

Informed Consent

Informed Consent

- What is consent?
- What is informed consent?
- How might they differ?

Definitions

Consent –
To give permission to someone else to do something that they would not have the right to do without your permission

Definitions

- **Informed consent** is a process whereby someone arrives at a decision
- **Informed consent** implies that enough relevant information is provided to enable a reasoned decision to be made, and that information was understood. Without understanding what is involved no one can make a reasoned decision without undue influence or duress

(New Zealand Health Council Working Part on Informed Consent, 1989)

Definitions

Competent / Capacity

Being able to understand and communicate the nature and consequences of your decisions or choices

Four parts make up informed consent:

- ✓ Enough information to make a decision
- ✓ The information is understood
- ✓ The person is able to make a choice (competent to decide)
- ✓ Not be forced or pushed into deciding (coercion or pressure)

Ways of presenting the information

- ⊙ Plain language
- ⊙ Pictorial information
- ⊙ Role plays
- ⊙ Models
- ⊙ Number of occasions over a period of time
- ⊙ Questions
- ⊙ Written information
- ⊙ Check and re-check

What information is needed?

- ? What are the choices
- ? What can happen for each of the choices
- ? When/how is it going to happen
- ? What is the outcome

What if it's health treatment?

- ① What's wrong (condition)
- ① What are the choices (options)
- ① How were the choices decided and why does this need to happen (basis of decision – who? Tests? Procedures?)
- ① What's going to happen (procedure)
- ① What might happen for each of the choices (risks, benefits, side effects)
- ① When is it going to happen
- ① What is the expected outcome

Competence:

- Everyone is considered competent until proved otherwise
- Can the person explain the situation and what choices there are?
- Can the person make a choice and tell you why they have made it?
- Has the person's network been involved?
- Making unwise or unexpected decisions does not make the person not competent
- A person may be able to make some decisions but not others, eg complex medical decisions

Not competent:

- × A person who is unconscious
- × A child under 16
- × A young person between 16-20 if they do not understand the nature and effect
- × Any other person who is unable to understand the nature and effect
- × Under Court Orders particular to that decision, eg has the court directed where the person must live?

Who can decide?

- Court orders
- Welfare Guardian
- Enduring Power of Attorney
- Advance directives
- Other authorities
- Doctrine of necessity

Not Competent to give consent

The health professional may provide services where:

- It is in the 'best interests' of the person
- Reasonable attempts have been made to find out what the person thinks about what is being proposed
- The health professional thinks that this is what the person would choose if they were able to give consent

Not competent to give consent (cont'd)

- If the health professional has not been able to find out what the person would do, they may **consult** with others who know the person well and are interested in the welfare of the person.
- These people may be family, staff, friends or an advocate
- The health professional has the **AUTHORITY** and the **RESPONSIBILITY** to either go ahead and provide the service, or to decline the service.

Emergency situations

Emergency

- Deliver what is needed to preserve the health and wellbeing or save the life
- Can be provided without consent if necessary
- If able to consent at the time, then person can consent or refuse consent

Urgent situations

- Where treatment / procedure needs to be done reasonably quickly
- Responsibility rests with practitioner if person unable to consent

Routine situations

- Person gives consent if able
- If unable, then involved in process as much as able
- Consent provided by others legally able to give consent
- Right 7 of the Code applies
- Families/whanau/staff able to be **consulted**, but **not legally able to give consent**

Written Consent

Written consent is needed when:

- ✓ Taking part in research, teaching or training
- ✓ The procedure or action to be taken is experimental
- ✓ There is significant risk of adverse effects
- ✓ A general anaesthetic will be given

Consider:

- Major impact decisions; eg moving house, LSPlanning, relationships

Verbal Consent

Verbal consent is sufficient for most day-to-day activities that happen around the home or at work.

Record Keeping

Each person makes choices and decisions in different ways

- How does this person give consent?
- Process used
- Review
- Recording orders

Process

Consider:

- Check for court orders
- Explaining activities (information)
- Format of information – ie plain language
- Involvement of others
- Types of situations needing consent
- Process used
- Written or verbal
- Recording and review

Process for health treatment

- Who can/can't consent
- Age variations
- Your organisation's role
- Consultation forms
- Routine, urgent, emergency situations

Making a Decision

If at any time this is an issue for people you support, then

ASK FOR HELP NOW!

Your CSM, Service Manager or Area Manager are there to help – USE THEM

Exceptions to needing consent

- Transport laws
- Health Act
- Alcoholism and Drug Addiction Act
- Mental Health (Compulsory Assessment and Treatment) Act
- Criminal Justice Act
- Children Young Persons and their Families Act
- Contraception, Sterilisation, Abortion Act
- Tuberculosis Act

Relevant Legislation:

- Health and Disability Commissioner Act, 1994
- The Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations, 1996
- The Guardianship Act, 1968
- The Protection of Personal and Property Rights Act, 1988
- The New Zealand Bill of Rights Act, 1990
