

Obtaining consent for an operation

How to support patients in making informed decisions about their treatment options

More than 10 million operations and procedures are performed each year in the UK.¹

Weighing up whether to go under the knife is a major decision, and doctors need to play a supportive role in making sure that patients are fully informed about the risks and benefits of undergoing a treatment.

Obtaining consent for a procedure is one of the core competencies for graduates expected by the General Medical Council,² and is a common scenario in medical school objective structured clinical examinations (OSCEs). In this article we offer guidance on how to take a patient centred approach to sharing information about a procedure and obtaining consent.

What is consent and why is it important?

The law states that patients have the right to determine what happens to their bodies, which means that performing a procedure on a patient who hasn't signed a consent form is a form of battery and can lead to criminal charges.³

In the past, the consent process has sometimes been paternalistic,

Learning points

Consent should be sought by the doctor or surgeon carrying out the operation or procedure

Patients need an explanation of what their procedure involves, its risks, benefits, and likely outcome

Doctors need to understand patients' preferences and priorities in order to be able to discuss any risks that might be particularly relevant or important to them

Medical students and foundation doctors can help by trying to understand patients' concerns, expectations, and preferences, and by relaying them to the rest of the team



Key definitions relating to consent

Capacity—for patients to consent to a treatment, they need the capacity to understand, retain, and weigh up the treatment options presented to them

Informed consent—this is when the patient agrees to a treatment after having been provided with sufficient information about the benefits, risks, and alternatives

Material risks—risks related to a procedure that are of relevance to the patient's past medical history and individual risk factors

with surgeons recommending their preferred option and patients following in tow.

In 2015, a landmark decision by the UK Supreme Court in the *Montgomery v Lanarkshire Health Board* case prompted a change in the law. The court ruled that doctors must now take “reasonable care to ensure that the patient is aware of any material risks involved in any recommended treatment, and of any reasonable alternative or variant treatments.”⁶

Previously, doctors could decide what to tell patients about the risks and benefits of a procedure, and their actions would have been judged only against other doctors' opinions of what information should be shared

with the patient (known as the Bolam test).

Since the *Montgomery* ruling, however, doctors must not make assumptions about which risks are important to patients and must fully disclose any risks that may be of particular importance or relevance to that patient—for example, a professional singer undergoing a throat operation.^{7,8}

The *Montgomery* case prompted the Royal College of Surgeons to publish new guidance on consent—*Consent: supported decision-making*⁹—which emphasises the role of surgeons in assisting patients to make a decision on whether a procedure is right for them—rather than the traditional paternalistic

THE PROCESS FOR OBTAINING CONSENT FOR A SURGICAL PROCEDURE

As a medical student, although you will not be responsible for obtaining consent, you can observe senior doctors following the consent process

1 Explain the diagnosis

Check the patient understands their diagnosis, the findings that have led you to this diagnosis, and their prognosis if left untreated. Gauge what the patient already knows about their condition in order to clarify any misunderstandings

2 Explain the supported decision making process

Reassure the patient that the consent process is a shared decision, that you will support them through it, and that they can withdraw their consent at any time.

3 Understand the patient's wishes, needs, views and expectations

Do not make assumptions about what is a "good" outcome for a patient. Ask them what matters to them. Different patients have different priorities, perspectives about what constitutes a material risk, and what risks are acceptable. Also, in this discussion you might learn about their fears, important family relationships, or previous clinical experiences that might influence their decision.

4 Discuss the treatment options

Explain the various options and the key risks, benefits, and outcome data of each, including opting for no treatment. Raise any material risks or complications that might be relevant in order to understand the significance the patient attaches to them.⁷ Individual patient risk should also be covered—for example mortality and complication risks—which will be based on several patient factors such as cardiovascular health, obesity, and age.

Discuss trade offs with the patient in light of their needs, goals, and expectations. Explain how different options might help them achieve their goals and the potential impact of the options on their short and long term quality of life.

5 Check the patient's understanding

Assess the patient's understanding of the discussion so far, so that you can address any misunderstandings or further questions. Ask patients to relay what they have understood using a technique such as "Teach-back,"¹³ or similar, and check whether there are any further questions or concerns.

6 Give the patient time to think about their treatment options

Give patients time to consider their treatment options and goals. A decision to consent is

usually not made in one sitting or on the spot. Provide the patient with resources on their condition and on treatment options for them to read in their own time.

7 Coming to a decision

The patient should state their choice of treatment and there should be a detailed explanation and time for questions about the procedure chosen. The patient should leave a consent discussion feeling as supported as possible.

8 Respect the patient's decision

Respect the patient's decision and remind them that signing a consent form is not a point of no return—their consent can be withdrawn at any point if they change their mind.

9 Signing the form and maintaining a decision making record

A consent form should be co-signed by the patient and doctor, with one copy put in the medical notes and another given to the patient. The discussion surrounding the procedure should be documented in the notes, with a record shared with patients. On the day of the procedure it's essential to confirm and countersign that the patient remains willing to proceed, and to answer any final questions.

a trained independent translator should be used. For children and patients who lack capacity, the process is different. Children under the age of 16 may be considered Gillick competent to make treatment decisions on their own.¹⁰ If a child is unable to give consent, then a parent or guardian will usually do so.

An adult patient is deemed to lack capacity if, despite support, they are unable to retain, understand, and weigh up information about a procedure. If their impairment is temporary, the consent could wait.

If a patient is unable to give informed consent, decisions must be made in their best interests, with input from relatives, your colleagues, or by an advance directive.

What if a patient refuses consent?

Patients have the right to refuse treatment, provided they have capacity. They should be made aware of the likely consequences of their decision, as well as alternatives.

Who should obtain consent?

Consent should be sought by a doctor or surgeon trained to perform the procedure, but the process may be delegated to another consultant or registrar.⁷ As a foundation doctor, there will be several procedures for which you will need to obtain verbal consent, but it will be uncommon for you to carry out procedures that require written consent (there are some exceptions, such as HIV testing).

As a junior member of the team, you can spend time with patients to check their understanding of the procedure. Patients experience better outcomes when they feel supported.^{11 12}

Documenting consent discussions

Before an operation can go ahead, a consent form must be completed. Having a thorough discussion with patients can minimise the risk of later medical negligence claims.

Dafydd Loughran clinical leadership fellow, Aneurin Bevan University Health Board, Newport, UK

Aliya Mackenzie core surgical trainee year 1, Medway Maritime Hospital, Gillingham, UK
Natalie Farmer fifth year medical student, Newcastle University, Newcastle, UK

Cite this as: *Student BMJ* 2017;25:j3821

model where a surgeon's preference would often be presented to patients as the default option. By using shared decision making, it is hoped that patients will be more informed about treatment options, and that this will reduce the number of errors, complaints, and misunderstandings.

Ideally, the consent process should take place over a period of time to allow patients to understand their treatment options.

Who can give consent?

For consent to be valid, the patient must have capacity, give their consent voluntarily, and must understand the information given to them about the proposed treatment.

If a patient does not speak English,

Questions relating to obtaining consent

What patients may want to know about a procedure or operation

- When will they be allowed to go home, and when will they resume their normal life?
- How will their GP be involved in their ongoing care?
- What can they do to maximise a successful outcome?
- Can they meet patients who have been through a similar procedure?

Questions to consider when obtaining consent

- What are the patient's priorities and concerns?
- How have you addressed and/or accommodated their priorities and concerns?
- Is the patient aware of any material risks?
- Is the patient aware of alternative treatment options, the risks and benefits, as well as the likely consequences of refusing treatment?
- What steps have you taken to make sure the information is presented in a way the patient understands?