

# **Health Education England Wessex Guidelines on Consent and Marking of an Operating Site by Foundation Programme Trainees**

## **Health Education England Wessex**

**Author: Head of the Wessex Foundation School**

**Replaces: Previous Guidelines on HEE Wessex Website**

**Groups Consulted: DMEs, HoS, FPDs**

**Equality Impact Assessment: completed**

**Approval by: HEE Wessex Leadership Team 17 March 2015**

**Date: 30<sup>th</sup> October 2013, reviewed December 2017**

**New Review Date: May 2020**

## Summary

This guidance relates to the taking of consent and operative marking by Foundation Programme doctors.

Foundation year one (FY1) doctors must undergo training on the principles of consent, and then have specific training for each procedure in which they are to take consent. *If they have not received this training, then they should not take consent.*

Foundation year two (FY2) doctors should have a clearly defined step by step approach for training in taking consent.

The marking of an operating site should only be done by an operating surgeon who is deemed competent in the consent process for that particular operation. Ideally this should be done by the most senior surgeon involved with the operation. *In practice, this means that FY1 doctors should not mark the operative site, and there are limited circumstances where an FY2 doctor may mark the operative site.*

## Background

Valid consent must be obtained before starting treatment or physical investigation, or providing personal care, for a person<sup>1</sup>. Patient consent should be obtained by the doctor undertaking the investigation or providing the treatment, although this responsibility can be delegated to someone else provided that they:

- are suitably trained and qualified in the general principles of consent
- have sufficient knowledge of the proposed investigation or treatment, and understand the risks involved
- can help the patient to make an informed decision on how to proceed<sup>2</sup>

A variety of national bodies have issued guidance on taking consent. This does not distinguish training status of the healthcare worker and can include nursing staff. Adherence to national recommendations varies across the board and there is variable quality assurance of process.

Foundation Programme doctors are particularly vulnerable in this area of practice since they will be more likely to have conscious and unconscious competence, or lack of it, in this area. For example a junior doctor may have the clinical experience of a particular procedure but not have been trained in or recognise the ethical and legal implications of consent. They may not have been observed taking consent to ensure that they have the requisite communication and professional skills to do this appropriately. Furthermore they may be put under pressure by senior staff to obtain consent.

Foundation Programme doctors may also be placed in a vulnerable position if they are requested to mark the site for a patient's operation.

### a) Purpose

The purpose of this guidance is to outline a rational approach which will enhance patient safety and provide a powerful training opportunity for the Foundation Programme doctor in developing communication and other professional skills. It is designed to work alongside the Consent and Marking for Operative Procedures policies of individual healthcare organisations that host Foundation Programme training.

This guidance has been written:

1. "to develop a systematic approach to the taking of consent by [Foundation Programme] doctors (to include the cessation of obtaining consent by inappropriately trained junior doctors outside the individual's field of experience)"<sup>1</sup>
2. to ensure that Foundation Programme doctors will only mark a patient's operating site if they are carrying out a supervised procedure.

## **b) Scope**

This guidance relates specifically to Foundation Programme doctors, including those in locum positions. During a 4 or 6 month attachment, it is unlikely that Foundation trainees will gain a sufficiently meaningful depth of understanding of procedures in order to independently obtain consent. However the Foundation Programme provides the ideal opportunity to instil good consent practice in our trainees.

Surgical site marking is a pivotal component of the consenting process with the patient, and sign-posting for the operating practitioner, usually a surgeon.

## **c) Responsibilities and duties**

### **Individual Trusts**

- a. Individual trusts will consider national guidance to create a clear clinical policy regarding the taking of consent and surgical site marking<sup>2</sup>.
- b. Before seeking consent both trainee and supervisor must be satisfied that the trainee understands the proposed intervention and its risks, and is prepared to appropriately answer associated questions the patient may ask. If they are unable to do so they should have access to a supervisor with the required knowledge.

### **Foundation year one doctors**

Foundation year one doctors must undergo training on the principles of consent, and then have specific training for each procedure in which they are to take consent. The trainee must: -

- a. Attend an educational session on generic principles of taking consent, within their employing Trust. This can take the form of, or be supported by, on-line material. Attendance at such a session and/or completion of e-learning should be recorded by the Trust, and evidence of attendance/completion supplied to the trainee
- b. Attend procedure specific training sessions for any intervention or procedure that they will need to obtain consent. This training session should be facilitated by a practitioner who is competent and experienced in gaining consent for that procedure. This can be supported by on-line material (but should not be replaced by on-line learning). Observation of an appropriately trained and experienced practitioner taking consent for the specific procedure could form part of this session.
- c. Have been observed on at least three occasions while taking consent for procedures and have been deemed as competent by a doctor or practitioner responsible for undertaking the procedure, using an assessment tool such as DOPS.
- d. A record of this satisfactory completion of the above steps must be kept and produced as evidence of satisfactory completion of this process (see Appendix 1 for example)

***In summary: Foundation year 1 doctors should only take consent if they have undergone structured generic and specific consent training. They should not take consent for procedures for which they have not received training. Records of such training should be kept as proof that this has occurred.***

## **Foundation year two doctors**

Foundation year two trainees must:-

- a. Be encouraged to be involved with the consent process
- b. Have been formally delegated with the responsibility of taking consent by the senior operator for the procedure
- c. Have demonstrated competence to take consent by having completed the tasks and experience appropriate for Foundation year one doctors set out above, the trainee must be familiar with the operative procedure and its potential complications. The trainee must have been witnessed and assessed as competent to take consent for any new procedure.
- d. This process requires consideration for all new procedures the trainee doctor requires to be involved in

***In summary: Foundation year two doctors should have a clearly defined step by step approach for training in taking consent. This should be performed as a Directly Observed Practical Skill (DOPS) whereby the early stages are formative and build incrementally to result in a combined assessment of the entire process.***

## **Marking of operative sites**

The marking of an operating site should only be done by an operating surgeon who is deemed competent in the consent process for that particular operation. Ideally this should be done by the most senior surgeon involved with the operation. In practice, this means that FY1 doctors should not mark the operative site, and there are limited circumstances where an FY2 doctor may mark the operative site.

## **Education providers**

HEE Wessex expects that those education providers responsible for trainees will incorporate this guidance into their local policy documents and develop effective audit to ensure compliance.

## References

1. Reference guide to consent for examination or treatment DH July 2009  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/138296/dh\\_103653\\_1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/138296/dh_103653_1.pdf)
2. Consent: Patients and Doctors making decisions together GMC (2008)

**Appendix 1 (with thanks to Mrs Carrie Stone, Legal Services Manager, Poole Hospital NHS Foundation Trust, author of this training record)**

**CONSENT TO TREATMENT – TRAINING RECORD**

This document is to be completed by those staff to whom the process of seeking written consent for examination or treatment is being delegated. **The individual practitioner has responsibility for ensuring that he/she has been signed off as competent by the delegating consultant.** This will provide both the staff member and the Trust with evidence that those staff expanding their role to undertake this task are competent to do so.

Staff expected to complete this documentation are:

- **Trainee doctors who are not yet competent to carry out the clinical procedure**

The individual responsibility for assessing the staff member as competent is the delegating consultant/lead clinician.

Any Health Care Professional providing information to a patient and seeking consent to examination/treatment must be competent to do so: either because they themselves carry out the procedure, or because they have received training in advising patients about the procedure, have been assessed, and are aware of their own knowledge limitations and are subject to audit (Department of Health 2001). Inappropriate delegation (for example where the clinician seeking consent has inadequate knowledge of the procedure) may mean that the “consent” obtained is not valid. Individual clinicians are personally accountable for their practice and as such are responsible for acknowledging the limits of their knowledge and competence, seeking the advice of appropriate colleagues when necessary.

The following criteria must be fulfilled to demonstrate.

- An understanding of the consent process and the law
- Knowledge of Consent Policy and practice at a national and local level
- In depth knowledge of the proposed procedure including, pre procedure investigations and care, risks, benefits, alternatives, aftercare
- Effective communication skills
- Awareness of own limitations with regards to the consent process seeking appropriate help when necessary

Once completed please retain one copy in personal portfolio and return a copy to the Legal Services Department for inclusion onto the register.

# CONSENT TO TREATMENT: TRAINING RECORD

Name (print)	
Signature	
Profession/Grade/Speciality	
Delegating Consultant	
Training session received on general consent and the Law	Date: Signature:

STAGE 1: THEORY		
<i>Procedure specific training as detailed overleaf</i>		
STAGE 2: PRACTICAL/OBSERVED DEMONSTRATION	MET	NOT MET
Assessee to <b>observe</b> HC professional consent for named procedure(s)		
Introduced self to patient		
Verified patient's identity and intended procedure		
Explanation of proposed procedure to include: <ul style="list-style-type: none"> <li>• Type of anaesthetic/sedation (leaflet given)</li> <li>• Operation (leaflet given)</li> <li>• In patient or Day Case</li> <li>• After care</li> </ul> Discharge/follow up information		
Explanation of risks/benefits of this procedure for this person		
Identification of alternative procedure/no treatment		
Seeks assistance from senior colleague if required		
Sources of information patient may wish to access		
Aware of options/actions in event of consent being withheld		
Completion of appropriate consent form		
Documents the episode		
<b>PRACTITIONER'S SIGNATURE</b>	Date	
<i>ASSESSOR'S SIGNATURE</i>	Date	
The above named individual has been fully trained and is competent to obtain valid consent for the procedures listed overleaf		

**You must not obtain consent for any procedure for which you have not received training.**

This document is an integral part of your appraisal and must be produced for discussion at subsequent appraisals.



