust to carry out your wishes. It may be your wife, husband, partner, child, a member of your family or a close friend. You can have any number of Substitute Decision Makers. You can choose whether they have to act jointly or whether anyone can act alone.

Doctors, nurses or any of the staff in hospitals or nursing homes who are looking after you, cannot be your Substitute Decision Maker, nor can any paid carer.

Your Substitute Decision Maker must be willing to act for you and must sign the Advance Care Directive, accepting the responsibilities of a Substitute Decision Maker.

## What are the obligations of my Substitute Decision Maker?

---

Your Substitute Decision Maker must always act in your best interests and, as far as possible, act in the way that you would act, if you were still of the appropriate mental capacity. The decisions of your Substitute Decision Maker must, as is reasonably practicable, reflect the decisions that you would have made, whilst being consistent with your proper care and the protection of your interests, without restricting your basic rights and freedoms.

As far as reasonably practicable, your Substitute Decision Maker has to give effect to any instructions or directions expressed by you in the Advance Care Directive. Your Substitute Decision Maker must act in good faith and with due diligence.

## What happens if I do not appoint a Substitute Decision Maker?

---

In this event, the need might arise for somebody to be appointed to look after your affairs and that will involve an application to the South Australian Civil and Administrative Tribunal (SACAT). This will involve expense and delay at the very time when your welfare will most be at risk and likely cause anguish and frustration for your family and friends.

## Other than for the appointment of a Substitute Decision Maker, why should I complete an Advance Care Directive?

---

The Advance Care Directive is your way of communicating to others in advance, what your wishes are when you are unable to make, or express, these wishes due to your decision making capacity being temporarily or permanently impaired, for example, as a result of a stroke or dementia. If you appoint a Substitute Decision Maker it will assist that person, or persons, in the exercise of their duties.

## What directions and/or wishes can I / should I put into an Advance Care Directive?

---

This is very much a personal decision for you. These are matters which you may wish to discuss with your family, partner and/or medical advisors. However, some people do not wish to make many, or even any, such directions or wishes but are content to leave these matters to their Substitute Decision Maker to decide.

We are happy to assist you with suggestions for, and the drafting of some of the more technical directions, such as the refusal of certain types of medical treatment. For many people, that is all they will require to be included in the Advance Care Directive.

## Can I revoke an Advance Care Directive?

---

Provided you are competent at the time, you can do so by written revocation or the giving of another Advance Care Directive. If you are no longer competent, only the South Australian Civil and Administrative Tribunal (SACAT) can revoke an Advance Care Directive.

## What if I wish to change the contents of my Advance Care Directive?

---

This will require you to prepare a new complying Advance Care Directive.

## To whom should I give a copy of my Advance Care Directive?

---

Any Substitute Decision Maker should have a copy, as should your treating doctors or any institution responsible for your care, such as a Nursing Home or Hospital.