

Legal Aspects of Bioethics: Advance Care Directives

In 2009, the Commission published a [Report on Bioethics: Advance Care Directives](#) (LRC 94-2009), which followed the [Consultation Paper on Bioethics: Advance Care Directives](#) (LRC CP 51-2008) (Third Programme of Law Reform, Project 30). An advance care directive sets out a person's wishes about what should happen to them in the event of an incapacitating accident such as a serious car crash) or illness (such as stroke or the onset of Alzheimer's disease) that makes it impossible for them to communicate their wishes directly. The Report recommends that there is a need for legislation to cater for people who make advance care directives concerning the refusal of treatment, whether verbally or in writing. The main benefit of the proposed legislation is that it would assist those who would like to plan their medical treatment, in particular what future medical interventions they do not want. It would also assist health care professionals who are currently faced with making decision without a legal framework. The Report makes 42 specific recommendations on the topic and includes a draft *Mental Capacity (Advance Care Directives) Bill 2009* to implement these recommendations.

The main recommendations in the Report are that: the proposed legislation would not alter or affect the law on euthanasia, assisted suicide or allow a person to refuse basic care; it would deal with advance care directives involving refusal of treatment, for example, "I do not wish to be resuscitated"; and advance care directive could, in general, be written or verbal but one that refuses life sustaining treatment would have to be in writing; the proposed legislation could allow a person to refuse treatment on religious grounds; a person should be encouraged to seek medical advice when making an advance care directive, but it should not be mandatory. the Commission also recommended that the proposed legislation could be incorporated into the Government's proposed general reform of the law on adult capacity, which proposes to implement the key elements of the Commission's 2006 [Report on Vulnerable Adults and the Law](#) (LRC 83-2006).