

Public Health Wales Screening Division
Procedure for gaining (and recording) consent to screening

Introduction and Aim

- This document provides guidance to Public Health Wales Screening Division staff who have direct contact with members of the public during population-based screening.
- The procedure is to be read in conjunction with the *Guide to Consent for Examination or Treatment* (Welsh Government 2017) and the PHW Policy for Consent to Examination or Treatment.
- The procedure acts as an aide memoir for staff in relation to consent for examination, screening, or intervention.
- Principles of the Mental Capacity Act (2005) will be always adhered to

This procedure complements the:

- Mental Capacity Act 2005
- Guide to Consent for Examination or Treatment (Welsh Government 2017)

Linked Policies, Procedures and Written Control Documents

[All corporate policies and procedures are available on the Public Health Wales website](#)

- Welsh Government Guide to Consent for Examination or Treatment (2017)
- Health and Care Standards
- Public Health Wales Safeguarding Policy and Procedures
- Welsh Language Standards
- All Wales Information Governance Policy
- PHW Policy for Consent to Examination or Treatment

Scope

- This procedure applies to Public Health Wales Screening Division staff who have direct contact with participants.
- Health Board staff trained by PHW will be subject to their organisations procedures for implementing All Wales guidance.
- The legal requirements for obtaining consent are well established and detailed in the Welsh Government Guide to Consent for Examination or Treatment and are not repeated within this procedure.

Equality and Health Impact Assessment

An Equality and Health Impact Assessment has been completed for the Consent to Examination or Treatment Policy

Approved by

Leadership Team

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Accountable

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Disclaimer

If the review date of this document has passed, please ensure that the version you are using is the most up to date either by contacting the document author or the Corporate Governance.

Summary of reviews/amendments				
Version number	Date of Review	Date of Approval	Date published	Summary of Amendments
3	20/12/2022	16.02.23	23.02.23	Procedure updated to reflect new All Wales Consent to Examination or Treatment Policy (approved February 2023), and removal of specific guidance against individual screening programmes
2	2017	20.04.17	July 2017	

1.0 Background

The Welsh Government Guide to Consent for Examination or Treatment revised the guidance issued in July 2017, it sets out the legal framework and ensures a consistent approach across Wales. The changes made considered the important developments in case law, primarily the Montgomery case, which shifted the focus of consent towards the specific needs of the patient. Public Health Wales have adopted and adapted on advice from Welsh Risk Pool the Model Policy for Consent to Examination or Treatment to ensure that a consistent approach within Wales is followed.

The Health and Care Standards 2015 highlights shared decision-making and co-production as a key component of high quality, person-centred health, and care. Involving people, families, and carers in decisions about the planning and provision of their care ensures services are aligned to meet their needs. The consent process is a key part of shared decision-making. Taking consent is not a single event but a process of discussion, of weighing up the options and supporting people to make the right decision for them as individuals.

1.1 Introduction

This procedure should be read in conjunction with the Welsh Government Guide to Consent for Examination or Treatment and PHW Policy to Consent for Examination and Treatment. It provides information and guidance to Public Health Wales Screening Division on how and when informed consent should be obtained, prior to carrying out a screening procedure.

This procedure provides guidance to staff on what actions to take when an individual may be unable to offer informed consent.

Obtaining valid informed consent is essential in all forms of healthcare. It is not only a legal obligation but also a matter of common courtesy between staff and users of our services when carrying out any procedures. Consent respects the ability and right of the individual to decide what is done to them.

2.0 Roles and Responsibilities

The Chief Executive (CE) has overall responsibility to ensure procedures are adhered to while the operational authority for gaining (and recording) consent within our clinical settings lies with the individual employee and clinical/departmental managers within screening division.

Compliance will be measured using observations, incident reporting and audits (the results of which will be monitored by the Public Health Wales internal Safeguarding group).

2.1 Public Health Wales

All programme/service managers within screening division will ensure there has been a risk benefit analysis performed in all services/department areas and will seek to eliminate the risk of providing screening services without securing informed consent, as far as is reasonably practicable.

Public Health Wales staff working within screening division should be aware of the *Guide to Consent for Examination or Treatment* (issued by Welsh Government in 2017), how to access and understand the contents and any local procedures derived from it.

Public Health Wales staff working within screening will be identified to ensure training and support is delivered so that they are confident in their practice regarding consent and principles of the Mental Capacity Act (MCA)

3.0 Consent process

All screening participants will be provided with information outlining the screening procedure and explain that they will need to consent to take up their offer of screening. It will also contain information of what needs to be done if the person invited lacks capacity.

Members of the public who receive an invite to population-based screening have the right to make their own decisions; and it must be assumed that they have capacity to do so unless it is proved otherwise.

Public Health Wales staff working within screening division should not assume that a screening participant cannot offer consent merely because they have a particular medical condition or disability.

Public Health Wales Screening Division staff will take consent from the person following the five principles of the mental Capacity Act Paragraph 5 (see flowchart in appendix 1).

The default position taken by Public Health Wales Screening Division staff will be the presumption of capacity, unless there are reasons to suspect that an individual lacks capacity.

The five principles of the Mental Capacity Act:

- 1) Presumption of capacity
- 2) Support the individual to make a decision
- 3) People are allowed to make unwise decisions
- 4) Decisions made for people who lack capacity must be in their Best Interest
- 5) Decisions made for people who lack capacity must be the least restrictive

3.1 Least restrictive

For the purpose of this procedure, least restrictive approach means that we keep an individual safe while restricting their rights and freedoms as little as is possible.

3.2 Two stage test for assessing capacity

Public Health Wales Screening Division staff are expected to consider and apply the two stage test for capacity.

To decide whether an individual has the capacity to make a particular decision you must answer two questions:

Stage 1. Is there an impairment of or disturbance in the functioning of a person's mind or brain?

If so

Stage 2. Is the impairment or disturbance sufficient that the person lacks the capacity to make a particular decision?

The MCA clearly notes that a person is unable to make their own decision if they cannot do one or more of the following four things:

- 1) understand information given to them
- 2) retain that information long enough to be able to make the decision
- 3) weigh up the information available to make the decision
- 4) communicate their decision – this could be by talking, using sign language or even simple muscle movements such as blinking an eye or squeezing a hand.

Every effort should be made to find ways of communicating with the person before deciding that they lack capacity to make a decision. The assessment must be made on the balance of probabilities.

A lack of mental capacity could be due to (but not restricted to):

- a stroke or brain injury
- a mental health problem
- dementia
- learning disability
- confusion, drowsiness or unconsciousness because of an illness or substance misuse.

3.3 Best Interests

If the person can consent this will be documented appropriately using the particular screening specific process.

If the individual lacks capacity, this must be documented, and the following procedure adhered to.

- If there is a registered lasting power of attorney (health and welfare), an advanced decision or advanced statement to inform decision making then the screening staff will act in accordance with it. This decision must be documented.
- In the absence of capacity and a registered lasting power of attorney (health and welfare), an advanced decision or advanced statement then a best interest decision must be made. This will be undertaken by Public Health Wales Staff.
- Public Health Wales Screening Division staff will use the Screening in best interest (Screening Consent Form, see appendix 2). This form has been implemented in Wales Abdominal Aortic Aneurysm Screening Programme
Breast Test Wales
Diabetic Eye Screening Wales.

Public Health Wales Screening Division staff must ensure when making a best interest decision all that is known about that individual must be taken into consideration. Information should be sought from relatives or carers accompanying the person. Any previous attendances and consent for screening will help inform the decision. All actions and decisions must be documented in accordance with the specific screening taking place. Complete PHW Consent Form and store in individual's record.

Any best interest decision made should be implemented in the least restrictive way possible.

3.4 Risk

In order to obtain valid consent to a screening procedure Public Health Wales Screening Division staff need to ensure that they are able to provide sufficient information about the material risks and benefits of a procedure and those of not undertaking the procedure to each person who qualifies for screening.

There is a legal requirement that the material risks and benefits must be tailored to the individual.

4.0 Training and /or Communication with Staff

All Public Health Wales Screening Division staff must attend education/training events and/or completion of on-line training modules for Consent and MCA. The annual programme of Consent and MCA training will incorporate information for PHW Screening staff, on any current research, guidelines, policies, and projects (including anonymised cast scenarios). Where appropriate the details in Appendix 1 will be available as posters (aide memoir) for the benefit of Public Health Wales screening division staff.

5.0 Monitoring and Auditing

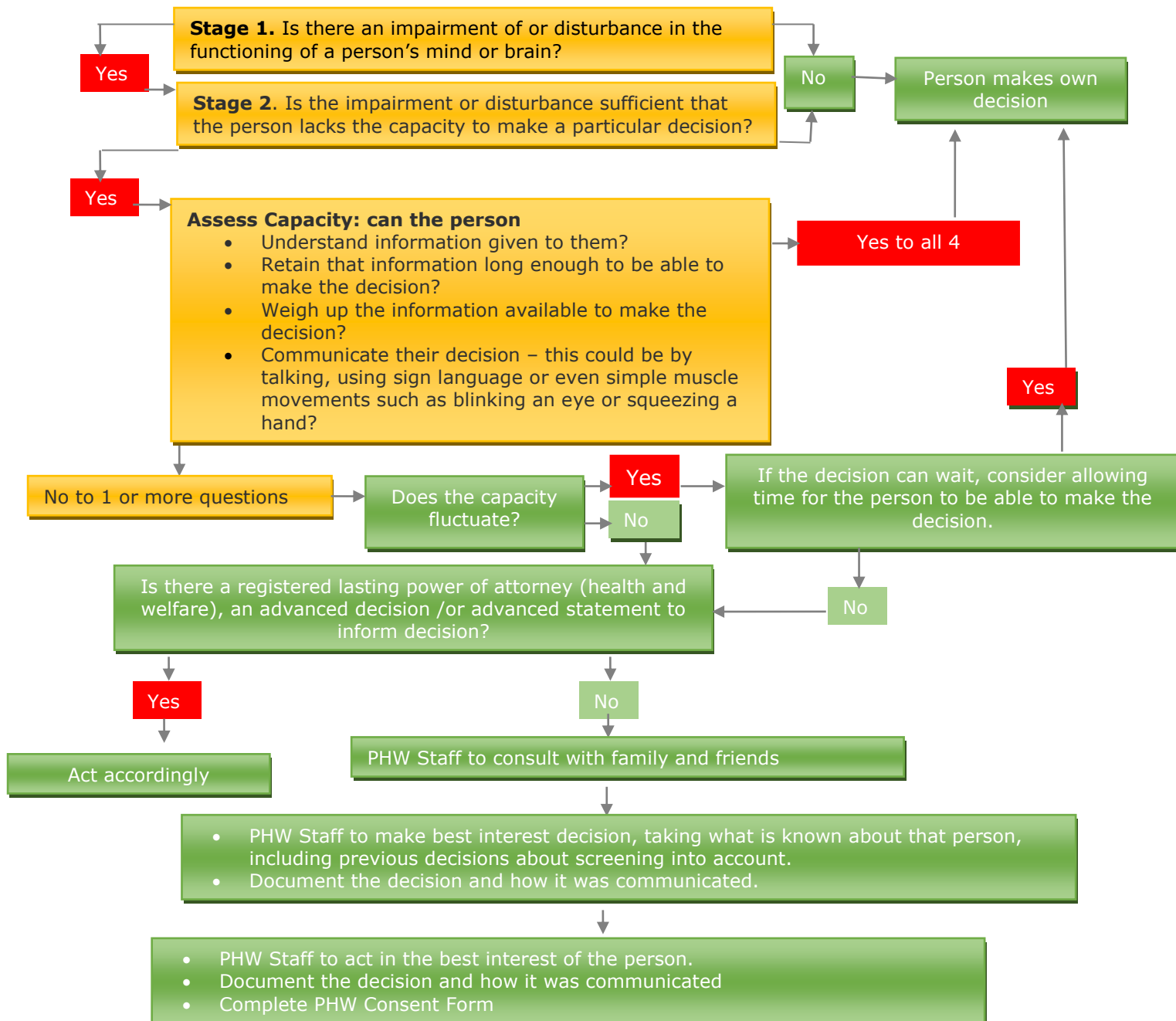
Employees working within Public Health Wales Screening Division areas will participate in compliance audits to monitor implementation of the *Guide to Consent for Examination or Treatment* (issued by Welsh Government in 2017). Reference to the in-house procedure for gaining (and recording) consent to screening will be incorporated into the annual cycle of clinical audit.

All incidents regarding consent will be monitored for compliance against this procedure. Results to be reported to the Safeguarding meeting with validation of audits being performed in conjunction with the Programme leads and Named Lead Safeguarding.

Appendix 1. Mental Capacity Decision Making Process

Follow the 5 Principles of the Mental Capacity Act (MCA)

1. Presumption of capacity
2. Support the use of their capacity to make a decision
3. People are allowed to make unwise decisions
4. Decisions made for people who lack capacity must be in their Best Interest
5. Decisions made for people who lack capacity must be Less Restrictive



Appendix 2

Public Health Wales Screening Division Screening Consent Form

1.0 Purpose: Please use this document when capturing consent from a screening participant who appears to lack capacity.

2.0 For use in the following programmes:

Wales Abdominal Aortic Aneurysm Screening Programme

Breast Test Wales

Diabetic Eye Screening Wales.

Participants Name:
Address:
Date of birth: / /
Location at time of discussion:
Screening test to be undertaken:
Screening Id number:

3.0 For staff use

<input type="checkbox"/>	I have provided the above participant with an explanation regarding the proposed procedure <ul style="list-style-type: none">• what it is• why it's being offered• how it is undertaken (including risks and benefits).
<input type="checkbox"/>	I believe that the participant has not been able to retain or weigh up the information provided or to express a decision (continue following the process below)

4.0 Alternative Source of Consent – Lasting Power of Attorney

4a) Request for Consent (Health and Wellbeing LPA Holder to complete)

LPA Holder Name:	
Address:	
LPA Reference No:	

<input type="checkbox"/>	I have been provided with an explanation regarding the proposed procedure what it is, why it's being offered and how it is undertaken (including risks and benefits)
<input type="checkbox"/>	I have been given an opportunity to ask questions regarding the procedure and had any questions answered to my satisfaction
<input type="checkbox"/>	I believe that the participant would wish me to consent on their behalf to the planned screening and I so consent (PROCEED) OR
<input type="checkbox"/>	I believe that the participant would wish me to decline the planned screening and I so decline (DO NOT PROCEED)

☐ **4b)** There is **no-one present with lasting power of attorney** and a best interests decision is needed (by the practitioner).

5.0 Alternative Source of Consent – Best Interests decision (by the practitioner)

Name of Decision Maker	
Professional Registration/ Employee Number	

<input type="checkbox"/>	Based upon my knowledge of nature and purpose of the planned screening, including the benefits and risks, and taking into account the beliefs and values which I understand are those of the participant, I believe that the participant would choose to participate in screening (PROCEED) OR
<input type="checkbox"/>	Based upon my knowledge of nature and purpose of the planned screening, including the benefits and risks, and taking into account the beliefs and values which I understand are those of the participant, I believe that the participant would choose not to participate in screening (DO NOT PROCEED)

Name(s) of **others** involved in making this decision:

Name(s)	Relationship (to participant)
Contact number:	Contact number:

Details of staff member completing this form:

Name:		Signature:
Date:		Time: