

Effective Consent Practice

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*Implementing the new duty to explain risks to patients
Beyond Bolam: Implications of the 2015*

Supreme Court Judgement Montgomery v Lanarkshire Health Board

Tuesday 5th July 2016 Hallam Conference Centre, London



Chair & Speakers include:

Sharon Burton

*Head of Standards and Ethics
General Medical Council*

Kate Hill

*Senior Solicitor/Trainer
RadcliffeLeBrasseur Solicitors
& InPractice*

Supporting Organisations



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*Implementing the new duty to explain risks to patients
Beyond Bolam: Implications of the 2015
Supreme Court Judgement Montgomery v Lanarkshire Health Board*

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"We have to think much more carefully about consent to treatment post lanarkshire"
Dame Fiona Caldicott, 6th October 2015

This conference focuses on effective consent practice following the Supreme Court judgement in March 2015 in the case of Montgomery v Lanarkshire Health Board.

"The law on informed consent has changed following a Supreme Court judgment. Doctors must now ensure that patients are aware of any "material risks" involved in a proposed treatment, and of reasonable alternatives, following the judgment in the case Montgomery v Lanarkshire Health Board. This is a marked change to the previous "Bolam test", which asks whether a doctor's conduct would be supported by a responsible body of medical opinion. This test will no longer apply to the issue of consent, although it will continue to be used more widely in cases involving other alleged acts of negligence. In a move away from the 'reasonable doctor' to the 'reasonable patient', the Supreme Court's ruling outlined the new test: "The test of materiality is whether, in the circumstances of the particular case, a reasonable person in the patient's position would be likely to attach significance to the risk, or the doctor is or should reasonably be aware that the particular patient would be likely to attach significance to it." Medical Protection Society 2015

"The Supreme Court justified its decision on the basis of the change in the nature of the doctor/patient relationship since the case of Sidaway 30 years ago... The new legal approach recognises that patients want to be well-informed about significant risks and reasonable alternative treatments...Doctors will already be aware of the need to warn patients about material risks, but as a result of the judgement, making a detailed record of the information provided to the patient about the risks involved in proposed treatment is likely to be all the more important. " Dr Michael Devlin, head of professional standards and liaison at the MDU

The conference will include extended legal and practical updates on the new duty to explain risks to patients and what the supreme court judgement means for your practice and service, understanding decision making within the consent process, individualising consent and communication of risk, capacity and consent and legal issues surrounding children, older people, vulnerable adults, pregnant women and people with mental illness or learning disability, consent in a nurse led service and consent and refusal of treatment. The conference will also feature an extended role play session on patient centred consent demonstrating how the new principles can be embedded into robust consent practice.

"We are pleased that the court has endorsed the approach advocated in our guidance on consent. Good Medical Practice and Consent: Patients and Doctors Making Decisions Together make it clear that doctors should provide person-centred care. They must work in partnership with their patients, listening to their views and giving them the information they want and need to make decisions." Niall Dickson, Chief Executive, GMC

Follow the conference on Twitter #ConsentNHS

09.30 Chair's welcome and introduction

Sharon Burton

Head of Standards and Ethics Section, General Medical Council

09.40 EXTENDED SESSION: Consent: The new Duty to explain risks to patients The implications of the Supreme Court Judgement in the case of Montgomery v Lanarkshire Health Board

Mark Barnett

Partner

Browne Jacobson LLP

- what does the Supreme Court Judgement mean for consent?
- what is material risk?
- taking into account the individual characteristics of the patient
- how can organisations support individuals to improve consent practice?
- ensuring choices are explained and consent is robust even when the choice is no treatment or non surgical treatment
- best practice including the use of protocols and written evidence
- the impact for professionals and organisations
- Legal update: Capacity and Consent

10.30 Understanding decision making within the consent process: How can we ensure patients truly understand the risk v benefit of a treatment

Professor Felicity Astin

Professor of Nursing and Applied Health Research
University of Huddersfield

- how do we ensure patients really understand the true risk v benefit and are made aware of alternative treatments
- identifying obstacles and enablers to best practice informed consent
- how can clinicians understand patients' perspectives about key aspects of their recovery such as their preferences for health information provision, self management support and their views about the meaning of quality of life
- managing consent in complex cases
- learning from a mixed methods study to optimise informed consent for angioplasty

11.00 Question and answers, followed by coffee

11.50 Individualising Consent: Consent and communication of risk

Graham Copeland

Medical Director

Crab Informatics

- improving information on risk to patients
- measuring consultant level outcomes and individualised patient risk
- the use of risk prediction scoring
- communicating this information to patients within the consent process
- consent and risk: learning from Cardiac Surgery

12.20 Improving clinician & patient communication using PROMs to help inform decision making and consent

Professor Angus Wallace

Consultant Orthopaedics

University Hospital Nottingham NHS Trust

- how PROMs can be used to inform the consent process
- how "what will I be like" patient reported outcomes help shape discussions around expectations
- our experience and moving forward

12.50 Questions and answers, followed by lunch

14.00 Communicating risk in Health Information - Best practice guidance

Mark Duman

Non-Executive Director

Patient Information Forum

- to follow

14.30 Consent in Nurse Led Services: Nurse led consent

Anna Burrows

Specialist Nurse Endoscopist

Ashford & St Peter's Hospitals NHS Trust

- the role of nurse led consent in improving consistency and quality of consent
- assessing and maintaining competence in consent
- our nurse led consent process and practice

15.00 Consent and Refusal of treatment

Dr Carolyn Johnston

Senior Lecturer in Law, Kingston University
Adviser in Medical Law & Ethics, GKT, School of Medical Education, King's College London
Member, Clinical Ethics Committees at Imperial College Healthcare NHS Trust, London and Central and North West London Mental Health Trust and Vice Chair, Guy's and St Thomas' NHS Foundation Trust Clinical Ethics Advisory Group

- decision making for patient choice and autonomy
- the clinicians role to inform decision making
- developing a robust consent process including managing refusal and ensuring patient autonomy
- understanding issues around competency and refusal of treatment
- managing disagreements between patients and clinicians
- Consent and the Clinical Ethics Committee: Case studies

15.30 Questions and answers, followed by tea

16.10 EXTENDED SESSION: Patient Centred Consent: Role Play

Role Play delivered by Becky Simpson and David Schaal, Playout

17.00 Questions and answers, followed by close

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Venue

Hallam Conference Centre, 44 Hallam Street London, W1W 6JJ. A map of the venue will be sent with confirmation of your booking.

Date

Tuesday 5 July 2016

Conference Fee

- ☐ £365 + VAT (£438.00) for NHS, Social care, private healthcare organisations and universities.
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The fee includes lunch, refreshments and a copy of the conference handbook. VAT at 20%.

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