

BRUNSWICK PARK MEDICAL PRACTICE

Consent to Examination or Treatment Policy

Introduction

It is a general legal and ethical principle that valid consent must be obtained before starting treatment or physical investigation, or providing personal care, for a person. This principle reflects the right of patients to determine what happens to their own bodies, and is a fundamental part of good practice. A healthcare professional (or other healthcare staff) who does not respect this principle may be liable both to legal action by the patient and to action by their professional body. Employing bodies may also be liable for the actions of their staff.

There are a range of guidance documents on consent and these should be consulted for details of the law and good practice requirements on consent.

This policy sets out the standards and procedures in this Practice which aim to ensure that health professionals are able to comply with the guidance.

Defining Consent

“Consent” is a patient’s agreement for a health professional to provide care. Patients may indicate consent:

- non-verbally (for example by presenting their arm for their pulse to be taken)
- orally
- in writing

For the consent to be valid, the patient must be competent to take the particular decision (16 years or over) or has “Fraser Competence” if under 16 years; have received sufficient information to understand what consent is being given for and not be acting under duress.

For children under 16 (except for those who have Fraser Competence as noted above), someone with parental responsibility should give consent on the child’s behalf by signing accordingly on the Consent Form. The context of consent can take many different forms, ranging from the active request by a patient of a particular treatment (which may or may not be appropriate or available) to the passive acceptance of a health professional’s advice.

In some cases, the health professional will suggest a particular form of treatment or investigation and after discussion the patient may agree to accept it. In others, there may be a number of ways of treating a condition, and the health professional will help the patient to decide between them.

Some patients, especially those with chronic conditions, become very well informed about their illness and may actively request particular treatments. In many cases, ‘seeking consent’ is better described as ‘joint decision-making’: the patient and health professional need to come to an agreement on the best way forward, based on the patient’s values and preferences and the health professional’s clinical knowledge.

Where an adult lacks the mental capacity (either temporarily or permanently) to give or withhold consent for themselves, **no-one else can give consent on their behalf.**

However, treatment may be given if it is in their best interests, as long as it has not been refused in advance in a valid and applicable advance directive.

Reference Guide to Consent for Examination, Treatment or Care provides a comprehensive summary of the current law on consent, and includes requirements of regulatory bodies such as the General Medical Council where these are more stringent. This may be accessed on the internet at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/138296/dh_103653_1.pdf

Documentation

For significant procedures, it is essential for health professionals to document clearly both a patient's agreement to the intervention and the discussions which led up to that agreement. This may be done either through the use of a consent form (with further detail in the patient's notes if necessary), or through documenting in the patient's notes that they have given oral consent.

Written Consent

Consent is often wrongly equated with a patient's signature on a consent form. A signature on a form is *evidence* that the patient has given consent, but is not *proof* of valid consent. If a patient is rushed into signing a form, on the basis of too little information, the consent may not be valid, despite the signature. Similarly, if a patient has given valid verbal consent, the fact that they are physically unable to sign the form is no bar to treatment. Patients may, if they wish, withdraw consent after they have signed a form: the signature is evidence of the process of consent-giving, not a binding contract.

It is rarely a legal requirement to seek written consent, but it is good practice to do so if any of the following circumstances apply:

- the treatment or procedure is complex, or involves significant risks (the term 'risk' is used throughout to refer to any adverse outcome, including those which some health professionals would describe as 'side-effects' or 'complications')
- the procedure involves general/regional anaesthesia or sedation
- providing clinical care is not the primary purpose of the procedure
- there may be significant consequences for the patient's employment, social or personal life

If the patient is unable to read or write, that person may be able to make their mark on the form to indicate consent. It would be good practice for the mark to be witnessed by a person other than the clinician/practitioner seeking consent, and for the fact that the person has chosen to make their mark in this way to be recorded in the case notes. Similarly, if the individual has capacity, and wishes to give consent, but is physically unable to mark the form, this fact should be recorded in the notes, or on the consent form.

Completed forms should be kept with the patient's notes.

It will not usually be necessary to document a patient's consent to routine and low-risk procedures, such as providing personal care or taking a blood sample. However, if the health professional has any reason to believe that the consent may be disputed later or if the procedure is of particular concern to the patient (for example if they have declined, or become very distressed about, similar care in the past), it would be prudent to do so.

Procedures to Follow When Patients Lack Capacity to Give or Withhold Consent

Where an adult patient does not have the capacity to give or withhold consent to a significant intervention, this fact should be documented, along with the assessment of the patient's capacity, why the health professional believes the treatment to be in the patient's best interests, and the involvement of people close to the patient. The standard consent forms should never be used for adult patients unable to consent for themselves. For more minor interventions, this information should be entered in the patient's notes.

An apparent lack of capacity to give or withhold consent may in fact be the result of communication difficulties rather than genuine incapacity. Appropriate colleagues should be involved in making such assessments of incapacity, such as specialist learning disability and speech and language therapists, unless the urgency of the patient's situation prevents this. If at all possible, the patient should be assisted to make and communicate their own decision, for example by providing information in non-verbal ways where appropriate.

Occasionally, there will not be a consensus on whether a particular treatment is in an incapacitated adult's best interests. Where the consequences of having, or not having, the treatment are potentially serious, a court declaration may be sought.

Who is Responsible for Seeking Consent?

The health professional carrying out the procedure is ultimately responsible for ensuring that the patient is genuinely consenting to what is being done: it is they who will be held responsible in law if this is challenged later.

Where oral or non-verbal consent is being sought at the point the procedure will be carried out, this will naturally be done by the health professional responsible. However, team work is important and where written consent is being sought it may be appropriate for other members of the team to participate in the process of seeking consent. If the person cannot write or is physically unable to sign a form, a record that the person has given verbal or non-verbal consent should be made in their notes or on the consent form.

Completing Consent Forms

The standard consent form provides space for a health professional to provide information to patients and to sign confirming that they have done so. The health professional providing the information must be competent to do so: either because they themselves carry out the procedure, or because they have received specialist training in advising patients about this procedure, have been assessed, are aware of their own knowledge limitations and are subject to audit.

Immunisations

Informed consent must be obtained prior to giving an immunisation. Although there is no legal requirement for consent to immunisation to be in writing, a signature on a consent form is not conclusive proof that consent has been given, but serves to record the decision and discussions that have taken place with the patient, or the person giving consent on a child's behalf.

Withdrawing Consent

A person with capacity is entitled to withdraw consent at any time, including during the performance of a procedure. Where a person does object during treatment, it is good practice for the practitioner, if at all possible, to stop the procedure, establish the person's concerns and explain the consequences of not completing the procedure.

A Withdrawal of Patient Consent Form will be required to be completed and the withdrawal of consent will be documented on the patient's medical record. If a patient is mentally competent to withdraw consent but is physically unable to sign the form, the clinician should complete the form as usual, and ask an independent witness to confirm that the patient has confirmed they wish to withdraw their consent orally or non-verbally.

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Patient Consent Form (For medical treatment, immunisation, investigation or operation)

For use with adult patients, patients with Fraser Competence and for parent/guardian on behalf of a young person.

Patient details

Patient's surname/family name _____

Patient's first name(s) _____

Date of birth _____

Male

Female

Responsible health professional _____

Job title _____

Special requirements
(E.g. other language/other communication method) _____

Name of proposed procedure or course of treatment

(Include brief explanation if medical term not clear)

Statement of health professional (to be filled in by health professional with appropriate knowledge of proposed procedure, as specified in consent policy)

I confirm that I have explained the procedure to the patient. In particular, I have explained:

The intended benefits _____

Serious or frequently occurring risks _____

Any extra procedures which may become necessary during the procedure

- blood transfusion _____
- other procedure (please specify) _____

I have also discussed what the procedure is likely to involve, the benefits and risks of any available alternative treatments (including no treatment), any samples that may be taken and any particular concerns of this patient.

The following information has been provided _____

This procedure will involve:

General and/or regional anaesthesia Local anaesthesia
Sedation

Signed _____ Date _____

Name (PRINT) _____ Job title _____

Contact details (if patient wishes to discuss options later) _____

Statement of interpreter (where appropriate)

I have interpreted the information above to the patient to the best of my ability and in a way in which I believe s/he can understand.

Signed _____ Date _____

Name (PRINT) _____

Top copy accepted by patient: yes/no (please circle)

Statement of Patient/Parent/Guardian

Please read this form carefully. If you have any further questions, do ask – we are here to help you. You have the right to change your mind at any time, including after you have signed this form.

I am the patient / parent / guardian (circle appropriate description)

I agree to the procedure or course of treatment described on this form.

I understand that I will have the opportunity to discuss the details of anaesthesia with an anaesthetist before the procedure, unless the urgency of my situation prevents this. (This only applies to patients having general or regional anaesthesia.)

I understand that any procedure in addition to those described on this form will only be carried out if it is necessary to save my life or to prevent serious harm to my health.

I have been told about additional procedures which may become necessary during my treatment. I have listed below any procedures **which I do not wish to be carried out** without further discussion _____

I agree/do not agree (delete as applicable) to my samples being used for education, research or public health monitoring.

Patient's signature _____ Date _____

Name (PRINT) _____

A witness should sign below if the patient is unable to sign but has indicated his or her consent. Young people/children may also like a parent to sign here (see notes).

Signature _____ Date _____

Name (PRINT) _____

Confirmation of consent (to be completed by a health professional when the patient is admitted for the procedure, if the patient has signed the form in advance)

On behalf of the team treating the patient, I have confirmed with the patient that s/he has no further questions and wishes the procedure to go ahead.

Signed _____ Date _____

Name (PRINT) _____ Job title _____

Important notes: (tick if applicable)

See also advance directive/living will (E.g. Jehovah's Witness form)

Consent for children under 16 (Fraser Competence)

Everyone aged 16 or more is presumed to be competent to give consent for themselves, unless the opposite is demonstrated.

If a child under the age of 16 has “sufficient understanding and intelligence to enable him/her to understand fully what is proposed” (known as Fraser Competence), then s/he will be competent to give consent for him/herself.

Young people aged 16 and 17, and legally ‘competent’ younger children, may therefore sign this Consent Form for themselves, but may wish a parent to countersign as well.

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Withdrawal of Patient Consent

This form can also be used for a parent or guardian to withdraw consent for treatment to be given to a young person

| |
|---|
| Patient's surname/family name _____ |
| Patient's first name(s) _____ |
| Date of birth _____ |
| Male <input type="checkbox"/> Female <input type="checkbox"/> |

This Section to be completed by the Clinician

This form has been prepared for the clinician to explain the issues that could arise if the patient withdraws consent for the treatment, immunisation, investigation or operation detailed below:

I confirm that I have explained the above issues that could arise because the patient has withdrawn consent for the treatment, immunisation, investigation or operation to the patient, in terms that in my judgement are suited to their understanding and/or these have been explained to a parent or guardian of the patient.

Signature of Clinician: _____ Date: _____

Name of Clinician _____

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Patient Consent Form

For a person other than the patient to access their medical records

| The details of the person whose records will be accessed | |
|--|--|
| Surname | |
| First Names | |
| Date of Birth | |
| Male / Female | |
| Address | |
| Tel No. | |

| Details of person to be given access to this information | |
|--|--|
| Full Name | |
| Address | |

(If more than one person is to be given access then their details should be listed on a separate sheet and attached to this form)

| Please detail below if the above access is to be limited in any way (e.g. only for test results, or only for making & cancelling appointments, or for a specified time period only) |
|---|
| |

| I confirm that I give permission for the Practice to communicate with the person identified above in regards to my medical records. | |
|---|--|
| Signature | |

BRUNSWICK PARK MEDICAL PRACTICE
Patient Third-Party Enquiry / Complaint Consent Form

| | |
|-------------------------------------|--|
| Patient Name: | |
| Telephone No: | |
| Address: | |
| Enquirer / Complainant Name: | |
| Telephone No. | |
| Address: | |

If you are making an enquiry or complaining on behalf of a patient, or your complaint or enquiry involves the medical care of a patient, then the consent of the patient will be required.

Please obtain the patient's signed consent below:

I _____ (insert name)

Fully consent to my doctor releasing information to, and discussing my care and medical records with the person named above in relation to this enquiry / complaint, and I wish this person to enquire / complain on my behalf.

This authority is for an indefinite period / for a limited period only (circle appropriate option).

Where a limited period applies, this authority is valid until (insert date)

Signed (Patient):

Print Name:

Date
