Informed Consent

Practical guidance for clinicians

Informed consent is both a process of engagement and an outcome that recognises and respects patient autonomy and their healthcare rights. It is a goal clinicians and patients must approach together.

The purpose of informed consent

Informed consent in health care

Informed consent is a person's agreement, given voluntarily, to a healthcare treatment, procedure or other intervention. This requires the provision of accessible, accurate and relevant information about the healthcare intervention, and the expected outcomes, benefits, risks and alternative options, relevant to that person, including:

- doing nothing
- watching and waiting
- and/or lifestyle interventions.

Informed consent:

- enables patients to understand the risks, benefits, alternatives, potential outcomes and costs of medical treatment, interventions and tests
- supports patients to weigh options and make decisions about care and treatment plans, based on their needs and preferences
- contributes to high-quality care – care that is safe, effective, person-centred, accessible, efficient, equitable, integrated, and sustainable
- is a key safety and quality issue.

Informed consent done well

When done well, informed consent builds a culture of trust, respect and shared responsibility between clinicians and patients. It enables patients to have realistic expectations of benefits, costs and risks, as well as meeting clinician's ethical, legal and professional requirements.

Genuine informed consent supports quality care at the level of the individual, health service provider and health system. Understanding your patient and asking them *'what matters to you',* or using a model such as Ask Share Know to help make shared decisions,

enables you to consider their needs, preferences and values. This process of engagement also fosters person-centred care.

When is informed consent needed?

In addition to interventional procedures and surgery, all healthcare treatments, or tests, need valid consent before they can occur[1]. This includes prescription medicines.

In primary, community and home-based care, informed consent often applies to an ongoing plan of care, rather than a single procedure, and should be revisited when goals, risks, needs or preferences change. In these settings, where care is often multidisciplinary, all members of the care team share responsibility for recognising when consent may need to be clarified or revisited.

Consent may be either verbal, written, or implied (shown through actions), depending on the degree of risk and complexity of the treatment for that person. Some treatments, including most surgical interventions, blood transfusions and chemotherapy will always require written consent. Many health services require the use of particular consent forms, so check your organisation's requirements.[2]

Decision-making ability, capacity and supported decision-making

- All adults are presumed to have capacity to decide if they wish to receive health care and should be included in decision-making and supported to fully participate
- A person's skill and ability to participate in decision-making can change over time and depend on their underlying health condition, acute condition and the type of decision being made
- If after supports have been optimised, there are concerns a person is unable to participate, a clinical assessment of their decision-making ability may be required, noting that capacity may be decision-specific and change over time
- Where a person's physical, emotional or behavioural state means they do not have the ability to make a particular decision, the framework for obtaining substitute consent that applies in each state or territory must be used. This involves the clinician engaging substitute decision-makers or nominated persons, in line with legislation
- The legal test for whether a person has capacity to make a decision varies depending on the state or territory in which they are receiving health care
- Where a person other than the patient is legally appointed as a decision maker, they may only act in line with that authority. Clinicians can uphold this by checking the instrument of appointment
- People may be able to make some decisions with support from a family member, friend or healthcare professional. This is called supported decision-making

[1] Unless legislation in a state or territory, or case law, permits the treatment, procedure, or other intervention without consent. For example, treatment provided in an emergency, or for certain mental health interventions.
[2] Adapted from Avant fact sheet: Consent: the essentials; available at https://avant.org.au/resources/consent-the-essentials

- A supported decision-making process provides the patient with information in a way they can understand and the means of communicating their will and preferences in response
- In some situations, a person may be supporting the patient to decide, while in others, they may be deciding on their behalf as a substitute decision maker. This is because decision making ability can change, including based on the type of decision being made
- The patient should remain at the centre of the decision-making process, and their current wishes, values and preferences should be sought and respected wherever possible, even if a substitute decision-maker is involved.

What are the elements of informed consent?

Informed consent is best approached through a process of shared decision making. This involves understanding the patient's goals, concerns, needs, and preferences, as well as discussing:

- what are the options? (including wait and watch)
- what are the possible benefits and harms of those options?
- how likely are each of those benefits and harms to happen?

When should key conversations occur?

The timing of key conversations is important. Although it may not be possible in an emergency, before asking a patient to decide about a treatment, test, or intervention, you need to give them enough time to:

- consider and clarify the information provided
- discuss and consult with those close to them, if they wish to do so
- come back for another consultation or seek a second opinion if appropriate.

In the context of a consultation, this can mean pausing and providing time for patients to process information and think about questions, while you wait in silence, before actively inviting them to ask questions or share their thoughts. Providing patients with records of discussions and decisions, ways to ask questions after the consultation and where to find good health information, can also be helpful.

Who should have these key conversations?[3]

In an environment of shared care or multidisciplinary teams, different clinicians may be involved in a patient's decision-making process over several interactions. As a general principle, the clinician responsible for providing the health care is ultimately responsible for ensuring that:

[3] Adapted from *Guide to Informed Decision-making in Healthcare Version 2.6* 2025, Patient Safety and Quality, Clinical Excellence Queensland, Queensland Health

- the patient has received sufficient and appropriate information in a way they understand
- valid informed consent has been obtained before providing the health care
- evidence of consent has been appropriately documented, including a record of discussions that were part of the process.

How can the task of obtaining consent be delegated?[4]

When a senior clinician delegates the task of obtaining consent to a junior clinician, the senior clinician remains responsible for:

- the decision to delegate the task and supervision of the junior clinician
- taking reasonable steps to ensure the junior clinician is skilled to perform the task, understands and is sufficiently knowledgeable about the patient's rights and the health care that has been offered
- providing relevant information to the patient about alternatives and their risks and benefits
- obtaining and documenting valid informed consent before the health care is provided
- respecting and supporting the decision of a junior clinician who reports that they do not have the required skills, knowledge or experience to complete the task.

As a junior clinician who has been delegated the task of obtaining consent, the junior clinician is responsible for:

- understanding and working within the limits of their professional competence and scope of practice
- carrying out the task in a way that fulfils their professional and legal obligations
- documenting evidence of consent, including a record of discussions
- declining the task or requesting support if they do not have the necessary skills, knowledge or experience
- advising the senior clinician of any decision to decline the task, so alternative arrangements can be made to obtain valid informed consent
- closing the loop by documenting discussions and consultation with senior clinicians.

What supports should you offer?

Many factors may influence a person's understanding. These include health literacy, cultural differences, disability, spoken language, and neurodiversity. It is important not to make assumptions and to use strategies to tailor communication to patient needs such as:

- presenting information in different ways like using models, diagrams, printed, video or audio materials and media

[4] Adapted from *Guide to Informed Decision-making in Healthcare Version 2.6* 2025, Patient Safety and Quality, Clinical Excellence Queensland, Queensland Health

- including a support person of the patient's choice in the conversation
- recognising the importance of family, kinship systems and community to Aboriginal and Torres Strait Islander peoples' spiritual, social and emotional health and wellbeing, and supporting their inclusion as part of providing culturally safe care
- getting the support of an Aboriginal or Torres Strait Islander Health Worker, Practitioner or Liaison Officer if the patient identifies as an Aboriginal and/or Torres Strait Islander person
- engaging interpreter services if English is not the person's preferred language.

Checking understanding

You should check the person has understood the information provided by:

- Asking them to repeat what has been said using their own words, and/or asking them questions using a method such as teach-back
- Encouraging them to ask questions and answering them in a way they can understand.

When is informed consent achieved?

A person has the right to refuse to provide consent and accept the risks of doing so, as explained by a clinician. This is a decision for the person, with support if they want or need it. A person can also withdraw consent before or during treatment. For there to be valid informed consent, the person consenting must:

- be legally able to consent to that decision
- have enough information to understand their condition, treatment options and alternatives, as well as the benefits and risks relevant to them
- have enough time, opportunity, and support to consider information, ask questions, and discuss concerns
- choose to give consent freely, without pressure
- agree to the specific test, treatment or procedure.

Understanding your obligations

It is your responsibility as a clinician to know and understand your legal obligations in whichever state or territory you are practising. Each state and territory has different guardianship and/or medical treatment legislation about capacity and consent.

Consent by a person needs to be in writing when required by law or by the policies of the state, territory, or health service where the person is receiving care and treatment. If unsure, seek advice from your health service or medical indemnity provider.

Useful resources

- Australian Charter of Healthcare Rights
- Australian Charter of Healthcare Rights – Easy English version

- About healthcare rights for people with cognitive impairment – Easy English Guide
- User Guide for the Health Care of People with Intellectual Disability
- Helping patients make informed decisions: Communicating risks and benefits
- Person-centred care
- Ask Share Know
- Guide to Informed Decision-making in Healthcare

Disclaimer

This fact sheet is for general information purposes and is not a substitute for professional legal advice in individual circumstances and cases.

For more information

Please visit: safetyandquality.gov.au/informed-consent