

### ***Case study of faith-based advance decision related to health: Marie***

Marie, a 63-year-old lady, has been a Jehovah's Witness since the 1970s. She had been found wandering and confused outside her home, bleeding from a duodenal ulcer.

Discussing her plight with the gastroenterologists, she was adamant that she did not want treatment with any blood products; they were sure that she had full capacity to make this decision, and that she was aware that she could die without blood transfusion. Marie had received other medical treatment over the years, and her adherence to her faith, together with her steadfast refusal of blood in any circumstances, had been documented in her notes.

The conversation with the gastroenterologists was recorded in the notes, but no formal advanced decision to refuse life-saving treatment existed. Similarly, she had not created a Lasting Power of Attorney enabling refusal of life saving treatment.

Three days following her discussion with the gastroenterologists, Marie deteriorated, requiring intubation, ventilation and sedation. Henceforth, she lacked capacity for further decision-making. Her clinicians felt that transfusion would improve but not guarantee her chances of survival.

Perhaps anxious that this lady had not provided a valid advance decision to refuse a life-saving blood transfusion, the clinicians approached the Court of Protection; seeking a declaration that withholding transfusion would be lawful in her case.

The court heard from Mr Roberts, a representative of her congregation, who had known her for 40 years, and who brought with him letters from three other members of the religious group who knew her. He described Marie as a formerly active member of the congregation, who fully subscribed to the tenets of the faith (including those opposing blood transfusion) and had taught them to others. Her beliefs on this matter had been consistent. The Trust's position was that Marie had made her wishes known, even with the knowledge of impending death. When considering her now, incapacitated, the Trust did not feel that transfusion was in her best interests, since it would be an affront to her established wishes.

The court found that Marie had capacity during her early admission to decide whether to accept or refuse a transfusion; and that the advance decision she took prior to losing her capacity (to refuse transfusion) was both valid and applicable to her later more serious condition, when she had lost her capacity. It was therefore lawful to withhold transfusion.

**Outcome:** Marie died on the day of the judgement.

The judge also noted that he would have granted a declaration even if she had not made a valid applicable decision, since on the facts presented to the court; both from her congregation and the clinicians, a transfusion would not have been in her best interests. This was because her wishes and feelings and long-standing beliefs and values carried determinative weight. It was also relevant that the transfusion might not have been effective in saving her life.