

Consent, Mental Capacity & Best-Interest Decisions

Information for patients, families and carers — how decisions about dental treatment are made

Before any dental treatment, we need your agreement — your 'consent'. This sheet explains how consent works, what happens if someone cannot make a particular decision for themselves, who can be involved, and the law and ethics we follow. Many of the people we visit are older or living with conditions such as dementia, so we have written this for patients and for the families and carers who support them. Please ask us about anything you are unsure of.

What 'consent' means

Consent is your permission for treatment. For consent to be valid it must be: voluntary (your own free decision, without pressure from us, family or anyone else); informed (you have been given the information you need — what the treatment is, why it is suggested, the benefits, the risks, and the alternatives, including doing nothing); and given by someone with the capacity to make that particular decision. You can give consent in writing or by clearly agreeing in person, and you can change your mind and withdraw consent at any time, even partway through.

What 'mental capacity' means

Mental capacity means being able to make a particular decision at the time it needs to be made. Under the Mental Capacity Act 2005 (England & Wales), a person can make a decision if they can: understand the information relevant to it; remember it long enough to decide; weigh it up; and communicate their decision (by any means). Capacity is not all-or-nothing — someone may be able to decide about simple things but not complex ones, and capacity can change from day to day.

Five principles the law sets out

- Everyone is assumed to have capacity unless it is shown otherwise.
- A person must be given all practicable help to make their own decision before anyone concludes they cannot (for example simpler words, pictures, a quiet moment, involving someone they trust).
- People are allowed to make decisions others think are unwise — an unwise choice does not by itself mean a lack of capacity.
- Anything done for someone who lacks capacity must be in their best interests.
- It must be the least restrictive option — the choice that interferes least with their rights and freedom.

How we assess capacity

We assess capacity for the specific decision in front of us, at the time. We start by assuming the person has capacity and we help them take part as much as possible. If there is a real doubt, the dentist makes a careful judgement about whether the person can understand, retain, weigh and communicate a decision about this

treatment. Having a diagnosis such as dementia does not automatically mean a person lacks capacity. We record how and why we reached our decision.

If a person cannot make a particular decision — 'best interests'

If someone genuinely cannot make a specific decision, the law does not let the dentist simply decide alone. The decision must be made in that person's best interests, taking account of: their past and present wishes, feelings, beliefs and values (including anything they wrote or said before); whether they might regain capacity, so the decision could wait; and the views of people close to them. We involve family, carers and anyone with legal authority, and we choose the least restrictive option that meets the person's needs.

Who can make decisions for someone else

- **An attorney under a Health & Welfare Lasting Power of Attorney (LPA).** If the person made a Health & Welfare LPA while they had capacity, and it is registered with the Office of the Public Guardian, the named attorney can make health and care decisions once the person can no longer make them. We will need to see the registered LPA. (A Property & Financial Affairs LPA does not cover health and treatment decisions.)
- **A court-appointed deputy.** The Court of Protection can appoint a personal-welfare deputy to make certain decisions.
- **The dentist, acting in best interests.** If there is no attorney or deputy for health decisions, the dentist makes the treatment decision in the person's best interests, after consulting those close to them.
- **Family and carers.** Unless they hold a Health & Welfare LPA or deputyship, family members cannot legally 'consent' on an adult's behalf — but their knowledge of the person's wishes is very important and we will always listen to them.
- **An advance decision to refuse treatment.** A valid 'living will' refusing specific treatment, made when the person had capacity, must be respected.

What this means for families and carers

If you support someone we visit, you are a vital part of this. Please tell us what the person would have wanted, what matters to them, and how best to communicate with them. If you hold a registered Health & Welfare LPA or a deputyship, please have it ready to show us. If you do not, you can still be fully involved in a best-interests discussion — we value your insight even though the legal decision rests with the attorney, deputy or dentist.

The ethics behind all of this

Our approach follows long-standing principles of medical ethics: respect for the person's autonomy (their right to decide about their own body); acting to benefit them and avoid harm; treating people fairly; and protecting their dignity, privacy and confidentiality. We aim to support people to make their own decisions wherever possible, and to step in only as much as is needed to keep them safe and well.

The law and standards we follow

- The Mental Capacity Act 2005 and its Code of Practice (England & Wales), which set out everything above.
- General Dental Council (GDC) standards, which require valid consent and that we act in patients' best interests.

- UK data protection law (UK GDPR and the Data Protection Act 2018) for keeping your information confidential and secure.
- Where treatment decisions are especially serious or there is disagreement that cannot be resolved, the matter can be referred to the Court of Protection.

Your rights — a summary

- To be assumed capable, and helped to decide for yourself.
- To be given clear information and to ask questions.
- To make your own choice — including to refuse treatment.
- To have your wishes, dignity and privacy respected.
- To have the right people involved if you cannot decide for yourself, and for any decision to be in your best interests and as unrestrictive as possible.

Notes & customisation

Your consent

My consent. I have read and understood this information about consent, mental capacity and best-interest decisions. I have had the chance to ask questions and have them answered. Where I am signing on behalf of another person, I confirm my relationship to them and the basis on which I am involved in the decision. The Home Visit Terms & Important Information that apply to all treatments form part of this.

Patient (or representative) name

Relationship to patient (if not the patient)

Patient / representative signature

Date

Dentist name

Dentist signature & date

Our **Home Visit Terms & Important Information** (which apply to all treatments) form part of this consent and are provided alongside it.