



POLICY / PROCEDURE INFORMATION (Policy no CS009)	
Subject	Consent Policy <i>(This policy is subject to periodic review and will be amended according to service development needs)</i>
Applicable to	All staff and volunteers involved in providing care and support to their families. This includes taking photographs, making recordings and using art material produced by patients for promotional or other reasons.
Target Audience	All staff and volunteers involved in any support and care and activities involving patients and their families
Date issued	Nov 2018
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Lead responsible for Policy	Director of Care
Policy reviewed by	Kate Martin, Palliative Care Practice Lead
Notified to (when)	Quality and Safety Nov 2018
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CQC Standard if applicable	
Links to other Policies	Mental Capacity Policy CS007
Summary	<p>Policy to give guidance on obtaining consent from patients. This includes consent for clinical examination, care or interventions as well as consent to gain or pass on information to Health Care Professionals as relevant and appropriate</p> <p>It also includes consent to photography, audio and visual recording, use of narratives/personal account and use of private art work in promotional or display material.</p>
This policy replaces	

VERSION CONTROL		
Status	Date	Reviewed date
Original policy written by Betsie Van Niekerk, Hospice Physician	June 2015	June 2017
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1. INTRODUCTION

Nottinghamshire Hospice recognises that patients have a fundamental legal and ethical right to determine what happens to their own bodies and this is reflected in this policy. Valid consent to treatment is central in all forms of healthcare, from providing personal care to undertaking major surgery. Seeking consent is not only a legal obligation but also a matter of common courtesy between health professionals and patients.

All Health professionals working within Nottinghamshire Hospice must comply with the standards and procedures in this policy.

2. SCOPE

This policy is based on guidance issued by the Department of Health and sets the standards and procedures at the hospice and applies to all clinical staff involved in the physical examination of patients, or in providing any aspect of care.

This policy also includes staff involved in taking photographs, video recordings audio recordings and use of narratives /personal accounts of patients.

This policy only covers adult of 18 years or above, as the Hospice does not treat anyone under the age of 18.

3. DEFINITION

“Consent” is a patient’s agreement for a health professional to provide care. Consent should be sought before providing care or treatment, so the health professional is satisfied that the patient has given his or her valid consent. Consent will only be valid if it is given freely and not under duress, by a properly informed patient who has capacity to give consent. Consent can be given in writing, verbally or even indicated non-verbally (for example by presenting their arm for their pulse to be taken).

The context of consent can take many different forms, ranging from the active request by a patient for a particular treatment 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 several ways of treating a condition, and the health professional will help the patient to decide between them. The health professional must provide the patient with sufficient information and time to enable them to make an informed decision

If a patient is thought to lack capacity (either temporarily or permanently) which is likely to impact on their ability to make decisions and give consent, health professionals must apply the principles set out in the Mental Capacity Act 2005 (MCA) and the Mental Capacity Act 2005 Code of Practice. It is important to remember that no-one other than a person who has authority under a Lasting Powers of Attorney or is a deputy appointed by the Court, can give consent on behalf of an adult patient. A patient who lacks capacity can, however, be given treatment if it is in their best interests in accordance with the MCA.

A patient's capacity to consent is assumed unless there is evidence to suggest otherwise. Where periods of impaired or fluctuating capacity are to be expected, the patient's needs and priorities should be established and recorded in advance. When a patient is temporarily and permanently unable to give consent to care or treatment clinical staff will act in the patient's best interest, taking into account the views of the carers and relatives. If the patient is likely to regain capacity and the decision can wait until that time it should be delayed so that the patient can participate.

Informed Consent should meet the following criteria:

- The person providing consent has the capacity to do so.
- The person's decision is voluntary, made without coercion, undue influence or deceit.
- The person has received sufficient information, in a way they can understand, about the treatment options available, the nature and effect of the treatment and any substantial risks associated with it, and the consequences of refusing the treatment.
- For consent to be valid it must be 'Informed Consent'.

4. PROCEDURE AND IMPLEMENTATION

Consent for Examination or Treatment. The prime responsibility for obtaining a person's consent lies with the health care professional who is to carry out the treatment/procedure. Consent is equally valid whether it is expressed verbally, non-verbally (implied) or written.

Implied Consent is sufficient for the majority of care provided by Nottinghamshire Hospice

Verbal Consent is sufficient for the majority of interventions provided by nurses, physiotherapist, complementary therapists and other healthcare professionals for care such as commencing a Syringe Driver, examinations and massage. Verbal consent should be recorded in the patient's health care record with relevant details of the discussion, the date and time of the entry, together with the name of the health care professional legibly written. Verbal refusal of consent for any intervention must also be recorded in the person's Health care record in the same manner.

Written 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 and for almost all interventions at Nottinghamshire Hospice it is unnecessary.

It will not usually be necessary to document a patient's consent to routine and low-risk procedures, such as providing personal care or examining a patient. However, if you have 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 helpful to do so.

Within the GRACE Unit at Nottinghamshire Hospice written consent will usually only refer to a

patient's consent to photography as invasive procedures or treatments are not undertaken here. Photography will include photographs of a wound for patients' records, photographs as identification for patients' records and photographs to be published in newsletters, on the website or social media. (See Appendix 1)

Consent must also be sought to obtain medical information from a patient's GP and/ or consultants involved in the patient's care. (See Appendix 2)

Consent may also be required to share patient data with another service provider e.g., palliative care nurses, District Nurses or a GP.

5. REFUSAL OF CONSENT

All efforts should be made to obtain consent for care and treatment. A person's refusal at any point must be respected and documented in the person's healthcare record. Where there is language or communication barriers, staff will ensure that all reasonable efforts have been made to overcome these, using available communication skills and technology, relatives/ carers/ friends, or a translator. Relatives or advocates may be a useful source of information about the best ways to communicate or may be requested to assist with establishing the person's values and preferences if the person is unable to express these themselves.

The process of seeking consent must be a meaningful one; refusal must be one of the patient's options. An adult patient who has capacity can refuse any treatment, except in circumstances governed by the Mental Health Act 1983. In determining whether a patient has capacity to make this decision the Mental Capacity Act 2005 must be applied. (See Mental Capacity Act Policy)

No adult can give consent on behalf of another adult. If a person is unable to give consent, care and treatment will continue to be provided which is judged by the clinical team to be in the best interests of the person and taking into account the views of the person as expressed in their Advance Care Plan (if in place), and carers / relatives particularly if there is a Lasting Power of Attorney for Welfare Decisions to be made. When assessing capacity to consent the clinical team will comply with the guidance set out in this policy.

Where there are any concerns or doubts over consent or decision making, this should be recorded in the person's Healthcare record and passed on to the senior management team or Director of Care.

Competent, informed people have the right to accept or refuse treatment or other care interventions even if their decision is deemed eccentric or unwise and this will be respected. Where a person has an Advance Decision to Refuse Treatment (ADRT) or Advance Statement of Wishes document, which is valid, legal and applicable and which has been brought to the attention of staff, this will be acted upon in the event where the patient doesn't have capacity to make a decision at the time consent is needed.

There are other forms of advance statements that may not be binding on health care professionals but are indicative of the patient's wishes and should not be ignored. If a patient has specified in an advance statement that they want a particular treatment, their wishes will be relevant in so far as it indicates the patient's preferences, but the health care professional is not bound to provide that treatment and may act in accordance with his or her clinical judgement.

An adult with capacity may make a decision which is based on their religious belief (e.g. Jehovah's

Witnesses) or value system. Even if it is perceived by others that the decision is unwise or irrational, the patient may still make that decision if he or she has capacity to do so.

If, after discussion of possible treatment options, a patient refuses all treatment, this fact should be clearly documented in their notes. If the patient has already signed a consent form, but then changes their mind, the health professional (and where possible the patient) should note this on the form.

Where a patient has refused a particular intervention, the health professional must ensure that he or she continues to provide any other appropriate care to which they have consented. You should also ensure that the patient realises they are free to change their mind and accept treatment if they later wish to do so. Where delay may affect their treatment choices, they should be advised accordingly.

If a patient consents to a particular procedure but refuses certain aspects of the intervention, the health professional must explain to the patient the possible consequences of their partial refusal. If the health professional genuinely believes that the procedure cannot be safely carried out under the patient's stipulated conditions, he or she is not obliged to perform it. They must, however, continue to provide any other appropriate care. Where another health professional believes that the treatment can be safely carried out under the conditions specified by the patient, he or she must on request be prepared to transfer the patient's care to that health professional.

6. COMMUNICATION AND CONFIDENTIALITY

A person's consent to share information with family and/or everyday carers should be sought from the patient on each occasion that requires the need to share information. This should be recorded in the Healthcare record.

At first assessment and within the GRACE Unit at Nottinghamshire Hospice consent is sought to request medical information regarding the patient to be released from the patient's GP and consultant(s).

Consent to share information with the patient's usual professional health carer(s) is assumed but may need to be explicit and documented for some issues i.e enter information onto the EPACCS or referral to Adult Social Care.

In the case of referrals made under Safeguarding Vulnerable Adults, consent is not needed to make a referral where abuse is suspected to have taken place or someone is in danger. Refer to the Nottinghamshire Hospice Safeguarding policy before making any referral.

7. PHOTOGRAPHY (INCLUDING ANY AUDIO OR VISUAL RECORDING)

Written consent must be obtained from patients for

- Photographs
- Video recordings
- Audio recordings
- Use of narratives/personal accounts
- Use of private artwork in promotional or display material

These may be used for purposes other than personal for the patients or carer, whether gathered or taken by a member of staff or volunteer of the Hospice or member of the media.

The photograph consent form (Appendix 1) must be signed by the person being photographed/recorded at the time.

It is the responsibility of the person facilitating or taking the photograph/making the recording to ensure the person has signed a consent form.

Clinical photography (photographs of wounds or lesions) may be used both as a medical record or treatment aid in themselves and as a tool for teaching, audit or research. The purpose and possible future use of the photograph must be clearly explained to the person before their consent is sought for the recording to be made. If the photograph is to be used for teaching, audit or research, patients must be aware that they can refuse without their care being compromised and that when required or appropriate the photograph can be anonymised.

Photographs and recordings taken for clinical care evaluation must be filed in the person's electronic Healthcare record.

8. WHEN SHOULD CONSENT BE SOUGHT

In many cases, it will be appropriate for a health professional or healthcare worker to initiate a procedure immediately after discussing it with the patient. For example, during an ongoing episode of care a physiotherapist may suggest a particular manipulative technique and explain how it might help the patient's condition and whether there are any significant risks. If the patient is willing for the technique to be used, they will then give their consent and the procedure can go ahead immediately. In many such cases, consent will be given verbally.

If a proposed procedure carries significant risks, it will be appropriate to seek written consent, and health professionals must take into consideration whether the patient has had sufficient chance to absorb the information necessary for them to make their decision. As long as it is clear that the patient understands and consents, the health professional may then proceed.

When consent is not needed

There are a few exceptions when treatment may be able to go ahead without the person's consent, even if they're capable of giving their permission.

It may not be necessary to obtain consent if a person:

- needs emergency treatment to save their life, but they're incapacitated (for example, they're unconscious) – the reasons why treatment was necessary should be fully explained once they have recovered
- immediately needs an additional emergency procedure during an operation – there has to be a clear medical reason why it would be unsafe to wait to obtain consent
- with a severe mental health condition, such as [schizophrenia](#), [bipolar disorder](#) or [dementia](#), lacks the capacity to consent to the treatment of their mental health (under the [Mental Health Act 1983](#)) – in these cases, treatment for unrelated physical conditions still requires consent, which the patient may be able to provide, despite their mental illness
- needs hospital treatment for a severe mental health condition, but self-harmed or attempted suicide while competent and is refusing treatment (under the [Mental Health Act 1983](#)) – the

person's nearest relative or an approved social worker must make an application for the person to be forcibly kept in hospital, and 2 doctors must assess the person's condition

- is a risk to public health as a result of [rabies](#), [cholera](#) or [tuberculosis \(TB\)](#)
- is severely ill and living in unhygienic conditions (under the [National Assistance Act 1948](#)) – a person who's severely ill or infirm and living in unsanitary conditions can be taken to a place of care without their consent

9. WHO IS RESPONSIBLE FOR SEEKING CONSENT

The health professional or healthcare worker 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 verbal 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, where written consent is being sought it may be appropriate for other members of the team to participate in the process of seeking consent.

10. CONSENT FOR FUTURE CONTACT

Consent for contact by the Nottinghamshire Hospice to families should be sought from the patient at first contact with the service to enable them to be informed of services provided for the wider family and friends in their own right, such as carer support and bereavement support groups. This also acknowledges other Hospice services including the Fundraising Department.

11. ATTENDANTS BY STUDENTS AND TRAINEES

Where a student or trainee health professional is undertaking examination or treatment of the patient where the procedure will further the patient's care – for example wound care – then, assuming the student is appropriately trained in the procedure, the fact that it is carried out by a student does not alter the nature and purpose of the procedure. It is therefore not a legal requirement to tell the patient that the health professional is a student, although it would always be good practice to do so and consent in the usual way will still be required.

In contrast, where a student proposes to conduct a physical examination which is not part of the patient's care, then it is essential to explain that the purpose of the examination is to further the student's training and to seek consent for that to take place. Again, consent should be recorded in the patient's notes.

A patient's explicit consent should be obtained prior to any occasion when a student or trainee is going to be present during an examination or when treatment is to be given. Patients have the right to refuse consent in these circumstances without any detrimental effect on their treatment.

12. STUDENTS USING PATIENT INFORMATION AS PART OF THEIR COURSE

On commencing a placement at the Hospice, a student should be inducted into the principles and policy of Nottinghamshire Hospice in relation to data protection.

A student should be supervised in their access to patient information; this should be restricted to the purpose of direct care. The supervisor of the placement should discuss and approve the level of access and the use of patient information.

The use of patient information in course work should be agreed with the placement supervisor who will ensure that any patient information used in course work protects the identity of the patients from identification by anyone reading their work.

Staff and volunteers at the hospice must ensure that patient and their families are not placed under pressure to agree to the requests of any student.

13. DOCUMENTATION

The standard consent form used within Nottinghamshire Hospice primarily, but not exclusively for clinical photography is reproduced in Appendix 1.

'Consent for the release of medical Information' form will usually be completed and signed at initial assessment. (Appendix 2)

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;
- involvement of people close to the patient

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 through documenting in the patient's notes that they have given consent with further details of the consent given.

14. AUDIT AND TEACHING

Any personal or sensitive information used for audit or teaching must be anonymised so that the person and family are not identifiable. The clinician who is teaching must ensure the anonymisation of items used for teaching purposes.

15. RESPONSIBILITY AND ACCOUNTABILITY

Director Operations Clinical Services

The Director Operation Clinical Services holds responsibility including implementation of this policy to ensure that staff gain consent from users of the service.

Clinical Services Manager

The Clinical Services Manager must ensure the implementation of the policy such that consent is part of daily practice.

Employees

All employees (including volunteers and bank staff) must ensure adherence to the policy when working with those who use the service.

16. REFERENCES

Consent Policy St Nicholas Hospice Care

Mental Capacity Act 2005

General medical Council GMC Guidance: Consent: patients and Doctors making Decisions Together

<https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/consent>

Consent Policy and Procedure, Primrose Hospice.

Consent to Examination or Treatment Policy, Nottingham University Hospitals NHS Trust

Appendix 1
Service User Photograph & Publicity Consent Form

This consent form is to record your consent to having your photograph taken, and when you are happy to have your photograph taken. There is absolutely no obligation to take part in any photography.

I am/ am not (*circle as appropriate*) happy for photographs to be taken of me for identification purposes

I am/ am not (*circle as appropriate*) happy for photographs to be taken of parts of my body for clinical /medical purposes and for these to be kept on my file.

I am/ am not (*circle as appropriate*) happy for photographs to be taken of me and used for publicity events.

I would / would not like to know when they are used.

I am / am not (*circle as appropriate*) happy to take part in the following for publicity events, promotional or displays

Please tick	
<input type="checkbox"/>	Video recordings
<input type="checkbox"/>	Audio recordings
<input type="checkbox"/>	Use of narratives / personal accounts
<input type="checkbox"/>	Use of private artwork promotional
<input type="checkbox"/>	Other – please describe

I would / would not like to be informed when they are used.

Print Name:

Signature:

Date:

Appendix 2
Consent to release medical information

Nottinghamshire Hospice would like to approach your General Practitioner/ Hospital Consultant to obtain medical information about you. This information will help the Hospice Care Team to assess your needs more accurately in order to deliver the care that you may require during your time spent at the Hospice Daycare. The release of such information by your General Practitioner/Hospital Consultant requires your consent.

Nottinghamshire Hospice would like to share (and receive) information about your care and treatment with other healthcare professionals who are involved in your care, to ensure your records reflect your care and ensure you can access care when you need it. This may involve sharing and viewing information held on SystemOne which is an NHS patient database which is only accessible to people who actively provide you with care and support

Name: _____ Date of Birth: _____

NHS Number: _____

Address: _____

I give / do not give my permission for my doctor (General Practitioner /Hospital Consultant) to report my medical history to the Care Team at Nottinghamshire Hospice. I understand that the information will remain confidential to Nottinghamshire Hospice.

I give / do not give my permission for my information to be shared with health professionals involved in my care

Signed _____

Date _____

A copy must be placed in the patient file.