

Do Not Resuscitate (DNR) Decisions: Understanding your rights

Any decisions regarding medical treatment, and the possible end of life, can be difficult and emotional for those involved. Decisions over whether resuscitation should be attempted (DNR decisions) can be particularly overwhelming for patients and their loved ones. At such times, it can be useful to know exactly what rights you have so that you can concentrate on more important things.

Whether you are facing an immediate DNR decision – as a patient or for a loved one – or you would like to know how best to plan for DNR decisions in the more distant future, this help guide aims to provide an overview of the legal rights involved.

What is a Do Not Resuscitate (DNR) decision?

A DNR decision focuses specifically on whether Cardiopulmonary Resuscitation (CPR) is to be carried out on a patient, should the need for it arise. A DNR decision may be taken when there is a risk of the patient's breathing or heart stopping. If it is decided 'not to resuscitate', CPR will not be attempted. This is sometimes called a 'DNR order'.

It is important to note that, even if a DNR order is made, this should not affect other treatment decisions. In other words, just because it has been decided that CPR will not be attempted, it does not mean other methods of treatment should not be attempted either.

You may also see DNR decisions and orders referred to using different initials. These include DNAR (Do Not Attempt Resuscitation) or DNACPR (Do Not Attempt Cardiopulmonary Resuscitation). The different initials are normally used interchangeably.

Cardiopulmonary Resuscitation (CPR) - what might it involve?

When we hear the term CPR, we often picture someone carrying out chest compressions and assisted breathing. However, CPR may also include the application of high-voltage electric shocks across the chest (using a defibrillator) and also the injection of drugs.

CPR is an involved and intrusive process, conducted in what may be the last moments of someone's life. This is one reason why some people prefer to refuse CPR when making a DNR decision, even if there is a chance it could succeed. They may see CPR as being inconsistent with the idea of dying with dignity.

Who will make a DNR decision?

When a DNR decision is needed, depending on the circumstances, it could be made by:

- The patient, at the time of their injury or illness
- The patient, in advance of the situation, using an Advance Decision (also called a [Living Will](#))
- By the patient's appointed legal representative, such as an attorney under a suitable [Lasting Power of Attorney](#) or a [court appointed deputy](#).
- The senior treating doctor

There are two crucial factors which will affect this:

1. Whether the patient has mental capacity to make a DNR decision for themselves
2. Whether the patient has made any advance preparations for a DNR decision

These factors, and the circumstances in which DNR decisions can be made, are explored in more detail below.

Mental capacity

This is a term often used to describe someone's ability to make legally binding decisions for themselves. It is a very important consideration in DNR decisions as it will determine whether someone can make their own choice or whether another person must make it for them. For more information, have a look at our separate [Mental Capacity help guide](#).

The rights of the patient

As a patient, **you have the right to refuse permission for CPR** to be carried out.

However, it is important to be aware that **you do not have the right to demand CPR** from your treating doctors, regardless of the circumstances.

Doctors may decide to impose a DNR order on a patient even without their consent. Crucially however, there are processes which a doctor must follow when making this kind of DNR decision. Also, such a decision can only be made on one of the following grounds:

- Where the prospects of successfully carrying out CPR are so low it would make any attempt futile.
- Where the treating doctor considers that CPR would not be in the best interests of the patient. This could cover situations where any possible negative effects from the CPR would outweigh the benefits, or where successful CPR would just serve to

prolong a patient's suffering. However, making this assessment should be done in consultation with the patient and their loved ones.

Clinical guidance for doctors sets out a process to be followed when faced with a DNR decision. Patients should also be aware of this process to ensure their doctors are handling their situation correctly.

The process starts when doctors anticipate that there is a clear risk of the patient's breathing or heart stopping. At this point, they should assess how likely it is for CPR to be successful in the patient's case.

Whenever doctors are faced with a DNR decision, they should discuss and explain the situation to patients and loved ones in a timely and appropriate way. This is to avoid any misunderstandings or extra distress which may be caused.

Where CPR is considered to be futile

Even if doctors consider there is no realistic chance of CPR succeeding if it became necessary for a patient, they should discuss this decision with the patient and explain it to them. However, only if:

- The patient has mental capacity; and
- The treating doctors do not think discussing this with the patient will cause greater harm. Naturally, this kind of discussion will be distressing to the patient, but doctors can forego speaking to the patient if they anticipate the harm is likely to be over and above that which might come from an 'ordinary' reaction.

When CPR is considered futile, treating doctors are likely to impose a DNR order. If the patient disagrees with this after discussing it with their doctors, they should be given the option of seeking a second opinion.

Where CPR may or may not be in the patient's best interests

A patient must be involved in a DNR decision if there is a chance that CPR would be successful - provided also that the patient has mental capacity, and they are willing to discuss the matter. A patient is entitled to refuse involvement in making a DNR decision.

When the patient is involved, the patient should be given all the information required to make an informed decision. The decision can also be left in the hands of their doctors if the patient decides.

Loved ones close to the patient should also be involved in the decision, but the patient can exclude them if the patient so chooses.

Where the patient has lost mental capacity

When a patient does not have the mental capacity to be involved in the DNR decision, any advance preparations the patient has made might take effect. This could include an Advance Decision, or the appointment of a legal representative who must be consulted, such as an attorney under a Lasting Power of Attorney for health and welfare, or a court-appointed deputy. More detail is provided in the section below on advance preparations.

If no such advance preparations exist, or are not relevant (for example, where an Advance Decision exists but it does not relate to DNR decisions or CPR), then the DNR decision may be made by doctors, usually in consultation with the patient's loved ones.

The rights of people close to the patient

The loved ones of a patient are often entitled to be involved in DNR decisions, even if they are not the patient's appointed legal representatives. They cannot make legally binding decisions on the patient's behalf, however, so the final decision will be made by the senior treating doctors.

Those close to the patient can include family members, friends, and carers who have been involved in the patient's care.

There are some limited situations where those close to the patient cannot be involved in a DNR decision:

- When the patient has requested that loved ones should not be consulted or involved. Patient confidentiality means that doctors would be unable to discuss the patient's case with their loved ones in this situation.
- When the patient has lost mental capacity but has made a legally binding Advance Decision.

Health and welfare attorneys and personal welfare deputies

If the patient does not have mental capacity, legal representatives of the patient have more rights, in general, to be involved in any DNR decision.

Attorneys appointed under a Lasting Power of Attorney for health and welfare, and personal welfare deputies appointed by the Court of Protection must be consulted by doctors when making a DNR decision.

The powers granted under the Lasting Power of Attorney or deputyship order from the court must give the legal representative the power to make decisions about medical and life-sustaining treatment.

If a patient's legal representatives disagree with the treating doctors over a DNR decision, they may have legal standing to contest the matter in court. This is a complicated area of law and it is always recommended to seek specialist legal advice if you choose to take this step as the patient's legal representative.

Planning for the future and advance preparation for DNR decisions

No one wants to imagine a future where they may face a DNR decision, but at the same time, many people feel strongly about the circumstances in which they would, and would not, want their lives to be preserved.

If you are unable to communicate your wishes regarding CPR at the necessary time, there are steps you can take in advance to prepare for this. Doing so can give you peace of mind, knowing that matters are taken care of should the worst happen. It also allows you to make your decision calmly, removed from the distress involved when deciding in an emergency.

Lasting Powers of Attorney for health and welfare

A Lasting Power of Attorney allows you to appoint people to take decisions on your behalf if you do not have the mental capacity to make those decisions yourself.

Lasting Powers of Attorney for health and welfare allow you to give your attorneys the authority to make decisions regarding matters as diverse as your daily routine, where you live, the care you receive, and also your medical treatment.

This kind of Lasting Power of Attorney can only be used if you have lost mental capacity.

One of the powers you may confer on your attorneys is the ability to refuse life-sustaining treatment. This can include refusing CPR through a DNR decision. However, this power must be expressly included in the terms of your Lasting Power of Attorney, otherwise the decision will be made by doctors.

It is also recommended to discuss your thoughts on any potential DNR decisions when you create your Lasting Power of Attorney. This way, your attorneys are aware of your wishes if they have to make a DNR decision for you in the future.

More information on [Lasting Powers of Attorney](#) can be found in our separate help guides.

Advance Decisions

Advance Decisions are documents which allow you to specify situations in which you would refuse certain kinds of medical treatment in future. Like Lasting Powers of Attorney

for health and welfare, they will only take effect if, at the time of the medical treatment in question, you do not have mental capacity.

Life-sustaining treatment can be refused through an Advance Decision and, if the Advance Decision is valid and applicable to your healthcare situation, it is legally binding upon the doctors treating you.

Even if the criteria of your Advance Decision are not fully met, its terms can be taken into consideration as an indication of your wishes. Medical professionals will not be legally bound by the terms, however.

This means Advance Decisions must be drafted carefully, both to comply with various formalities and to ensure it will accurately give effect to your wishes.

Also, if you make an Advance Decision, it is important to consider how it might clash with any Lasting Power of Attorney you have also made. If the two contradict each other, or do not align with the wishes you have communicated to your attorneys, it can make the situation difficult to resolve.

Read our [separate help guide on Advance Decisions](#) for more information, as well as details of how Advance Decisions might interact with a Lasting Power of Attorney.

How Roche Legal can help

Dealing with legal issues can be confusing and stressful. We understand this, and we're always on hand to untangle jargon and offer support.

If you need advice on any of the issues raised in this help guide, please don't hesitate to [get in touch](#). Roche Legal is an award-winning legal practice, offering practical and caring advice.

Roche Legal ©