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Policy for Consent to Examination or Treatment

Version 1

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Date issued: September 2023

Review date: September 2024

Available on website

# Version Control Sheet

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| **Version** | **Section /**  **Paragraph /** | **Version / Description of Amendments** | **Date** | **Author /**  **Amended** |
| 1 |  | New Policy | Sept 2023 | **Karen Hewinson** |
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# Introduction

Skin Solutions Aesthetic Clinic Ltd (SSACLtd) recognises that patients/clients have a fundamental legal and ethical right to determine what happens to their own bodies and how information about them is used.

Valid informed consent to treatment is therefore central in all forms of care and treatments provided within the clinic. In addition to the legal obligation, gaining consent is also courtesy between practitioners/clinicians and patients. Patients who lack capacity have a right to receive treatment when it is then their best interests, even when they object providing there is no legal basis for not doing so (such as a valid and applicable Advance Decision to Refuse Treatment or conflict with the decision of a person who holds the client’s Lasting Power of Attorney (LPA) for their Personal Welfare, or Court Deputyship for personal welfare decisions.

# 2. Purpose

The Department of Health (DH) has issued a range of guidance documents on consent. Within SSACLtd, written information about the treatment, a medical questionnaire, general information questionnaire and aftercare information is sent to the client for completion prior to the treatment on an external specialised web based GDPR compliant consent system. When confirming the patient’s consent and understanding, both the written forms and verbal conversations use closed and open questions to gather information: for example, “tell me what you’re hoping to achieve through this treatment”. This is then discussed in detail at the consultation to ensure expectations are realistic/discuss alternative treatment options etc and again verbal consent requested prior to the commencement of treatment.

This policy sets out the standards and procedures for use in the clinic, which aims to ensure compliance from anyone working within the clinic. While this document is primarily concerned with healthcare, SSACLtd acknowledges that many treatments provided are cosmetic rather than healthcare but aims to ensure that the policy of obtaining consent applies to everyone attending for treatment.

# 3. Definitions

## Valid Consent

For the consent to be valid, the patient must:

* Have the mental capacity to take the decision.
* Have received sufficient information on which to base their consent
* Not be acting under duress.

Valid consent can be verbal, implied or written. Implied consent is not in itself sufficient to demonstrate an understanding about the treatment without evidence that sufficient information has been provided to a capacious patient.

In the absence of valid consent, an intervention may be lawful:

* Under the Mental Capacity Act 2005.
* Under the Mental Health Act 1983.
* With the consent of someone who holds parental responsibility (where the decision is ‘within the scope’ of responsibility – currently no medical treatments are given to anyone under the age of 18).
* Following a decision of the Court of Protection or the High Court

Where an adult patient lacks the mental capacity, to make the decision at the time it needs to be made, no-one else can give consent on their behalf, unless they have Lasting Power of Attorney (LPA) for Health and Wellbeing. In cases where no one holds a valid LPA, treatment may be given if it is in their best interests in line with the Mental Capacity Act (2005), as long as it has not been refused in advance, in a valid and applicable Advanced Decision to Refuse Treatment (ADRT).

Within SSACLtd it is acknowledged that this will exclude any cosmetic treatments, as these procedures are only offered to adults aged 18 and over with full capacity. There should be no instance that anyone lacking capacity should be offered any cosmetic treatment.

# 4. Advocacy

Whilst this would be a very rare occurrence within SSACLtd as it is acknowledged that very few treatments offered within the clinic would be considered a medical necessity, it is included in the policy to acknowledge the circumstance for any occasion that it may be appropriate to instruct an Independent Mental Capacity Advocate (IMCA).

* The person is aged 16 or over
* A decision needs to be made about either a long-term change in accommodation or a serious medical treatment
* The person lacks capacity to make the specific decision, and there is no one independent of services, such as a family member or friend who is ‘appropriate to consult’.

In Lincolnshire, Total Voice provide the IMCA service, information is available here: <http://www.totalvoicelincolnshire.org/>

# 5. Documentation

For significant procedures, it is essential for practitioners to document clearly a patient’s agreement to the intervention. This may be done either through the use of a consent form or through documenting in the patient’s notes (written or electronic) that they have given verbal consent.

# 6. Written Consent

A signature on a form is evidence that the patient has given consent but is not proof of valid consent. If a patient receives too little information, the consent may not be valid, despite the signature. Patients can withdraw consent at any time before or during a treatment, even after they have signed a form or given verbal consent: the signature is evidence of the process of consent-giving, not a binding contract.

Whilst It is rarely a legal requirement to seek written consent or usually necessary to document a patient’s consent to routine/low risk procedures, it is considered good practice within SSACLtd for all treatments offered.

Completed forms are kept on an external database, a copy emailed to the patient.

# 7. Procedures to follow when patients lack capacity to give or withhold consent

Where an adult patient does not have the capacity to give or withhold consent to a significant intervention, the patient records should indicate why the health professional believes the treatment to be in the patient’s best interests, and the involvement of people close to the patient, or Independent Mental Capacity Advocate (IMCA) where appropriate. In general terms, the expectation of the director within SSACLtd would be to direct the patient/family/carers to primary care.

## Single stage process

In many cases, it will be appropriate for a health professional to initiate a procedure immediately after discussing it with the patient and this is the case with the majority of interventions within SSACLtd.

## Two or more stage process

In some cases eg administration of botulinum toxin for cosmetic purposes, a consultation is carried out on a separate day to treatment. This ensures:

a face to face assessment is completed as required by the NMC to allow for the issuing of a prescription for the medication

a ‘cooling off period’ is given to allow the client to change their mind

The consent process will therefore have at least two stages: the first being the provision of information, discussion of options and initial (oral) decision, and the second being confirmation that the patient still wants to go ahead.

## Emergencies

On rare occasions emergencies may occur eg anaphylaxis or vascular occlusion and the two stages (discussion of options and confirmation that the patient wishes to go ahead) will follow straight on from each other, and it may be inappropriate to gather written or verbal consent and treatment should commence immediately. The urgency of the patient’s situation may limit the quantity of information that they can be given but should not affect its quality.

## Children under 16

Medical treatment for anyone under 18 is not provided with SSACLtd. Cosmetic aesthetic treatment is not provided to anyone under 18 to comply with legislation.

# 10. Provision of information

To allow patients to come to a decision about treatment, they need comprehensive and understandable (to their level of understanding) information about the treatment requested which includes their risks and benefits. Once the treatment has been undertaken, patients require information about after care, what will happen, where to go in the event of an unexpected occurrence etc. At SSACLtd all patients/clients are provided with an electronic version of this and aftercare leaflets are also provided on our website.

## Provision for patients whose first language is not English

SSACLtd are committed to ensuring that patients whose first language is not English receive the information they need and are able to communicate appropriately with healthcare staff. Practitioners should make attempts at obtaining written information leaflets in the required language. If the patient insists that their family/friend translates for them this should clearly be documented. Children should never be used to translate. It is important to consider safeguarding as part of your assessment in these situations. To be able to give valid consent, the person needs to understand the treatment.

# 11. Roles and Responsibilities

Clinicians are responsible for ensuring that they obtain consent from each patient and that the patient has sufficient information on the benefits, risks, and alternatives of the proposed treatment on which to make an informed decision. Clinicians are responsible for recording that consent has been discussed and the outcome recorded, and for ensuring that records of any concerns relating to consent are kept up to date

The health professional carrying out the procedure is ultimately responsible for ensuring that the patient is genuinely consenting to what is being done: it is they who will be held responsible in law if this is challenged later.

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# 12. Special Circumstances around Consent

## Refusal of Consent

It is unlikely within SSACLtd that patients would be brought to us for medical treatments and treatment for cosmetic aesthetics would not be provided to those lacking capacity due to it not being ‘in the patient’s best interest’.

## Religious Beliefs and Culture

Religious beliefs and culture must be taken into account when consenting for treatment and this must be explored with the patient.

**Clinical photography and conventional or digital video and audio recordings**

Photographs or video recordings of treatment are required for insurance purposes and attached to patient records. For this, consent is asked on both the written consent form and again verbally prior to taking photographs. There is a separate question on the consent form to ask if the photographs or videos may be used (anonymised or not) for training, education and marketing purposes.

# 13. Monitoring Compliance

Consent will be reviewed as SSACLtd records management audit included within the audit programme.

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