An overview and top tips for gaining informed consent for DCPs

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Introduction

In the past, dental ethics was based on a paternalistic 'doctor knows best' approach. Accordingly, dental care professionals (DCPs) would decide what is in the patient's best interest in terms of their treatment and the patient would have minimal input. Over the last 50 years, we have moved away from this approach to one which is focused on the concepts of autonomy and consent. Today, instead of the patient being a passive subject, they are at the centre of any decision which relates to their general and oral health. In addition, these are made in partnership with their DCP who has a duty to ensure that the key components of informed consent are met.

It is therefore important for DCPs to understand how the concept of consent is implemented in practice, whether that be in primary or secondary care. This article aims

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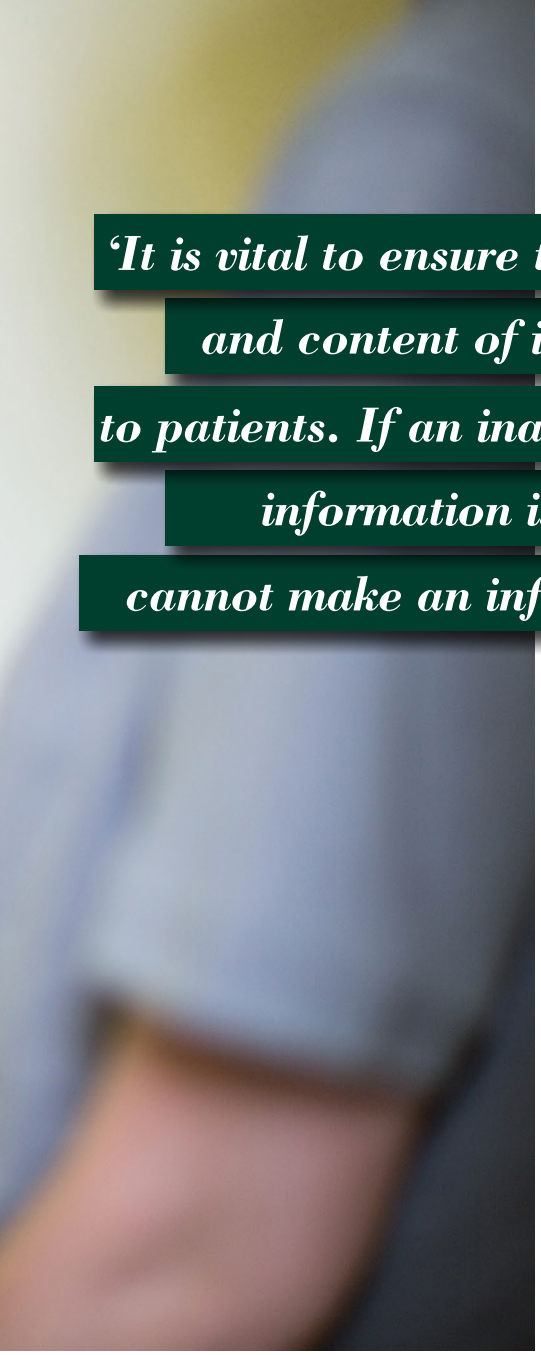

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to give an overview of the topic and provide you with helpful tips which can be put into practice during interactions with patients.

What is informed consent?

Informed consent has three main components:[1]

1. It must be informed: meaning the patient must be given all the information required to make the decision. In due course, we will consider exactly how much and what information is required to meet this condition
2. The patient's decision must be voluntary: the decision must be their own and not interfered with by coercion, manipulation, or deceit whether that be from their dentist or an outside influence such as a family member or partner
3. The patient must have the capacity to make the decision as set out in the Mental Capacity Act 2005.[2]

For informed consent to be valid all three above conditions must be met. Furthermore, it is the clinician's responsibility to ensure this, whether it is a regular patient or one who has been referred to you for continuation of treatment. This is also highlighted in GDC Standard 3.1.1 which states: 'you must make sure you have valid consent before starting any treatment or investigation. This applies whether you are the first member of your team to see the patient or whether you are involved after other team members have already seen them.'[3]

How much and what information should be provided to the patient?

It is vital to ensure the correct amount and content of information are given to patients to help them with their decision making. If an inadequate amount of information is transferred to the patient, they cannot make an informed decision. Whilst on the other hand, it is important to note that the patient should not be overloaded with unnecessary information. The GDC state in Standard 3.1.3 a list of information which must be included in the discussion with patients regarding their treatment:

- Treatment options, their risks, and potential benefits
- Why you think a particular treatment is necessary and appropriate for them
- The consequences, risks, and benefits of the treatment you propose
- The likely prognosis
- Your recommended option
- The cost of the proposed treatment
- What might happen if the proposed treatment is not carried out
- Whether the treatment is guaranteed, how long it is guaranteed for and any exclusions that apply.[3]

It is critical that time is taken to go through the information suggested by the GDC and to ensure that the patient understands it. Once the discussion has taken place, it is wise to give the patient a cooling off period so they can consider the information and their treatment options before finalising their decision.

Montgomery v Lanarkshire: a tailored approach to consent

Whilst it is important to take a methodical approach to the consent taking process, it is essential that we recognise that each patient is different. In doing so, a tailored approach should be undertaken which considers the specific needs of the patient. This sentiment was highlighted in the landmark case of *Montgomery v Lanarkshire Health Board*.[4] Whilst this is not specifically a dental example, the findings of it apply directly to the dental profession.

In this case, the patient, Nadine Montgomery, who was a Type 1 diabetic claimed that she had not been informed of the 15% risk her child would be born with shoulder dystocia and that the full range of treatment options had not been discussed with her. The court sided with the patient and ruled that there was a lack of informed consent. They claimed that she had not been correctly informed of the risks and introduced the concept of a material risk.

A material risk can be defined as one which 'a reasonable person in the patient's position would be likely to attach significance to'.[4] In other words, it is a risk that the patient would deem important to their decision-making process.

The case of *Montgomery v Lanarkshire Health Board* also raised two more key learning points for clinicians:

1. Risks cannot be reduced to mere percentages – even if a risk has low chance of occurring, we should inform the patient of it is we think that it is significant to them and therefore, a material risk
2. A dialogue approach should be taken to the consent process. As DCPs, we should not simply barrage our patients with all the information we think they should know. Time should be taken to involve them in a discussion to understand any concerns they may have and to answer questions which may arise.

Consent forms and documentation

Within dentistry consent forms have become a common part of everyday practice but it is important to consider their role in the consent process. The GDC states in Standard 3.1.6 that a consent form is required where

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treatment involves conscious sedation or a general anaesthetic.[3] Whilst consent forms are not strictly required for other procedures it is good practice to provide them to patients.

However, it is important to understand that just because a patient has read and signed a consent form it does not mean that this is confirmation of informed consent. This is because it does not evidence that we have taken time to discuss the treatment options and have provided the information set out in GDC Standard 3.1.3.[3] Owing to this, it is important to go through the consent form with the patient and implement the dialogue approach discussed earlier in this article.

Once you have concluded your discussions and the consent process with the patient it is imperative that you document the process in your clinical notes. This should include the details of what was discussed and confirmation of the patient's choice of treatment. Furthermore, the signed consent form should be included in the patient's clinical records.

Finally, consent should be reconfirmed at each appointment before the initiation of treatment. As opposed to being set in stone the patient can change their mind at any point and this is something that should be communicated to them. This is set out in GDC Standard 3.1.5 which states: 'Patients can withdraw their consent at any time, refuse treatment or ask for it to be stopped after it has started. You must acknowledge their right to do this and follow their wishes. You should explain the consequences or risks of not continuing the treatment and ensure that the patient knows that they are responsible for any future problems which arise as a result of not completing the treatment. You must record all this in the patient's notes.'[3]

Summary and key tips when gaining informed consent

Informed consent is a crucial aspect to dental practice and requires good clinical knowledge but also good communication. As DCPs, you should ensure that you are familiar with the third GDC Standard which relates to this topic.[3] In addition, below are some key tips which you should consider when gaining informed, valid consent:

- A dialogue approach should be taken to consent – check that the patient understands the information you have provided and allow them time to ask any questions they may have
- You should consider what risks the patient would deem significant (material risk) regardless of whether there is a low chance of this materialising
- Consent forms are a useful tool but are not themselves evidence of informed consent
- Consent is a dynamic process, and the patient has the right to change their mind at any point
- The consent process should be documented in the patient's clinic records and should be clear, concise, and contemporaneous.

References

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