



**Continuing  
Professional  
Development**  
for Osteopaths

COMMUNICATION  
AND CONSENT

# Consent

What the *Osteopathic Practice Standards* says

## **What the OPS says: Consent**

### **STANDARDS**

#### **A4 You must receive valid consent before examination and treatment.**

### **GUIDANCE**

1. For consent to be valid, it must be given:
  - 1.1. Voluntarily.
  - 1.2. By an appropriately informed person.
  - 1.3. With the capacity to consent to the intervention in question.
2. The patient needs to understand the nature, purpose and risks of the examination or treatment proposed. The patient must then be free to either accept or refuse the proposed examination or treatment. Some patients may need time to reflect on what you have proposed before they give their consent to it.
3. Gaining consent is a fundamental part of your practice and is both an ethical and legal requirement. If you examine or treat a patient without their consent, you may face criminal, civil or GOSc proceedings.
4. Where your diagnostic examination and treatment are carried out simultaneously, consent may be best obtained by explaining your approach, describing the types of treatment methods you might like to use and setting the parameters within which you will work. If the patient consents to you proceeding on this basis, you may do so. If the patient expresses concern that you are going outside the agreed treatment plan, you must stop the treatment.
5. Before relying on a patient's consent, you should consider whether they have been given the information they want or need, and how well they understand the details and implications of what is proposed. This is more important than how their consent is expressed or recorded.
6. Patients can give consent orally or in writing, or they may imply consent by complying with the proposed examination or treatment, for example, or by getting ready for the assessment or care.
7. The validity of consent does not depend on the form in which it is given. Written consent may serve as evidence of consent but if the elements of voluntariness, appropriate information and capacity have not been satisfied, a signature on a form will not by itself make the consent valid.
8. It is particularly important to ensure that your patient understands and consents to the proposed examination or treatment of any intimate area before it is administered. Intimate areas include the groin, pubis, perineum, breast and anus, but this list is not exhaustive. Some patients may regard other areas of their body as 'intimate'.
9. Valid consent does not always have to be in writing. However, if you are proposing a vaginal or rectal examination or technique, written consent should be obtained. You should ask the patient to provide their valid consent in writing, by signing a consent form. This form should be placed in the patient's records. You may also ask patients to provide their consent in writing for other procedures.
10. The law recognises that some patients – because of illness or mental capacity – are not competent to give consent for an examination or treatment. This is because they may not be able to absorb or weigh up the information and make an informed decision.

11. When an adult lacks mental capacity, decisions about their treatment must be taken in their best interests and in accordance with relevant legislation. Further details on the relevant legislation are provided in the GOsC guidance document *Obtaining Consent*.
12. You should involve children and young people as much as possible in discussions about their care, even if they are not able to make decisions on their own.
13. Before you examine or treat a child or young person, you should ensure that you have valid consent. Obtaining consent for treatment to be given to a child or young person is a complex issue: the guidance given below is a summary only and provides advice on the more common scenarios that present in practice. Further details are provided in the GOsC guidance document *Obtaining Consent*. Note that in the summary below a 'child' is a person under the age of 16 years and a 'young person' is a person aged 16 or 17 years.
14. A child may have the capacity to consent, depending on their maturity and ability to understand what is involved. You will need to use your professional judgement in assessing the capacity of each patient under 16 years. You are strongly advised, wherever possible, to involve the child's parent when seeking consent.
15. If a child with capacity gives their consent to treatment, a parent cannot override that consent.
16. If a child lacks the capacity to consent, you should ask for their parent's consent to treatment.
17. A young person can be treated as an adult and can be presumed to have the ability to make decisions about their own care. Nevertheless, you will need to use your professional judgement to assess whether the young person in fact has the maturity and ability to understand what is involved in the treatment you are proposing for them because, as with adults, consent must be valid (see A4, paragraph 1).
18. The position in relation to young people who lack capacity differs across the UK. In England, Wales and Northern Ireland parents may, in some circumstances, be able to give consent to treatment for their 16 or 17 year old son or daughter without capacity, while in Scotland young people without capacity are treated in the same way as adults who lack capacity. Further details are provided in the GOsC guidance document *Obtaining Consent*.
19. If a young person with capacity gives consent to treatment, that consent cannot be overridden by parents.
20. If a child or young person with capacity refuses treatment, that refusal may, in certain circumstances, be overridden. The need to override refusal of osteopathic treatment is likely to be rare, however, and in such an event you should refer to the GOsC guidance document *Obtaining Consent* and/or seek legal advice.

Note also: A1, A2, C1, C2, *Obtaining Consent* (GOsC)