

# Heritage Care at Home Ltd

## Consent to Examination or Treatment Policy

Policy reviewed and valid from: 01/01/20



### Purpose

- To comply with regulations and best practices.

### Scope

- All intimate care procedures, whoever they are provided by (e.g. by a District Nurse).

Note: this consent will not normally affect a carer's relationship with a Customer, but the company should seek to ensure that anyone else providing specialised care and treatment are made aware of the company's policy in this area and asked to comply.

### Policy

- The consent of the Customer will be obtained prior to all care provided by a health or Social care professional.

### Notes

“Consent” is a Customer’s agreement for a health professional to provide care. Customers may indicate consent non-verbally (for example by presenting their arm for their pulse to be taken), verbally, or in writing. For the consent to be valid, the Customer must:

- Be competent to take the particular decision;
- Have received sufficient information to take it; and
- Not be acting under duress.

Consent is often wrongly equated with a Customer’s signature on a consent form. A signature on a form is evidence that the Customer has given consent, but is not proof of valid consent. For instance, if a Customer is rushed into signing a form, on the basis of too little information, the consent may not be valid, despite the signature. Similarly, if a Customer has given valid verbal consent, the fact that they are physically unable to sign the form is no bar to treatment. Customers may, if they wish, withdraw consent after they have signed a form: the signature is evidence of the process of consent-giving, not a binding contract.

The context of consent can take many different forms, ranging from the active request by a Customer of a particular treatment (which may or may not be appropriate or available) to the passive acceptance of a health professional’s advice. In some cases, the health professional will suggest a particular form of treatment or investigation and after discussion the Customer may agree to accept it. In others, there may be a number of ways of treating a condition, and the health professional will help the Customer to decide between them. Some Customers, especially those with chronic conditions, become very well informed about their illnesses and may actively request particular treatments. In many cases, ‘seeking consent’ is better described as ‘joint decision-making’: the Customer and health professional need to come to an agreement on the best way forward, based on the Customer’s values and preferences and the health professional’s clinical knowledge.

Where an adult Customer lacks the mental capacity (either temporarily or permanently) to give or withhold consent for themselves, **no one else can give consent on their behalf**. However, treatment may be given if it is in their best interests, as long as it has not been refused in advance in a valid and applicable advance directive.

The health professional carrying out the procedure is ultimately responsible for ensuring that the Customer is genuinely consenting to what is being done: it is they who will be held responsible in law

if this is challenged later.

Where oral or non-verbal consent is being sought at the point the procedure will be carried out, this will naturally be done by the health professional responsible. However, team work is a crucial part of the way Heritage Care at Home Ltd operates, and where written consent is being sought it may be appropriate for other members of the team to participate in the process of seeking consent.

### **Refusal of treatment**

- If the process of seeking consent is to be a meaningful one, refusal must be one of the Customer's options. A competent adult Customer is entitled to refuse any treatment, except in circumstances governed by the Mental Health Act 1983.
- If, after discussion of possible treatment options, a Customer refuses all treatment, this fact should be clearly documented in their notes. If the Customer has already signed a consent form, but then changes their mind, you (and where possible the Customer) should note this on the form.
- Where a Customer has refused a particular intervention, you must ensure that you continue to provide any other appropriate care to which they have consented. You should also ensure that the Customer realises that they are free to change their mind and accept treatment if they later wish to do so. Where delay may affect their treatment choices, they should be advised accordingly.
- If a Customer consents to a particular procedure but refuses certain aspects of the intervention, you must explain to the Customer the possible consequences of their partial refusal. If you genuinely believe that the procedure cannot be safely carried out under the Customer's stipulated conditions, you are not obliged to perform it. You must, however, continue to provide any other appropriate care. Where another health professional believes that the treatment can be safely carried out under the conditions specified by the Customer, you must on request be prepared to transfer the Customer's care to that health professional.

### **Procedure**

1. For routine interventions and treatments, follow the Care Plan policy and fully document all assessments, proposed treatments, discussion of these with the Customer and the conclusions.
2. Obtain signatures throughout.

### **Procedures to follow when Customers lack capacity to give or withhold consent**

1. Where an adult Customer does not have the capacity to give or withhold consent to a significant intervention, this fact should be documented in the Care Plan, along with the assessment of the Customer's capacity, why the health professional believes the treatment to be in the Customer's best interests, and the involvement of people close to the Customer.
2. An apparent lack of capacity to give or withhold consent may in fact be the result of communication difficulties rather than genuine incapacity. You should involve appropriate colleagues in making such assessments of incapacity, such as specialist learning disability teams and speech and language therapists, unless the urgency of the Customer's situation prevents this. If at all possible, the Customer should be assisted to make and communicate their own decision, for example by providing information in non-verbal ways where appropriate.
3. Occasionally, there will not be a consensus on whether a particular treatment is in an

incapacitated adult's best interests. Where the consequences of having (or not having) the treatment are potentially serious, a court declaration may be sought.

**Heritage Care at Home Ltd consent form:**

I hereby give valid consent to the care, treatment and support I will receive from Heritage Care at Home Limited, as discussed with me and enclosed in this plan. I understand I may review and change my care plan as I so wish.

I hereby give valid consent to Heritage Care at Home Limited sharing the enclosed information with other health and social care professionals, in a manner that takes into account and respects my human rights, to ensure my care, treatment and support needs are met.

I hereby give valid consent to the CQC (Care Quality Commission), who may access my file for quality assurance purposes.

**Signature:**

**Name:**

**Date:**

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**Heritage Care at Home Limited Representative :-**

**Signature:**

**Name:**

**Position:**

**Date:**