Doncaster and Bassetlaw Hospitals NHS
NHS Foundation Trust

Advance Decision to Refuse Treatment (ADRT) Policy

This procedural document supersedes: PAT/PA 27 v.1 - POLICY FOR THE MANAGEMENT OF ADVANCE DECISION TO REFUSE TREATMENT (ADRT)

Did you print this document yourself?
The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off, it is only valid for 24 hours.**

Author/reviewer: (this version)	Dr Maurice Fernando, Palliative Care Consultant; Sarah Cooper, Macmillan Specialist Palliative Care Nurse
Date written/revised:	March 2015
Approved by:	Policy Approval and Compliance Group
Date of approval:	31 March 2015
Date issued:	22 April 2015
Next review date:	March 2018 **– extended to April 2019**
Target audience:	Clinical staff – Trust wide

Amendment Form

Version	Date Issued	Brief Summary of Changes	Author
Version 2	22 April 2015	• Flowchart identifying staff responsibilities when identify patient with ADRT • Amendments to recording system for identified ADRTs • Alert system established for patients with known ADRT • Specialist Palliative Care Team to alert clinical team to assess ADRT validity and appropriately actioned • Link to further information site updated	Sarah Cooper; Dr Maurice Fernando
Version 1	November 2011	• This is a new procedural document, please read in full	ADRT Focus Group

Contents

1. INTRODUCTION

1.1 The Mental Capacity Act 2005 (MCA) became law, in a phased way in April 2007. In October 2007, as part of the Act, Advance Decision to Refuse Treatment (ADRT) became subject to statutory law, rather than case law, as had been the case prior to this date.

The MCA provides both the statute and the framework for making decisions, and acting on behalf of an individual who lacks capacity. Everyone working with or caring for adults who lack capacity must, by law comply with the Act

1.2 Adults with capacity have always had the right to refuse treatment, by withholding consent at the time of the proposed treatment. The MCA formalises the process, by enabling individuals who currently have capacity to make refusals to receive treatment in advance, in the event of their losing capacity at a later date.

1.3 The MCA defines adult as anyone having attained the age of 16. However, the section of the Act relating to ADRT, applies to those individuals aged 18 years or over.

1.4 Previously terms such as 'living will' 'advance directive' or 'advance statement' may have been used to represent an ADRT. The MCA now refers only to Advance Decision to Refuse Treatment.

1.5 An ADRT does not give an individual the right to request specific treatment, only to refuse treatment.

2. PURPOSE

2.1 The purpose of this document is to raise the awareness of staff within Doncaster & Bassetlaw Hospitals NHS Foundation Trust of the nature and implications of an Advance Decision to Refuse Treatment and includes:

- The legal issues surrounding ADRTs
- Support for patients having, or wishing to make an ADRT.
- Guidance for dealing with an ADRT

2.2 This policy is intended for use by staff working within the Trust, across all sites.

2.3 This policy should be used in conjunction with; Advance Decisions to Refuse Treatment - A guide for Health and Social Care Professionals (Department of health September 2008**).**

3. DUTIES AND RESPONSIBILITIES

3.1 **Managers**

Managers have a responsibility to ensure their staff are aware of, and comply with national and local specialist guidance in respect of the management of patients with an existing ADRT, or those patients wishing to make one.

3.2 Specialist Palliative Care Team (SPCT)

The SPCT secretary will fulfil an administrative function, and will;

- Record on a database all ADRTs received in the Trust once identified.
- Create a 'flag' within the PAS system for all patients who have registered an ADRT with the Trust, to alert users to its existence on further admissions.

The SPCT will receive an alert via email to identify patients with an ADRT and then have a responsibility to;

- Alert the responsible team to advise that patient previously known to have ADRT in place request they assess validity of ADRT at earliest opportunity.
- Request ADRT be stored in medical notes whilst inpatient.

3.3 Out of hours/ Emergency Presentation

Treating or admitting team to be responsible for acting on ADRTs presented on admission as appropriate and enlist Specialist Palliative Care guidance on process of ADRT if necessary at earliest opportunity.

3.4 Administration and Clinical staff within Accident and Emergency

Staff within A&E will fulfil an operational function by informing SPCT if a patient is admitted where the existence of an ADRT is identified.

3.5 Individual Staff

- All staff have a responsibility to comply with the wishes in any ADRT provided it exists, is applicable and is valid. (See section 4.2).
- The first professional to be made aware of the existence of an ADRT should inform the consultant in charge of the patient's care.
- All staff have a responsibility when handing over patient information, to ensure that any professional involved in the patient's care is made aware of the ADRT, whether the transfer is within the Trust, or to an external provider.

3.6 PALS/Chaplaincy

Both the PALS department and the Chaplaincy department will offer support and advice to an individual wishing to make an ADRT, or who has already registered an ADRT within the Trust. (See section 4.6).

4. PROCEDURE

4.1 Flowchart for the Staff Procedure Following Identification of an ADRT

(See Appendix 3).

4.2 Legal Issues Around ADRTs

- An ADRT is legally binding, and must be followed by all staff involved in the care of the patient if it **exists,** is **valid**, and is **applicable.**

- Actions contrary to those stated in a legally binding ADRT may be liable to civil or criminal proceedings. If there are genuine doubts about the existence, validity or applicability of an ADRT, and those doubts can be demonstrated, then treatment must be provided in the patients best interests (see MCA) with the intent to preserve life, but seek advice from Legal Services Department if time allows, and if not inform them afterwards.
- In the event of treatment being provided not in accordance with the ADRT, any concerns about existence, validity or applicability **must** be documented in the health care records.

4.2.1 **An ADRT exists**

- Staff must make reasonable efforts to confirm the existence of an ADRT (Refer to section 4.4 Storage of an ADRT within the Trust) It is the responsibility of the individual making the ADRT to ensure relevant areas are aware such as GP, admitting hospital clinical staff, Next of kin.
- In an emergency situation, staff should safely provide treatment considered to be in the patient's best interest unless there is an ADRT. Emergency treatment **must not be delayed** in order to look for an ADRT if there is no clear indication of its existence.

4.2.2 **An ADRT is valid**

- There must be no reason to believe that the individual lacked sufficient capacity when ADRT made.
- An ADRT becomes invalid if:
  - The individual withdrew the ADRT whilst still having capacity to do so.
  - After making the ADRT the person appointed a Health and Welfare LPA that gave them the authority to refuse or consent to the treatment in question.
  - Any subsequent action of the individual clearly indicates that he has changed his mind, or he subsequently does something that is clearly inconsistent with the ADRT.

4.2.3 **It is the responsibility of the individual to inform all appropriate agencies if he/she withdraws, or amends an ADRT**

4.2.4 **An ADRT is applicable**

- To be applicable the ADRT must relate specifically to the situation in question.
- An ADRT is not applicable if:
  - The proposed treatment is **not** specified in the ADRT.
  - The circumstances are different to those specified in the ADRT.
  - There are grounds for believing that circumstances may have arisen which would have affected the decision of the individual.
  - If the individual retains capacity.

4.2.5 **Format of an ADRT**

- There is no stated format for an ADRT, however good practice suggests that an ADRT should:
  - Be in writing.

- Contain full personal details of the maker, including any distinguishing marks or features (This will be helpful if the maker needs to be identified, eg. if unconscious.).
- State the name of the GP
- Must state **specifically** the particular treatment to be refused, and what circumstances apply to that refusal.
- Be dated, signed and witnessed.

- If an ADRT includes refusal of Life sustaining Treatment, it **must:**
  - Be in writing.
  - Be signed by the maker, in the presence of a witness.
  - Be signed by the witness.
  - Include a clear and specific statement in respect of the treatment to be refused, and the circumstances.
  - Include the statement **"even if life is at risk".**

- Verbal ADRTs are valid only for **non-life sustaining treatment** and must be made whilst the individual has capacity.
  - If a verbal ADRT is made it should be recorded in the Health Care records by the professional present at the time it was made.
  - Details should be recorded of who was present at the time the verbal ADRT was made.
  - The individual should be encouraged to convert the ADRT to a written one, at the earliest opportunity where possible.

For further, more comprehensive guidance around the legal issues surrounding ADRTs, please see the Advance Decisions to refuse Treatment – A Guide for Health and Social care professionals.

4.3 Distribution of an ADRT

Below is a suggested list of key people and agencies the maker may wish to include in the distribution of the ADRT, as well as keeping a copy himself;

- Relative or carer.
- Key worker (Health or social care).
- General practitioner.
- Care home if individual is a resident.
- Ambulance Service.
- Out of Hours GP.
- Hospital trust.

4.4 Storage of ADRT within the Trust

- An ADRT will be filed within the Health Care Records, behind the yellow hazard sheet for the duration of the admission to hospital.
- PAS records will be 'flagged' to alert the user that an identified ADRT exists within the free text section of the system Note; SPC CNS and secretary will create this flag.

- The existence of the ADRT will be recorded on the yellow Hazard Warning sheet within the Health Care records.
- If an ADRT that is not on the Trust form is registered, it will be filed as above within the Health Care Records, but attached to a blank Trust form, in order to ensure consistency of filing.

It is worth noting that if an ADRT includes the decision not to be resuscitated, then the Trust DNACPR form should also be completed, and filed as per Trust Policy: *Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) Policy, PAT/EC 2.*

4.5 Dealing with an ADRT

When staff becomes aware of the existence of an ADRT, they should:

- Acknowledge its existence to the patient.
- Ensure that if the ADRT relates to Life sustaining treatment, there is a written copy available.
- Inform the Consultant in charge of the patients care.
- Ensure that all professionals caring for the patient are aware of the ADRT, and what treatment it relates to.
- Discuss with family, unless the patient has expressed a wish that the ADRT should not be discussed with them.
- A checklist for staff managing patients with an ADRT is available as part of this policy (Appendix 2), or can be downloaded from the Trust's Intranet site.

4.6 Support for Patients Wishing to Make an ADRT Whilst in Hospital

If a patient wishes to make an ADRT whilst in hospital, they should be given the support to do so. A copy of the suggested form may be useful to facilitate the process. This form (Appendix 1) can be downloaded from the Trust Intranet site. **(It is worth noting that an ADRT, as long as it fulfils the criteria set down in section 4.2.5 need not necessarily use the suggested form).**

Further information is available on the ADRT website.
http://www.adrt.nhs.uk/ .

Advice and support can be accessed via PALS, or the Chaplaincy department:

- PALS and the Chaplaincy department are both accessible during office hours. In an urgent situation, the Chaplaincy department can be accessed 24hrs a day.
- It is important that the patient is aware that the role of PALS and the Chaplaincy Department is an advisory one only. It is not the intention that these departments will write an ADRT on behalf of the patient.

4.7 Transfer of Patients with an ADRT

It is the responsibility of the individual making an ADRT to ensure appropriate distribution of the document. However if a patient with an ADRT is transferred within the Trust, or to another care provider, the Trust has responsibility to:

- Inform the receiving provider, within or external to the Trust of the existence of the ADRT.
- Inform the transport provider of the existence of an ADRT. This includes YAS and EMAS as well as the Trusts own transport department.
- Prior to transfer by ambulance, ambulance liaison must be made aware in advance that the patient requiring transport has an ADRT. A copy of this should be made available for the ambulance personnel who are responsible for transferring the patient.

5. TRAINING/SUPPORT

Managers are responsible for ensuring that their staff are able to effectively manage all aspects of dealing with an ADRT, whether it is an existing ADRT, or a patient wishing to make an ADRT whilst in hospital.

Training and support can be offered by SPCT following requests of individual areas as required.

6. MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
Identification and recording of ADRT in compliance with policy	Specialist Palliative Care Team	Annual	Reviewed via annual audit reported to relevant committee

Management of ADRTs will be monitored as part of the Trust's Risk Management Audit programme.

7. DEFINITIONS

EMAS: (East Midlands Ambulance Service.) The ambulance service serving the population of Nottinghamshire, the main provider for the Bassetlaw site.

Independent Mental capacity Advocate (IMCA) An individual employed by a Government funded service to further support particularly vulnerable patients, who have no one to act on their behalf. (See ***Mental Capacity Act Policy & Guidance*** PAT*/PA 19).*

Life Sustaining Treatment Any treatment undertaken for the purpose of prolonging life, and not intended to reverse the underlying medical condition. Artificial hydration can be defined as Life Sustaining Treatment. Basic care (eg hygiene, warmth and the offer of nutrition) **is not** life sustaining treatment.

LPA (Lasting Power of Attorney) A person or persons granted authority by an individual, whilst they have capacity, to act on their behalf in the event of their losing capacity. An appointed

attorney can make decisions on behalf of that individual in respect of property and finances, or health and welfare issues, as determined by the individual.

If an individual has a ***health and welfare LPA*** any ADRT relating to the individual becomes invalid. (For further information relating to LPAs, see ***Mental Capacity Act Policy & Guidance*** PAT*/PA 19).*

Please note; Property and Finances LPA will not affect the validity of an ADRT.

PAS (Patient Administration System) The computerised information system used to record information about patients receiving, or having received treatment within the Trust. An ADRT registered with the Trust will be recorded on the system, and flagged if a patient is admitted, or receives any intervention by the Trust.

PEAKS (Patient Electronic Alert to Keyworker System) The Patient Electronic Alert to Key-worker System (PEAKS) will send a message in the form of email and SMS message identifying the patient and their location once registered on the Patient Administration System (PAS) or the Emergency Department system (Symphony).

YAS Yorkshire Ambulance Service YAS are the ambulance service serving the population of Yorkshire and the main provider for hospital sites within Doncaster.

8. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (see Appendix 4).

9. ASSOCIATED TRUST PROCEDURAL DOCUMENTS

This policy must be used in conjunction with:

- PAT/PA 19 - Mental Capacity Act (2005) Policy and Guidance
- PAT/EC 2 - Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) Policy
- PAT/PA 28 – Privacy and Dignity Policy

10. REFERENCES

Advance Decisions to refuse Treatment - A Guide for Health and Social Care Professionals
Department of Health; September 2008
www.doh.gov.uk

Advance to Refuse Treatment (ADRT) website
http://www.adrt.nhs.uk/

Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) Policy - PAT/EC 2
Doncaster and Bassetlaw Hospitals NHS Foundation Trust

Mental Capacity Act (2005) Code of Practice
Department of constitutional affairs
www.dca.gov.uk

Mental Capacity Act 2005 Policy and Guidance - PAT/PA 19
Doncaster and Bassetlaw Hospitals NHS Foundation Trust

Patient Electronic Alert to Key-Worker System (PEAKS) Guidelines – PAT/EC 4
Doncaster and Bassetlaw Hospitals NHS Foundation Trust

APPENDIX 1 – ADRT FORM

My Advance Decision to Refuse Treatment

My Name	Any distinguishing features in the event of unconsciousness
Address	Date of Birth
	Telephone Number

What is this document is for?

This advance decision to refuse treatment has been written by me to specify in advance which treatments I don't want in the future. These are my decisions about my healthcare, in the event that I have lost mental capacity and can not consent to or refuse treatment. This advance decision replaces any previous advance decision I have made.

Advice to the reader

I have written this document to identify my advance decision. I would expect any health care professionals reading this document in the event I have lost capacity to check that my advance decision is valid and applicable, in the circumstances that exist at the time.

Please Check

Please do not assume I have lost capacity before any actions are taken. I might need help and time to communicate.

If I have lost capacity please check the validity and applicability of this advance decision.

This advance decision becomes legally binding and must be followed if professionals are satisfied it is valid and applicable. Please help to share this information with people who are involved in my treatment and care and need to know about this.

Please also check if I have made any other statements about my preferences or decisions that might be relevant to my advance decision.

This advance decision does not refuse the offer and or provision of basic care, support and comfort.

My Name	

My advance decision to refuse treatment

I wish to refuse the following specific treatments:	In these circumstances:

(Note to the person making this statement: If you wish to refuse a treatment that is or may be life-sustaining, you must state in the box above that you are refusing that treatment even if your life is at risk as a result. An advance decision refusing life-sustaining treatment must be signed and witnessed).

My Signature (or nominated person)	Date of Signature
Witness	Witness Signature
Name	Telephone
Address	Date
Person to be contacted to discuss my wishes:	
Name	Relationship
Address	Telephone

I have discussed this with (e.g. name of Healthcare Professional)
Profession / Job Title Contact Details Date

I give permission for this document to be discussed with my relatives / carers YES NO	*(please circle one)*
My General Practitioner is: (Name) Address Telephone	
Optional Review Comment Maker's Signature Witness Signature	Date / Time

The following list identifies which people have a copy and have been told about this Advance Decision to Refuse Treatment (and their contact details)

Name	Relationships	Telephone Number

Further Information (Optional)

I have written the following information that is important to me. It describes my hopes, fears and expectations of life and any potential health and social care problems. It does not directly affect my advance decision to refuse treatment but the reader might find it useful.

APPENDIX 2 – ADRT CHECKLIST FOR STAFF

CHECKLIST FOR STAFF MANAGING PATIENTS WITH AN ADVANCE DECISION TO REFUSE TREATMENT

ALWAYS ASSUME THE PERSON HAS CAPACITY TO CONSENT TO OR REFUSE TREATMENT. YOU ARE REQUIRED TO MAXIMISE THE PERSON'S CAPACITY AND FACILITATE COMMUNICATION			
	Question	**Answer YES/NO**	
1.	Does the person have capacity to give consent to or refuse treatment him or herself, with appropriate support where necessary?		**YES:** The person has capacity to make the decision him or herself. The advance decision is not applicable. Ask what s/ he wants to do. **NO** Continue with the checklist
	Is the Advance Decision valid?		
2.	Has the person withdrawn the Advance Decision? (This can be done verbally, or in writing)		**YES:** This is not a valid advance decision. Make sure that you have identified and recorded the evidence that the person withdrew the advance decision. **NO:** Continue with the checklist
3.	Since making the advanced decision, has the person created a Lasting Power of Attorney (LPA), giving anybody else the authority to refuse or consent to the treatment in question?		**YES:** This is not a valid advance decision. The Donee(s) of the LPA must give consent to, or refuse the treatment. The LPA decision must be in the person's best interest. **NO:** Continue with the checklist
4.	Are there reasonable grounds to believe that circumstances exist which the person did not anticipate at the time of making the advance decision and which would have affected his/her decision had s/he anticipated them?		**YES:** If such reasonable grounds exist, this will not be an applicable advance decision. It is important to identify the grounds, discuss this with anybody close to the person, and identify why they would have affected his/her decision had s/he anticipated them, and record your reasoning. **NO:** Continue with the checklist
5.	Has the person done anything that is clearly inconsistent with the advance decision remaining his/her fixed decision?		**YES:** This is not a valid advance decision. It is important to identify what the person has done, discuss with anyone close to the person, explain why this is inconsistent with the advance decision remaining his/her fixed decision, and record your reasons. **NO:** Continue with the checklist.

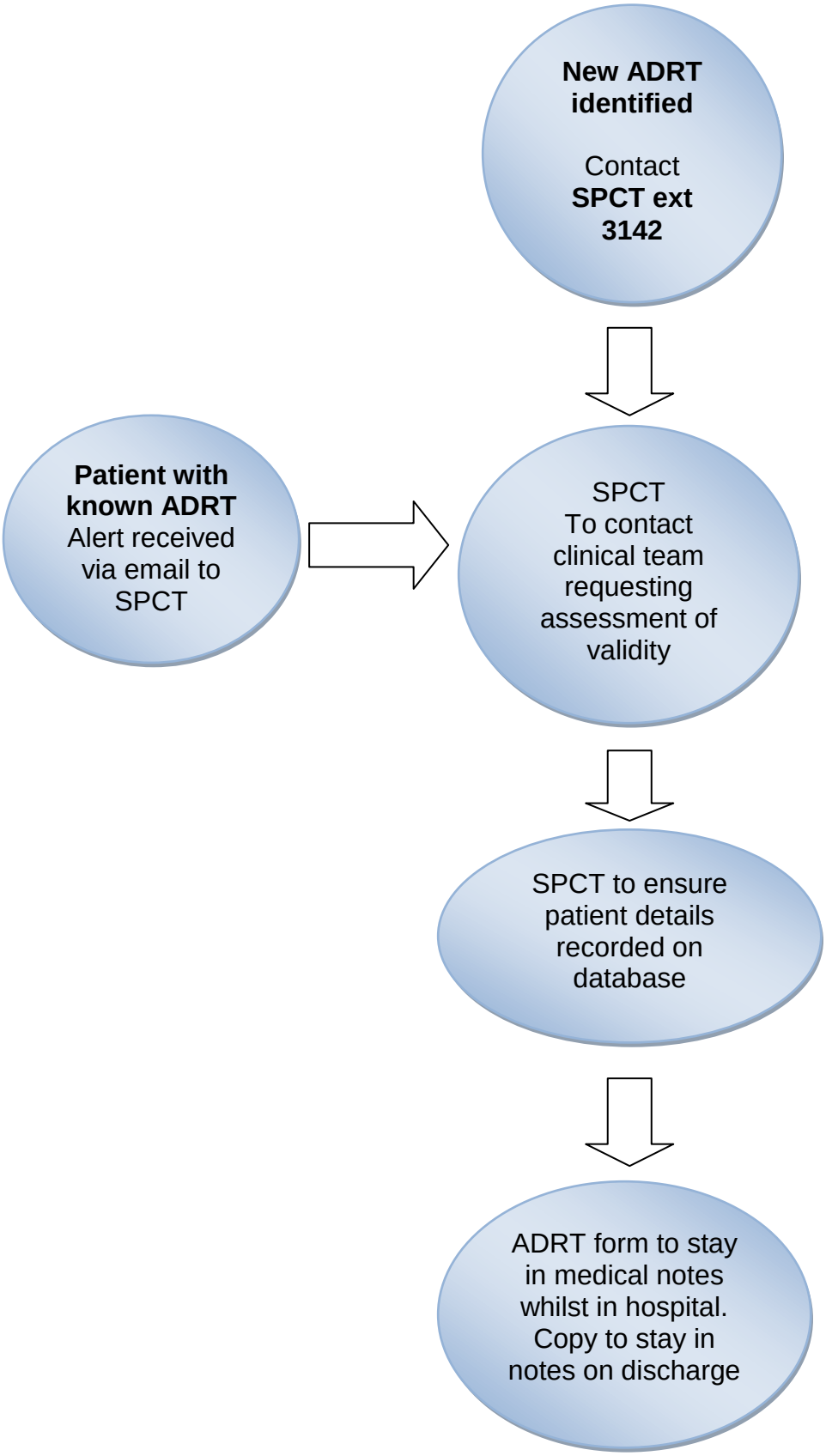
CHECKLIST FOR STAFF MANAGING PATIENTS WITH AN ADVANCE DECISION TO REFUSE TREATMENT (Cont:)

IS THE ADVANCE DECISION APPLICABLE?			
	Question	**Answer YES/NO**	
6.	(a) Does the advance decision **specify** which treatment the person wishes to refuse?* (b) Is the treatment in question that specified in the advance decision?		**YES:** to both (a) and (b): continue with the checklist **NO:** This is not an applicable advance decision
7.	If the advance decision has specified circumstances in which it is to apply (see question 3 above), do ***all*** those circumstances exist at the time that the decision whether to refuse treatment needs to be made? (**NB** It is possible for a person to decide that the advance decision should apply in **all** circumstances)		**YES:** Continue with the checklist. **NO:** This is not an applicable advance decision.
LIFE SUSTAINING TREATMENT			
8.	Is the advance decision both ***valid and applicable,*** according to the criteria set out above?		**YES:** Continue with the checklist. **NO:** This is not a binding advance decision to refuse the specified life sustaining treatment
9.	In your opinion is the treatment, is the treatment in question necessary to sustain the person's life?		**YES:** Continue with the checklist. **NO:** This is a binding advance decision to refuse the specified non-life sustaining treatment. It must be respected, and followed.
10.	Does the advance decision contain a statement that it is to apply even if the person's life is at risk?		**YES:** Continue with the checklist. **NO:** This is not a binding advance decision to refuse the specified life-sustaining treatment
11.	Is the advance decision: • In writing ***and*** • Signed by the person making it, or by someone on his/her behalf, at his/her direction ***and*** • Signed by a witness?		**YES TO ALL:** This is a binding advance decision to refuse the specified life-sustaining treatment. It must be respected and followed. **NO TO ANY:** This is not a binding advance decision to refuse the specified life-sustaining treatment.

*NB It is possible to use layman's language to specify both treatment and circumstance

This checklist forms part of the ADRT policy (Appendix 2)
It can be downloaded from the Trust Intranet, or from the ADRT website: www.adrt.nhs.uk

APPENDIX 3 – ADRT FLOWCHART FOR STAFF



APPENDIX 4 – EQUALITY IMPACT ASSESSMENT - PART 1 INITIAL SCREENING

Service/Function/Policy/Project/ Strategy	CSU/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
Advance Decision to Refuse Treatment (ADRT) Policy	Specialist Palliative Care	Sarah Cooper	Existing Policy	17.03.2015

1) Who is responsible for this policy? Name of Care Group/Directorate: - Specialist Palliative Care

2) Describe the purpose of the service / function / policy / project/ strategy? Who is it intended to benefit? What are the intended outcomes? - Trust-wide, All patients

3) Are there any associated objectives? Legislation, targets national expectation, standards No

4) What factors contribute or detract from achieving intended outcomes?

5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No – Adult Patients

- **If yes, please describe current or planned activities to address the impact** [e.g. Monitoring, consultation]

6) Is there any scope for new measures which would promote equality? [any actions to be taken – NO

7) Are any of the following groups adversely affected by the policy? - NO

Protected Characteristics	Affected?	Impact
a) Age	**No**	
b) Disability	**No**	
c) Gender	**No**	
d) Gender Reassignment	**No**	
e) Marriage/Civil Partnership	**No**	
f) Maternity/Pregnancy	**No**	
g) Race	**No**	
h) Religion/Belief	**No**	
i) Sexual Orientation	**No**	

8) Provide the Equality Rating of the service / function /policy / project / strategy – tick (✓) outcome box

Outcome 1 ✓	Outcome 2	Outcome 3	Outcome 4

If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a* **Detailed Equality Analysis form in Appendix 4

Date for next review: March 2017

Checked by: Stacey Nutt **Date: 17.03.2015**