

Recording Your Informed Consent

Prior to your admission, a health or social care professional will have to fill out a form confirming that they have explained the relevant information to you, and that you have consented without coercion.

Mandatory Points to Consider

- Varying levels of observation whilst on and off the ward
- Making arrangements with staff before you leave the ward
- Staff taking relevant steps to ensure your safe return should you go missing
- Undergoing searches of your person or personal property
- Power to detain under the MHA

Depending on the ward and your particular circumstances there may be some optional points that will be explained to you.

Capacity Assessment

You must have capacity to give your informed consent so a health or social care professional must confirm that either there were no doubts about your capacity regarding this decision, or that there were doubts but following the 2 stage capacity test they have decided that you do have capacity to make this decision.

Who to contact for advice and information

Mental Health Law Hub:

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Mental Health Law Manager:

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Informed Consent to Voluntary Admission

Talk to us



What is Informed Consent to Voluntary Admission?

When a person has been given all the relevant information and they choose, of their own choice, to be admitted to or remain in a Mental Health Unit, they are said to have given their informed consent to voluntary admission.

Patients who are voluntarily admitted are known as informal patients because they are not in Hospital under a section of the Mental Health Act 1983.

Voluntary admission is just one way in which a person can be admitted to, or remain in a Mental Health Unit. Patients can also be admitted under:

- The Mental Health Act 1983
- The Mental Capacity Act 2005 (specifically the Deprivation of Liberty Safeguards)

In order for a person to give their informed consent to voluntary admission, they must have the capacity to make that decision.

'The decision to consent must be made by the patient themselves, and must not be influenced by pressure from medical staff, friends or family'

What is a Deprivation of Liberty?

Under Article 5(1) of the Human Rights Act 1998:

'No one shall be deprived of his liberty save in... accordance with a procedure prescribed by law'

The case of Cheshire West found that a person is being deprived of their liberty if they are under

'Continuous supervision and control and not free to leave'

What are the Deprivation of Liberty Safeguards (DoLS)?

These are procedures prescribed by law which allow hospitals and care homes to detain someone who lacks the capacity to decide whether to be resident in a hospital or care home for the purpose of getting relevant care and treatment. This means hospitals and care homes can legally deprive someone of their liberty, if it is in their best interests.

The case of PCT v LDV implies that if a person has capacity and consents to admission to a Mental Health Unit, having been provided with all the relevant information, it would be highly unlikely that there is a deprivation of liberty.

Informed Consent

What is Capacity?

'Capacity means the ability to use, understand and retain information to make a decision, and communicate any decision made'

There is a 2 stage test within the Mental Capacity Act 2005, designed to determine whether someone has capacity or not.

1. Does the person have an impairment of the mind or brain or a disturbance affecting the way it works?
If so, does that impairment or disturbance mean that the person is unable to make the decision in question at the time it needs to be made?
2. Someone who lacks capacity cannot:
 - Understand the relevant information
 - Retain that information
 - Weigh that information as part of the decision making process
 - Communicate their decision i.e. talking, sign language, blinking

This test is time and decision specific, and a failure on any of the above points indicates a lack of capacity.