

POLICY STATEMENT 2: CONSENT

Background:

Decision making by an individual in the area of mental health is one of the most challenging of all health areas. Mental illness can diminish a person's ability to make an informed decision about their care. Unfortunately, people with mental illnesses and/or people experiencing the acute exacerbation of a mental illness, can create circumstances where the obtaining of properly informed consent may be either difficult or in some cases, impossible. Under these circumstances, consumers may not possess the capacity to understand the varied implications to which they are consenting.

Under each Australian State and Territory mental health legislation, consumers can be subjected sometimes against their will to being:

- admitted involuntarily for treatment and care;
- detained for a period in a hospital setting;
- held in a secure setting, secluded or restrained;
- forced to take medication or have treatment such as ECT;
- sought out in their place of residence and forced to have medication; and
- denied the ability to manage their own finances.

For consent to be valid, it must be given by the consumer voluntarily and freely, without pressure or undue influence with a full and detailed explanation and clear understanding by them of the risks, benefits and alternatives.

Lived Experience Australia notes that the National Safety and Quality in Health Services Standards Action 2.4 refers to a person's healthcare rights and informed decision making with consent requiring consumers to be informed of the consent process, understand and provide consent for their health care. In addition it requires that the investigations, treatment and procedures that require consumer consent should be clearly defined.

Policy

1. Lived Experience Australia believes that the key elements of consent are:
 - that it must be granted voluntarily by the individual;
 - the individual giving consent must be adequately informed;
 - the individual must have the risks, benefits and clear information about interventions or alternatives conveyed to them; and
 - the individual must have the capacity to understand, provide and communicate their consent.

2. Lived Experience Australia acknowledges that in some circumstances these elements of consent may not be possible, and that involuntary treatment may be necessary, such as when a person is not able because of mental illness, to consent to treatment. However, in these circumstances, strong safeguards must be in place to ensure the elements of consent are observed to the greatest extent possible. For instance, it may be possible to delay aspects of treatment until consent can be obtained or, where informed consent is seen as unobtainable any references for medical treatment detailed in an Advance Directive and previously recorded by the individual must be respected.

History:

Policy approved: June, 2010

Policy to be reviewed: June, 2012

Policy reviewed: May 2020