



## Medical Decisions and People with an Intellectual Disability

### Consent

In general a medical decision cannot be made without the informed consent of the person who is being treated.

Exceptions to this rule include:

- Emergency treatment; where the medical treatment is necessary to save the life of the person and the person cannot communicate (e.g. they are unconscious)
- Where the medical practitioner is acting under a court order (e.g. under a ward of court order.)

The Mental Health Act 2001 defines informed consent as being given freely and not under threats or inducements, and where the patient has been given enough information in such a way as they can understand the nature, purpose and likely effect of the treatment.

Although this definition applies solely to psychiatric treatment and not other procedures it is a useful tool in defining informed consent in other areas of medical treatment.

In order to give a valid consent a person must have the capacity to do so.

# Medical Decisions

## Capacity

Everybody should be presumed to have the capacity to make a medical decision. This presumption can only be removed if there is clear evidence that the person is lacking capacity. A person does not lack capacity simply because s/he has a disability.

There is no current legislation defining capacity. In the past the courts have defined capacity as being whether, at the relevant time, the person understood the nature and effects of the decision to be taken

## The Role of the Family

The family has no *legal* right to make decisions for an adult person with an intellectual disability; however the Medical Council has established medical ethics on this area. They state as follows;

“if a person with a disability lacks the capacity to give consent, a wide-ranging consultation involving parents/guardians and appropriate carers should occur.”

There is no requirement for medical practitioners to follow instructions from family members, merely to consult. There are no guidelines for resolving any disagreement between the parties.

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Production of this leaflet was supported by Pobal and funded by the Department of Justice Equality and Law reform