

Informed Consent

Policy Ref

PN0122

Policy

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Description

Te Aka Ora has guidelines for all employees regarding Informed Consent

Purpose

Te Aka Ora aims to provide and maintain a service to staff and clients that is safe, professional and effective. The organisation promotes the principle that the welfare and interest of the child or young person shall be the first and paramount consideration and as such seeks to uphold its responsibilities in relation to the legislation and the human rights of all our clients seeking services.

What is Informed Consent?

Informed consent may be defined as the process whereby someone who has the capacity/competence to consent, having been given sufficient information, arrives at a reasoned decision as to whether or not to agree to a proposed service or plan. Consent may be given orally or in writing. Informed Consent is not the act of filling out forms, but rather a process of exchange of information so that an informed decision can be made by that person.

Why is Informed Consent necessary?

Tamariki, Rangatahi & Whānau have the right to be accurately and adequately informed about a proposed service or plan and to agree or refuse to have that service or plan. All Te Aka Ora staff and volunteers have a responsibility to inform tamariki, rangatahi and whānau about proposed actions and to gain consent. Where difficult situations arise, advice should be sought by the staff and volunteers from the Chief Executive.

Right to Refuse

It must always be remembered that under section 11 of the New Zealand Bill of Rights Act 1990, everyone has the right to refuse or withdraw consent to services. It should be made clear to the whānau that he/she/they have the right to refuse or withdraw from our services without fear of recrimination or penalty.

Guardian

Under the Guardianship Act 1968 a guardian is a person who has custody of a child and custody is defined as “the right to possession and care of a child”. Normally this will be the parents, or a parent of the child but this may not always be the case. If a guardian is not available, Te Aka Ora requires staff and volunteers to consult other appointed persons interested in the welfare of the child.

Information Giving

There is the same requirement for information to be given to parents and for consent to be obtained from parents as in all other cases. In addition to the need for parents to consent, information should, where practicable, be given to the child in a way that the child can understand and, where possible, the child’s agreement should also be sought. Of course this will vary with the age of the child, but the general principle should be to involve the child as much as possible.

Diminished Capacity and Competence to Consent

For consent to be valid it must be voluntary, knowing or informed, and competently given. Medication, intellectual disability, mental illness, inebriation, or physical injuries all may affect the informed consent process.

Capacity to Consent

Individuals with the above conditions may lack the capacity to fully give or withhold consent. In the case of intellectual disability this is a permanent state. In the other cases it is an acquired state which may be brief or prolonged. A person may be competent in some respects (e.g. to manage their financial affairs) and incompetent in others (e.g. to understand the effect of illness upon them, to assess the value of treatment). Medication can alter mental state, and may either improve or impair competence.

Where a whānau lacks, wholly or partly, the capacity to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to his/her/their personal care and welfare, the Protection of Personal and Property Rights Act may be invoked. A welfare guardian appointed under the Protection of Personal and Property Rights Act will exercise the rights of the mokopuna/whānau under the Code including the rights to give written consent.

The Process

Although the process and principles of informed consent can be stated quite simply, translating them into action requires attention and sensitivity to a number of factors which can potentially compromise the whānau's ability to consent in an informed manner.

Consent to participate means that a whānau with decision-making capacity freely authorises a plan aimed at a mutually agreed goal. The consent or authorisation is informed when the staff member or volunteer discloses to the whānau sufficient relevant information to enable the whānau to make an informed decision about the relevant options for service and any risks and benefits. This informed consent process is then documented thoroughly, including in the whānau files and consent forms. Any changes or later withdrawal of consent should also be fully documented.

A third party referring to Te Aka Ora may have obtained consent from the whānau who is the intended recipient of the service. However Te Aka Ora staff and volunteers are advised to undertake his or her own informed consent process rather than relying on what may have been a generic consent process.

Gaining consent may be part of a process of ongoing evaluation and re-visiting of decisions. Respecting whānau mana is met by an honest effort to:

- Check the whānau has the capacity to make decisions.
- Disclose enough information for the whānau to make an informed decision.
- Ensure that the whānau demonstrates an adequate understanding of the disclosed information.
- Confirm that the client is freely authorising the plan.

The whānau should be informed of the intended aims and objectives of the engagement, using language, form of information, and manner that promotes understanding. Information may need to be adjusted to allow for any language or cultural barriers, as well as any cognitive or communication difficulties. Te Aka Ora staff and volunteers need to ensure the whānau are as aware as possible regarding the purpose and process of the engagement. This may mean adapting and presenting information in a more accessible manner, for example using simpler wording. The whānau should always be given time to consider the information given. Te Aka Ora staff and volunteers also needs to assess the whānau understanding by asking him/her/them to relate back their perception of the situation in their own words.

Te Aka Ora staff and volunteers should also ensure that written consent is obtained where-ever possible of any consent given. All written consent is to be stored in the respective whānau files and housed in a secure location at all times, copies will also be added to database client files.