

CONSENT & MENTAL CAPACITY POLICY

In our practice, we treat patients politely & with respect, recognising their dignity & rights as individuals. We also encourage patients to be involved in decisions about their care & before embarking on any aspect of treatment we seek their permission & consent to do so, recognising the rights of patients to decide what happens to their bodies & their right to choose whether or not to accept advice or treatment. We respect patients' dignity & choices.

There are 3 principles in obtaining consent:

1. Informed Consent: The patient has enough information to make a decision
 2. Voluntary Decision-Making: The patient has made the decision
 3. Ability: The patient has the ability to make an informed decision
- In our discussions with patients, we explore what they want to know to help them make their decisions.
 - We have also included a smile questionnaire on our medical history form
 - We encourage patients to ask questions & aim to provide honest & full answers.
 - We always allow patients time to make their decisions.
 - Obtaining & recording patients consent is an essential & regulatory part of providing quality dental services, therefore we will not proceed with any treatment until we have written informed patient consent.
 - Where changes to a treatment plan are needed, patients will be informed by a written, amended treatment plan, including changes to any costs.
 - We will also obtain a new patient consent.

New Patient Appointments

We always make clear to patients they are being treated as a private patient & the charge for an initial consultation & the probable cost (estimate) of further treatment. A new patient booking a consultation NP examination has already consented to that appointment so that consent for this appointment only is sufficient.

Subsequent Appointments

Whenever a patient is returning for treatment following an examination or assessment, they must be given a written treatment plan & cost estimate. After a consultation, a patient wishing to embark on a course of treatment, will be provided with a written treatment plan report, which will include points 1-4 below, the associated costs & consent form.

1. Why we feel the treatment is necessary
2. The risks & benefits of the proposed treatment
3. What might happen if the treatment is not carried out
4. Other treatment options & their risks & benefits & whether or not you consider the treatment is appropriate

Changes to a Treatment Plan

If, having agreed an estimate with a patient the dental professional thinks the patient will need to change their treatment plan they must obtain the patients consent to any further treatment & additional costs. The patient must also be issued with an amended written treatment plan & cost estimate.

Informed Consent

We aim to provide each patient with sufficient information in a way that they can understand to allow them to make a decision about their care. We will use various communication tools to ensure that the patient understands what is being suggested.

In our discussions with patients, we explore what they want to know to help them make their decisions & explain:

- why we feel the treatment is necessary
- the risks & benefits of the proposed treatment
- what might happen if the treatment is not carried out
- the alternative treatment options & their risks & benefits

We encourage patients to ask questions & aim to provide honest & full answers. We always allow patients time to make their decisions.

We always make sure that the patient understands whether they are being treated under the NHS or privately & what the costs will be. Where a patient embarks on a course of treatment, we provide a written treatment plan & cost estimate.

Where changes to the treatment plan are needed, we obtain the patient's agreement & consent, including to any changes in the costs. The patient is given an amended treatment plan & estimate.

Ability to Give Consent

Every person aged 16 or over has the right to make their own decisions & is assumed to be able to do so, unless they show otherwise. We recognise that, in some circumstances, children under 16 years may be able to give informed consent to examination & treatment.

If a child under the age of 16 has "sufficient understanding & intelligence to enable him/her to understand fully what is proposed" (GILLICK COMPETENCE), then he/she will be competent to give consent for him/herself. Young people aged 16 & 17, & legally 'competent' younger children, may therefore sign a Consent Form for themselves but may like a parent to countersign as well.

Children's Consent - A child is a person under 18.

Children aged 16 & over are presumed to have capacity & able to consent or, refuse to treatment in their own right. If the practitioner thinks a child aged 16 or over may lack capacity, a mental capacity assessment will be carried out & the results recorded in the clinical notes.

If a child is under 16, it is the first choice to obtain the consent of the parent or carer. But for various reasons this may not be possible. A child who is under 16 can give consent if the practitioner considers that the child is 'Gillick competent'.

Voluntary Decision Making

Decisions about their care must be made by the patient, & without pressure. We respect the patient's right to:

- refuse to give consent to treatment
- change their minds after they have given consent.

When this occurs we will not put pressure on the patient to reconsider but where we feel it is important, we will inform the patient of the consequence of not accepting treatment.

Consent for Processing Personal Data

There is a separate policy that covers consent for processing the personal data of non-patients. See the Data Protection & Information Security Policy, which covers marketing & its communication methods.

Training on consent is provided to team members at staff meetings. Consent procedures are reviewed & monitored by the practice manager.

Diminishing Consent

Valid consent is just as important when treating children & young people, or adults with diminished capacity, as it is with competent adults. Dental professionals are increasingly aware of their ethical responsibility to permit patients to participate in treatment decisions through the informed consent process. At the same time, growing numbers of geriatric patients present special challenges that can jeopardise the use of informed consent. Consequently, the use of informed consent with geriatric patients warrants special analysis due to complicating factors such as patient passivity & potentially questionable competency. This of course can also potentially be the case for patients who are diagnosed with, for example, a brain tumor, Alzheimer's, mental illness etc

If a practitioner has any doubts regarding an individual patient then it would be sensible to seek specific advice. The decision-making process should consider the views of others with an interest in the person's welfare, such as primary carer, nearest relative, named person, attorney or guardian. In general terms of the Act, 'incapable' means not being able to do one or more of the following:

- Act on decision
- Make decisions
- Communicate decisions
- Understand decisions
- Remember decisions previously made.

What Are Indications of Potentially Diminished Capacity -

- Diagnosis of dementia or cognitive impairment
- Presenting for an evaluation of dementia
- Medical records or family member or person well acquainted with the person informing us that the person has symptoms of cognitive impairment or dementia
- Abnormal degree of confusion, forgetfulness or difficulties in communication that is observed in the course of interacting with the patient
- Psychotic symptoms, bizarre or abnormal behavior exhibited by the person

When there is an indication that capacity for consent may be diminished, an appropriately trained dental professional must make an assessment of the patient's ability to understand the specific treatment being suggested & make an informed decision. The assessment will be based upon the five principles embedded in the Mental Capacity Act of 2005.

It should be borne in mind that an individual might be able to consent to some treatment but not to others. Dentists should consider in the first instance whether the patient can actually consent on their own behalf to the treatment proposed. However, if the view is that the patient does not have capacity to consent, then dentists should be aware that only clinicians who have undertaken an approved training course can sign the required Section 47 certificate. Dentists are advised to contact their protection organisation for advice in specific situations.

Recording patients' consent is an essential part of providing quality dental services. To support practices in maintaining effective records, Mint has developed a 'Capacity to consent' assessment tool.

This assessment can be completed on behalf of clinicians by a trained dental nurse or care coordinator. It aims to record the patients' understanding & ability to make an informed decision. Patients who lack capacity should not be denied necessary treatment simply because they are unable to consent to it. The Mental Capacity Act 2005 applies where decisions have to be made on behalf of persons lacking capacity. A Lasting Power of Attorney (LPA) can empower a nominated person to make decisions regarding a patient's personal welfare. However, the LPA needs to be registered & the attorney can only make decisions when the patient lacks capacity.

Consent & Mental Capacity Policy

The practice follows the GDC guidelines Standards for the Dental Team: 'Principle 3, Obtain Valid Consent'. We treat patients politely & with respect, in recognition of their dignity & rights as individuals. We also recognise & promote our patients' responsibility for making decisions about their bodies, their priorities & their care & make sure we do not take any steps without a patient's consent (permission).

The clinical team member will always obtain valid consent before starting treatment or physical investigation, or providing personal care for a patient, because patients have a right to choose whether or not to accept advice or treatment. Clinical team members are adequately trained to ensure that the patient has:

- Enough information to make a decision (informed consent)
- Made a decision (voluntary decision-making)
- The ability to make an informed decision (capacity)

The nature of treatment [private] & all charges are clarified to the patient before it commences & the patient is provided with a written treatment plan & cost estimate. All team members are aware that:

- Once the consent has been given it may be withdrawn at any time
- Giving & getting consent is a process, not a one-off event. It is an ongoing discussion between the clinician & the patient
- It is necessary to find out what the patient wants to know, as well as saying what the clinician thinks the patient needs to know. Examples of information which patients may want to know include: why a proposed treatment is necessary; the risks & benefits of the proposed treatment; what might happen if the treatment is
- not carried out & alternative forms of treatment, their risks & benefits, & whether or not the treatment is considered appropriate
- If an estimate has been agreed with a patient, but it is necessary to change the treatment plan, the patient's consent to any further treatment & extra cost will always be obtained prior to providing the changed treatment. This will be achieved by the provision of an amended written treatment plan & estimate

- Everyone aged 16 or over is presumed to have capacity to make their own decisions unless it can be shown that they lack capacity to make a particular decision at the time it needs to be made. If the treating clinician thinks that someone lacks capacity to make a treatment decision, she/he will carry out a mental capacity assessment &, if appropriate, make a decision in the person's best interests.

Mental Capacity Policy

In our practice, we treat patients politely & with respect, recognising their dignity & rights as individuals. We also encourage patients to be involved in decisions about their care &, before embarking on any aspect of patient care, we seek their consent to do so – recognising the rights of patients to decide what happens to their bodies. We recognise that patients have the right to refuse advice or treatment.

Mental Capacity

The Mental Capacity Act 2005 is designed to protect & empower individuals who may lack the mental capacity to make their own decisions about their care & treatment. Dental practitioners are required to act under the provisions of the new act & follow its code of practice when treating mental incapacitated adults. Dentists may be required in most cases to make their own capacity assessments & determine when treatment is in the patients best interests.

Examples of people who may lack capacity include those with:

- DEMENTIA
- A SEVERE LEARNING DISABILITY
- A BRAIN INJURY
- A MENTAL HEALTH CONDITION
- A STROKE
- UNCONSCIOUSNESS CAUSED BY AN ANAESTHETIC OR SUDDEN ACCIDENT

The law says someone lacking capacity CANNOT do one or more of the following four things:

- Understand information given to them
- Retain that information long enough to be able to make a decision
- Weigh up the information available to make a decision
- Communicate their decision

Where we have doubts about a patient's ability to give informed consent, we will seek advice from our defence organisation.

Acting in the Patients Best Interest

If a patient needs care or treatment someone can give you the care or treatment you need. This may happen because the patient needs help to decide what care or treatment they want because they cannot decide on your own because they do not have capacity at the time.

The person caring or giving treatment must follow the best interest's checklist to decide what is in your best interest. For example in dentistry this could be:

- Treating the patient to get them out of pain (swelling, abscess etc)
- Dealing with trauma from an accident

If the patient has made a Lasting Power of Attorney, an advance decision to refuse treatment, or have a deputy, then they would make these decisions if you lack mental capacity.

Lasting Power of Attorney

Lasting Power of Attorney (LPA) is a legal document where you can say in writing who you want to make certain decisions for you, if you cannot make them for yourself. This person is called an attorney.

You can only make this legal document if you understand what it means.

You can already do this for property & money. You would do this using an Enduring Power of Attorney (EPA).

The Mental Capacity Act has a new kind of power of attorney called a Lasting Power of Attorney (LPA). The attorney must act in the best interests of the person lacking mental capacity.

If a clinician in our practice is treating a patient with mental capacity who has an LPA, we need to ensure that their rights cover Health & Welfare.

If you would like any other information on The Mental Capacity Act, you can Google 'Mental Capacity Act: Easy Read' or ask our practice manager for more information.

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