Oxford University Hospitals NHS
NHS Foundation Trust

# Guidelines for the Treatment of Patients Who Do Not Wish to Receive Blood or Blood Products (Not Jehovah's Witnesses)

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|---|---|
| **Category:** | Guidelines |
| **Summary:** | These guidelines aim to provide information to staff about the management of non Jehovah's Witness patients and facilitate acknowledgement and respect for their wishes and beliefs in relation to blood products. |
| **Equality Analysis undertaken:** | 03 February 2017 |
| **Valid From:** | 09 February 2017 |
| **Date of Next Review:** | 09 February 2020 |
| **Approval Date/ Via:** | 08 February 2017 via Hospital Blood Transfusion Committee |
| **Distribution:** | OUH Intranet |
| **Related Documents:** | Blood Transfusion Policy & Procedures<br>Consent to Examination or Treatment Policy<br>Women Who Decline Blood Products Guidelines (Maternity Guidelines)<br>Mental Capacity Act 2005 – Joint Oxfordshire Policy<br>'Caring for patients who refuse blood – a guide to good practice for the surgical management of Jehovah's Witness and other Patients who decline Transfusion' Royal College of Surgeons, 2016 |
| **Author(s):** | Head of Legal Services<br>Consultant Haematologist |
| **Further Information:** | Blood Transfusion Intranet Site |
| **This Document replaces:** | Guidelines for the treatment of patients who have indicated they do not wish to receive blood or blood products (not Jehovah's Witnesses) Version 3.1 |

**Lead Director:** Medical Director

**Issue Date:** 09 February 2017

## Contents

## Introduction

1. The Mental Capacity Act 2005 assumes that every patient over 16 has capacity to decide what is in their best interests unless proven otherwise. The Act also now gives statutory recognition to Advance Decisions to refuse treatment provided the decision has been made by a patient who has reached the age of 18 and has the capacity to do so. Failure by hospital staff to recognise and take into account valid and applicable Advance Decisions could lead to criminal prosecution.
2. For further information on the Mental Capacity Act 2005 please see the Mental Capacity Act 2005 section on the Trust Intranet.

## Policy Statement

3. It is the policy of the Trust to respect the wishes of all patients in relation to the treatment they will and will not accept. The Trust recognises that some patients have specific views about blood transfusion and the provision of blood products.

## Aim

4. These guidelines aim to provide information to staff about the management of patients who refuse blood and blood products in accordance with the Human Rights Act 1998, the Mental Capacity Act 2005 and the ethical principle of patient autonomy. These guidelines set out the process staff must follow to ensure that patients are treated in accordance with their wishes and beliefs.
5. These guidelines are **not** for the use with Jehovah's Witness patients. Separate Trust guidelines are available for Jehovah's Witnesses.
6. These guidelines should be read in conjunction with the Trust's ***Consent to Examination or Treatment Policy***. For women in labour the ***Women Who Decline Blood Products*** guidelines should also be consulted.

## Scope

7. This document applies to all Trust sites and all employees of the Trust, (including individuals employed by an agency or under an honorary contract.) This document describes circumstances involving adults and children.

## Definitions

8. The definitions and terms used in this document include:
    - 8.1. **Advance Decision** is a means by which a patient can make decisions now about specific treatments that they may not want to receive in the future.
        - 8.1.1. The purpose is to ensure that, if a patient is not able to make decisions about treatment or consent to treatment in the future due to a lack of capacity, the patient is not forced to receive treatment that he or she would not want.
        - 8.1.2. An Advance Decision sets out the patient's wishes in relation to their future treatment and may detail any form of medical treatment that will and will not be acceptable to that patient.

8.1.3. Provided the Advance Decision is valid and applicable it is a legally binding document. See Mental Capacity Act intranet site for examples of these documents.

8.2. **Fraser / Gillick Competent** means a child (under the age of 16 years) who has the maturity and intelligence to fully understand what treatment is needed, the nature of that treatment and the intended outcomes and the implications of both treatment and non-treatment. A Fraser / Gillick competent child is able to consent to his or her own medical treatment, without the need for parental permission or knowledge.

## Responsibilities

9. **The Chief Executive** has overall responsibility for ensuring that there is a safe system for transfusion practice within the organisation including treatment in accordance with the wishes of those who refuse blood transfusion.

10. **The Medical Director** has the delegated authority for transfusion practice within the Trust.

11. **The Director of Clinical Services**, working with the Trust's Blood Transfusion Committee, is responsible for ensuring that health care professionals and ancillary staff are informed of and follow the Trust policy.

12. **The OUH Legal Services team** are responsible for advising on policy and liaising with senior clinicians once a case has been escalated.

13. **All Managers responsible for:**

13.1. Ensuring staff are familiar with this guidelines

13.2. Ensuring staff are familiar with principles of consent to treatment and mental capacity.

14. **Individual staff are responsible for:**

14.1. Updating their knowledge and understanding of the legal issues around consent to or refusal of treatment.

14.2. Recognising issues which may require escalation to senior clinicians and / or Legal Services.

14.3. Delivering safe and effective alternatives to blood transfusion where indicated.

## Organisational Arrangements

### 15. Procedure on first presentation

15.1. If a patient indicates that they do not wish to receive blood or blood products, staff involved should discuss with the patient the proposed treatment and the alternatives to blood that are available.

15.2. Each patient will have different views on what treatment they will and will not accept. They may or may not have a written expression of their wishes.

15.3. The decision making processes should be fully documented in accordance with the Trust's Consent to Examination or Treatment Policy and a care plan agreed with the patient.

15.4. If the patient has an Advance Decision, tick the box on the consent form to indicate the existence of this. A copy of any written Advance Decision should be placed in the patient's notes on the inside front cover.

15.5. Patients may refer to a "Living Will" rather than an Advance Decision. This is what an Advance Decision was often referred to before the Mental Capacity Act 2005.

16. It is important to discuss with each patient whether or not the following procedures are acceptable. This discussion should take place between the patient and by the Consultant at the earliest opportunity and should be fully documented in the notes.

## General Position

17. The Trust recognises that the decision of a competent adult patient to absolutely refuse the transfusing of whole blood or its components (i.e. red cells, white cells, platelets, and plasma (FFP)) is their personal choice.

18. The Trust understands that the patient will accept full legal responsibility for their decision and will release those treating them from any liability in negligence for any adverse outcome or death directly arising from the curtailment of management options by a refusal to accept recommended treatments.

19. The Trust will expect the patient to sign a release form (see Appendix 1 and Appendix 2). Further advice is obtainable via Legal Services (ext 22482) during office hours or from a panel of solicitors out of hours if necessary (their contact details are available from switchboard) releasing the Trust and medical staff from any legal liability as detailed above.

## Treatment of Adults

20. In clinical situations where blood transfusion would be standard management, the following actions should be considered:

(a) Review the use of possible alternatives to blood transfusion.

(b) If necessary, transfer patient to a Consultant or hospital experienced in non-blood management before the patient's condition deteriorates.

(c) Consult the Trust's Legal Services Team (ext 22482) during office hours or Duty Executive out of hours if necessary. Legal advice is available outside of office hours from the Trust's panel solicitors via the John Radcliffe Hospital switchboard.

21. **Life-threatening emergency in an Adult without capacity**

21.1. In a life-threatening emergency, the guidelines below should be followed whenever possible.

21.2. A patient may have an Advance Decision stating the individual's instructions on treatment that are to be followed if the patient becomes incapacitated. Provided the Advance Decision is valid and applicable it must be followed. (However, it should be noted that an Advance Decision should only relate to refusals of medical treatment and cannot be used to compel a doctor to provide a particular form of medical treatment.)

22. **An Advance Decision is not valid if the patient:**

(a) has withdrawn the decision at a time when he had capacity to do so,

(b) has, under a Lasting Power of Attorney (LPA) created after the Advance Decision was made, conferred authority on the donee to give or refuse consent to the treatment to which the Advance Decision relates, or

(c) has done anything else clearly inconsistent with the Advance Decision.

23. **An Advance Decision is not applicable to the treatment in question if:**

(a) that treatment is not the treatment specified in the Advance Decision,

(b) any circumstances specified in the Advance Decision are absent, or

(c) there are reasonable grounds for believing that circumstances exist which the patient did not anticipate at the time of the Advance Decision and which would have affected his decision had he anticipated them.

24. **An Advance Decision is not applicable to life-sustaining treatment unless:**

(a) The decision is in writing;

(b) The decision is signed by the patient or by another person in the patient's presence and by the patient's direction;

(c) The signature is made or acknowledged by the patient in the presence of a witness;

(d) The witness signs the document in the patient's presence;

(e) The decision is verified by a statement to the effect that it is to apply to that treatment even if the patient's life is at risk.

24.1. In the event of doubt as to the validity of an Advance Decision or its extent, Legal Services should be contacted for advice.

25. A patient may have completed a LPA conferring authority on a donee to make treatment decisions on their behalf (see ***Mental Capacity Act*** section on the Trust Intranet for advice on how to identify and act on LPAs). If you are aware that an LPA or an Advance Decision is in existence but these documents are not to hand you should contact Legal Services for assistance.

26. Capacity should be judged in relation to a specific decision and a person must be assumed to have capacity unless it is established otherwise.

27. If a patient is incapacitated and there is no Advance Decision or LPA, doctors should treat the patient in accordance with his/her best interests. Legal advice should be sought especially if there is likely to be any dispute as to what is in the patient's best interests, e.g. if the family are in disagreement with the proposed medical treatment. In such circumstances it may be necessary to make an urgent application to the Court of Protection to obtain an order directing that it is in the patient's best interests to receive treatment. A Consultant should always be involved in cases such as this.

## Treatment of Children

28. A child of 16 or 17 can give legally valid consent for medical treatment. A child who is under 16 but who is deemed to be Fraser /Gillick competent (see paragraph 9.2 above) can also consent to their own treatment. Such children can consent to treatment irrespective of the views of the person(s) who have parental responsibility (PR) for them.

29. However, it does not follow that a child of 16 or 17 or a Fraser / Gillick competent child can refuse treatment. If such a child refuses the administration of blood

products but those with PR agree to the treatment, the acceptance of the person with PR overrides the child's refusal and the administration of treatment in those circumstances would be lawful. If both the child and those with PR for the child refuse administration of blood products, then urgent legal advice should be sought as it is likely that an application to Court will be necessary (see further on this below).

30. In relation to children who are not Fraser / Gillick competent, administration of blood products will be lawful if those with PR agree to the treatment.

31. If those with PR for non Fraser / Gillick competent children object to the administration of blood products but such treatment is felt to be essential by medical staff, staff should address the following questions:

    (a) Have all non-blood medical and surgical management options been fully explored?

    (b) Is there another Consultant/hospital willing to treat without blood transfusion?

    (c) Has the Trust's Legal Services Department been contacted for advice (ext 22482)?

32. If treatment is still felt to be essential then an application may need to be made to the High Court for a Specific Issue Order, as provided for by Section 8 of The Children Act 1989, with the support of a minimum of two Consultants. Those with PR should be notified immediately of this action and invited to any case conferences. They should also be advised to seek their own legal advice. Any order sought should be limited to the immediate medical incident. It should be stressed that an application to court would be a last resort if agreement with the family cannot be reached. Legal Services **MUST** be informed and only they or the Trust's panel solicitors may make this application.

33. **Life-threatening emergency with Children**

    33.1. If, **in exceptional and imminently life-threatening circumstances**, a child needs blood in an emergency this should be given.

    33.2. A decision to proceed with treatment against the wishes of those with PR should be made by two Consultants who are fully informed of the situation and appropriately aware of alternative forms of treatment. Any such decision **MUST** be documented in the patient notes.

## Women in Labour

34. When a patient who has indicated their wish not to receive blood or blood products is admitted on to the delivery suite the Duty Consultant Anaesthetist and the on call Consultant Obstetrician should be informed.

35. In the case of patients at risk of, or experiencing, postpartum haemorrhage, please follow the procedures set out in the delivery suite guidelines and refer to the *Confidential Inquiry into maternal deaths.* Please refer to the patient's Consultant for advice.

## Further Advice

36. If staff are unsure about what to do having read the above guidelines then they should contact Legal Services during office hours (x22482) and the Duty Executive

out of hours for further advice and assistance. Legal advice is also available out of hours from the Trust's panel solicitors via the JRH switchboard.

## Further Guidance / Information and references

37. The following documents are available on the Blood Transfusion intranet site
    - Understanding regarding refusal of blood transfusion relating to children
    - Confidential Inquiry into maternal deaths

## Training

38. There is no mandatory training associated with this guideline. Staff wishing to update and assess their knowledge in relation to consent issues in transfusion should undertake the Consent for Transfusion module within the Learn Blood Transfusion e-Learning package.

## Monitoring Compliance

39. Compliance with the document will be monitored in the following ways.

| Aspect of compliance or effectiveness being monitored | Monitoring method | Responsibility for monitoring (job title) | Frequency of monitoring | Group or Committee that will review the findings and monitor completion of any resulting action plan |
|---|---|---|---|---|
| Patients who are deemed competent under (The Mental Capacity Act, 2005) and who refuse blood products are treated in accordance with their wishes. | Review of cases reported via Datix. | Clinical Lead, Blood Safety and Conservation Team | At least annually | Hospital Transfusion Committee |
| Cases involving refusal of blood by those not deemed competent under the Mental Capacity Act, 2005 are escalated appropriately and in a timely fashion. | Review of case files and/or related complaints | Legal Services Manager | At least annually | Hospital Transfusion Committee |

## Review

40. This guideline will be reviewed in 3 years, as set out in the ***Policy for the Development and Implementation of Procedural Documents***.

41. Documents may need to be revised before this date, particularly if national guidance or local arrangements change.

## References

1. Royal College of Surgeons of England (2016) *'Caring for patients who refuse blood – a guide to good practice for the surgical management of Jehovah's Witness and other Patients who decline Transfusion'* Available at file:///C:/Users/edwardf/Downloads/Caring%20for%20patients%20who%20refuse%20blood%20%20a%20guide%20to%20good%20practice%20(4).pdf (Accessed 3rd February 2017)

2. The Association of Anaesthetists of Great Britain and Ireland (2005) *'Management of Anaesthesia for Jehovah's Witnesses'* (2nd Edition) Available at http://www.aagbi.org/sites/default/files/Jehovah's%20Witnesses_0.pdf (Accessed May 1st 2015)

## Appendix 1. Release form - obtained from the Royal College of Surgeons '*Caring for Patients who Refuse Blood' (2016, pp 30-31)*

### Advance Decision to Refuse Specified Medical Treatment

1. I, _____ (print or type full name), born _____ (date) complete this document to set forth my treatment instructions in case of my incapacity. **The refusal of specified treatment(s) contained herein continues to apply to that/those treatment(s) even if those medically responsible for my welfare and/or any other persons believe that my life is at risk.**

2. I am one of Jehovah's Witnesses with firm religious convictions. With full realization of the implications of this position I direct that **NO TRANSFUSIONS OF BLOOD or primary blood components (red cells, white cells, plasma or platelets)** be administered to me in any circumstances. I also refuse to predonate my blood for later infusion.

3. No Lasting Power of Attorney nor any other document that may be in force should be taken as giving authority to disregard or override my instructions set forth herein. Family members, relatives, or friends may disagree with me, but any such disagreement does not diminish the strength or substance of my refusal of blood or other instructions.

4. Regarding end-of-life matters: [initial one of the two choices]

   (a) _____ I do not want my life to be prolonged if, to a reasonable degree of medical certainty, my situation is hopeless.

   (b) _____ I want my life to be prolonged as long as possible within the limits of generally accepted medical standards, even if this means that I might be kept alive on machines for years.

5. **Regarding other healthcare and welfare instructions** (such as current medications, allergies, medical problems or any other comments about my healthcare wishes):

_____

_____

_____

_____

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_____

_____

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## Appendix 1 (continued). Release form - obtained from the Royal College of Surgeons '*Caring for Patients who Refuse Blood' (2016, pp 30-31)*

6. I consent to my relevant medical records and the details of my condition being shared with the Emergency Contact below and/or with member(s) of the Hospital Liaison Committee for Jehovah's Witnesses.

7. Signature _____ NHS No. _ _ _ _ _ _ _ _ _ _ Date _____

Address _____

8. **STATEMENT OF WITNESSES:** The person who signed this document did so in my presence. He or she appears to be of sound mind and free from duress, fraud, or undue influence. I am 18 years of age or older.

Signature of witness _____ Signature of witness _____

Name _____ Occupation _____ Name _____ Occupation _____

Address _____ Address _____

Telephone _____ Mobile _____ Telephone _____ Mobile _____

9. **EMERGENCY CONTACT:**

Name _____

Address _____

Telephone _____ Mobile _____

10. **GENERAL PRACTITIONER CONTACT DETAILS:** A copy of this document is lodged with the Registered General Medical Practitioner whose details appear below.

Name _____

Address _____

Telephone Number(s) _____

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NO BLOOD

(signed document inside)

Advance Decision to Refuse Specified Medical Treatment

**Advance Decision to Refuse Specified Medical Treatment**

(signed document inside)

**NO BLOOD**

## Equality Analysis

42. As part of its development, this guideline and its impact on equality, diversity and human rights has been reviewed, an equality analysis undertaken (see Appendix 1) and in order to minimize the potential to discriminate, the following adjustments have been identified:

| **How does this guideline affect each characteristic?**<br>**Protected Characteristic:** | **Reasonable adjustments required** |
|---|---|
| Disability (all disability including dementia and learning disability) | For those aged 16 and above, recommendation for referral to Mental Capacity Act document where it may be deemed that the patient lacks capacity. |
| Sex | Refusal of anti-D immunoglobulin is covered further in the ***Women Who Decline Blood Products*** guidelines (Maternity Guidelines) |
| Age | This document addresses process of consent with adults and children and considerations needed |
| Race | No adjustments necessary. |
| Sexual Orientation | No adjustments necessary. |
| Pregnancy and maternity | Staff are advised to refer to the individualised Care Plan for the expectant mother which will state specific wishes and requirements. Personal preferences are accounted for when an expectant mother has chosen not to received blood and blood products |
| Religion or belief | Jehovah Witnesses should refer to the specific document for that patient group |
| Gender re-assignment | No adjustments necessary. |
| Marriage or civil partnerships | No adjustments necessary. |
| Carers | Involvement of family members and those with parental responsibility is referenced throughout the guidelines |
| Safeguarding people who are vulnerable | Staff are encourage to escalate where vulnerable patients are involved in refusal of treatment issues. |

## Document History

| | | |
|---|---|---|
| **Date of revision** | **Version number** | **Reason for review or update** |
| Sept 2003 | 1.8 | March 2011 archived |
| March 2011 | 2.0 | Reflects changes in legislation and Jehovah's Witness documentation |
| June 2011 | 2.1 | Reflects amendments suggested at HTC Meeting March 2011 |
| July 2015 | 3.0 | Scheduled Review |
| July 2016 | 3.1 | Minor addition: Release Forms as Appendices |
| February 2017 | 3.2 | Changes to Appendix 1 and deletion of appendix 2 (release form for children) in line with updated RCS guideline 'caring for patients who refuse blood'. |

## Authors & Contributors

| Name or Committee Groups | Position | Role |
|---|---|---|
| Sally Newman | Head of Legal Services | Author |
| Mike Murphy | Consultant Haematologist and Chair of the Hospital Transfusion Committee | Author |
| Edward Fraser | ANP Blood Transfusion | Equality impact assessment and minor amendments |

## Appendix 2: Equality Analysis

***Please include this in the preparation to write a policy*** *and refer to the "Policy on Writing Policies." Full guidance is available:*
*http://ouh.oxnet.nhs.uk/Equality/Pages/EqualityImpactAssessment.aspx*

| **Equality Analysis** |
|---|
| Policy / Plan / proposal name: **Guidelines for the Medical Treatment of Jehovah's Witnesses** |
| Date of Guideline: **09 February 2017** |
| Date due for review: **09 February 2020** |
| Lead person for guideline and equality analysis: **Mike Murphy** |
| Does the guideline /proposal relate to people? If yes please complete the whole form. **YES** |
| The only policies and proposals not relevant to equality considerations are those not involving people at all. (E.g Equipment such as fridge temperature) |
| **1. Identify the main aim and objectives and intended outcomes of the policy.**<br>These guidelines aim to provide information to staff about the management of Jehovah's Witness patients and facilitate acknowledgement and respect for Jehovah's Witness' wishes and beliefs in relation to blood products. |
| |
| **2. Involvement of stakeholders.**<br>The following stakeholders have been involved in the development of this guideline:<br>• Legal Services<br>• Members of the Hospital Transfusion Committee<br>• Transfusion Liaison Committee of Jehovah's Witnesses |
| |
| **3. Evidence.**<br>Population information on www.healthprofiles.info search for Oxfordshire. |
| **Disability**<br>Jehovah's Witnesses who have a disability may require extra assistance in the completion of written Advance Directives. This can be provided by their liaison committee members. |
| **Disability: learning disability**<br>Jehovah's Witnesses with a learning disability will be assessed for mental capacity in accordance with the Mental Capacity Act, 2005 when relevant to the situation. |
| **Sex**<br>Female Jehovah's Witnesses may sometimes also refuse anti-D immunoglobulin. For women in labour, more detail can be found in the ***Women Who Decline Blood Products*** guidelines |
| **Age:**<br>Children of 16 years or younger are subject to the rules on Fraser / Gillick competence section 9.2<br>Adults of all ages are treated subject to the Mental Capacity Act, 2005. |

## Document Development Checklist

| | | |
|---|---|---|
| **Title of Document Being Reviewed: Guidelines for the Treatment of Patients Who Do Not Wish To Receive Blood Or Blood Products (Not Jehovah's Witnesses)** | | |
| **Policy reference Number:** | | **Yes/No/ or Not Applicable** |
| | Is the document title clear and unambiguous? | **Yes** |
| | Is the document correctly and consistently defined as a Policy, Procedure, Protocol, Guideline or Strategy? | **Yes** |
| **Rationale** | | |
| | Are the reasons for the development of the document stated? | **Yes** |
| **Document Development Process** | | |
| | Has the document been developed using the style and format of the approved template? | **Yes** |
| | Do all pages have appropriate branding and header and footer content? | **Yes** |
| | Have contributors to the development of the document been identified? | **Yes** |
| | Is there evidence that relevant expertise has been used in developing the document? | **Yes** |
| | Have links to national guidance and/or CQC Standards been identified? | **Yes** |
| | If the document relates to or has implications for medications, has advice and approval be sought from the relevant medicines committee? | **N/A** |
| **Evidence** | | |
| | Is there evidence to support the development of the document? | **Yes** |
| | Have all references been cited? | **Yes** |
| | Are links to other associated OUH procedural documents or information sources included? | **Yes** |
| **Content** | | |
| | Are definitions of terms used, including abbreviations and acronyms, provided? | **Yes** |
| | Is the document clearly and concisely written? | **Yes** |
| | Has the target audience been defined? | **Yes** |
| | Have the relevant responsibilities been described? | **Yes** |
| **Dissemination and Implementation** | | |
| | Does the document include an implementation plan? | **Yes** |
| | Are there processes detailed for monitoring the implementation and effectiveness? | **Yes** |
| | Have any training needs been identified and planned for? | **Yes** |
| **Additional Information** | | |
| | Is the Equality Assessment completed and included in the appendices? | **Yes** |

| | | |
|---|---|---|
| | Has the Version Control been completed? | Yes |
| | Does the document have a date of issue? | Yes |
| | Does the document have a review date? | Yes |
| | Is the review date considered appropriate? | Yes |
| **Approval & Responsibility** | | |
| | Does the document clearly state the author(s) by role/position and not name? | Yes |
| | Does the document identify the relevant committee or group who will approve it? | Yes |
| | Is the lead Director correctly identified? | Yes |
| **Comments** | | |
| | | |
| **Clinical Policy Group or Delegated Group for Approval:** | | |
| | If the Clinical Policy Group (CPG) or delegated group for approval is happy to recommend this document for ratification, enter group details below. The Document will then be forwarded to the relevant committee for final ratification prior to publication. | |
| | **Name of Committee: Hospital Transfusion Committee** | |
| | **Date of Meeting: 08 February 2017** | |
| **Final Committee Ratification** | | |
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