Advance Statements in Mental Health

SUMMARY

In 2001 the Mental Health Foundation launched a new mental health project on advance statements, funded by the Department of Health, and in conjunction with Bradford District Care Trust and Bradford and Airedale Mental Health Advocacy Group. The aim of the project was to explore the role and value of mental health advance statements in practice. The objectives of the project were:

- develop models of good practice in the use of advance statements through their use in a NHS Trust
- publish guidelines for their practical implementation
- produce materials to assist in their implementation.

BACKGROUND

Advance statements are one form of advance planning. Advance planning in mental health can be described as “the expression of wishes by people who experience mental distress for future medical treatment and social care.” Advance planning has been used widely in physical health care and this had led to the use of a number of related terms in this area. Advance planning has been used, to some extent, in the field of mental health in different ways.

The British Medical Association’s Code of Practice, Advance Statements About Medical Treatment, draws a distinction between the terms ‘statement’ and ‘directive’, which are often used interchangeably.

Advance statements – “People who understand the implications of their choices can state in advance how they wish to be treated if they suffer loss of mental capacity.” The code then offers a list of different types of statements, one of which is an advance directive.

Advance directives (refusal) – “Competent, informed adults have an established legal right to refuse medical procedures in advance.” The use of ‘directive’ emphasises the legally binding refusal of specific medical treatment or procedure, which is as valid as a decision made at the time treatment options are being considered.

Advance agreement – Refers to a plan for future crisis, developed in agreement between service user and service provider. This is the type of advance planning referred to in the Government’s White Paper (2000) on the reform of the Mental Health Act and is also contained in the Government’s proposed Mental Health Bill (2002), although there is no suggestion that they will have the legal status to override decisions where someone is subject to other compulsory powers under the legislation. Service user-led initiatives and organisations express concern around the development and the value of such ‘agreements’. Maintaining the use of the term ‘statement’ reasserts the need for autonomy and individual ownership of an advance plan.
Other terms used within advanced planning are:

**Crisis cards** – Launched by the International Self-Advocacy Alliance and Survivors Speak Out in 1989, crisis cards were intended as an advocacy device to be carried by the person who has written it, to be used in mental health emergencies.

**Living wills** – A term commonly used in connection with the expression of wishes by people who are terminally ill and refusing life-prolonging treatments. The term has been carried over into mental health, often to explain the concept of advance planning. However, the term can create some confusion, as one legal briefing paper explains: “The term ‘living will’ is misleading as it is not a document which appoints executors, disposes of property or make bequests. An advance directive or statement does none of these things.”

The legal status of advance statements is as follows.

- Only a refusal of treatment (advance directive) can be legally binding.
- All directives can be overruled when an individual is detained under mental health legislation.
- The directive can be ignored if it does not apply to a specific situation. For example, a new anti-psychotic becoming available after a directive is made. If it is not specified, the directive could be taken to mean that a refusal of medication might not apply to a newly available medication.
- The directive must be clear and unambiguous in order to be legally enforceable.
- To make an advance directive the person must be judged to be ‘competent’ or ‘have necessary capacity’.

In 1994 the Courts defined capacity as the ability to be capable of:

- understanding and retaining information about treatment
- believing the essential information about treatment
- weighing up the information before arriving at a decision.

**THE RESEARCH**

The first phase of the advance statement project in Bradford was to establish a model for the work, drawing upon the experience of advance planning projects elsewhere in the country, including:

- Hertfordshire Partnership NHS Trust
- Hull and East Riding Community Health NHS Trust
- East Gloucestershire NHS Trust
- Manic Depression Fellowship.
A common difficulty experienced in all projects was little uptake in the use of advance statements. This difficulty seemed to occur for two main reasons.

- Advance statements not being incorporated into existing Trust policy, meaning that the statements were easily overlooked. Due to the current legal status of advance statements, accountability for the inclusion of a statement in decisions made about an individual’s care and treatment would ideally come from within Trust policy. This would involve the acceptance of advance statements as a useful tool of communication between service users and service providers.

- The need for provision of support around the drawing up of an individual advance statement. The development and drawing up of a statement can be time consuming, with relevant information to be gathered and considered before choices can be made. Support with this process could help to bridge the gap between ‘another form to fill in’ and a useful working document that is relevant to individual situations.

**IMPLICATIONS**

Drawing upon the experience of others enabled the Bradford project to develop materials that met the needs of those involved in the programme. These have been developed through consultation with local user-led groups, Trust employees, a user development worker and the project’s advisory committee. A booklet has been produced which includes background information on advance statements and their use, and a blank form with step-by-step guidelines to filling it in using specific examples. The Bradford project aims to link the use of advance statements with the Care Programme Approach (CPA) process. By working closely with Bradford and Airedale Mental Health Advocacy Group the project also aims to provide independent support in the completion of advance statements where individuals feel it is useful. This can enable information to be considered that might make the advance statement feasible within Bradford mental health services, while maintaining individual ownership and autonomy.

Throughout the next phase the project will continue to:

- raise awareness locally of the use of advance statements both among those who use mental health services and those who work within services

- provide presentations in community and hospital in-patient settings inviting service users (including those detained under a section of the Mental Health Act 1983 but shortly to be discharged) to develop advance statements and take part in the project

- provide presentations and an opportunity to discuss working with advance statements to those working within Bradford mental health services.

It is intended that through the extensive use of advance statements in Bradford it will be possible to produce a report evaluating their effectiveness and usefulness among both service users and mental health staff, prior to the project’s completion in December 2003. It is hoped that the dissemination of this report will assist in the use of advance statements elsewhere.
REFERENCES


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This Update was written by Andrea Beever, Research and Development Worker. For full details of the Bradford project please contact Andrea Beever at abeever@mhf.org.uk

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