

Consent to medical or dental treatment

Fact sheet

Easy Read version



How to use this document



This information is written in an easy to read way.
We use pictures to explain some ideas.



This manual has been written by The Office of the Public Advocate (OPA). When you see the word 'we', it means OPA.



Some words are written in **bold**. We explain what these words mean. There is a list of these words on page 19.



This Easy Read document is a summary of another document.



You can find the other document on our website at www.opa.sa.gov.au



You can ask for help to read this fact sheet.
A friend, family member or support person may be able to help you.

What's in this document?

What is consent?	4
What does the law say?	6
Who can give consent?	8
Solving problems about decisions	18
Word list	19
Contact us	21

What is consent?

If a person gives their consent to medical or dental treatment, it means they:



- understand what they have been told about the treatment



- understand how the treatment will work



- understand what might go wrong



- agree to have the treatment.



A person can't be given medical treatment without consent unless it's an emergency.

We talk about emergency treatment on page 13.

The person who is giving the medical treatment must:



- tell the person what the treatment involves



- get their consent.

What does the law say?

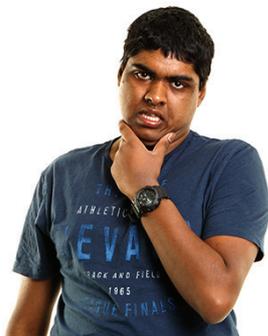


Rules about consent come from the *Consent to Medical Treatment and Palliative Care Act 1995* (the Consent Act).



If you can make decisions on your own, we say you have **decision-making capacity**.

We believe someone has decision-making capacity unless we are given proof that they don't.



The Consent Act talks about people who have **impaired decision-making capacity** – when a person can't make decisions about their own life.



People might have impaired decision-making capacity because of disability, illness or injury that affects their brain or mind.

If their decision-making capacity is impaired, it means they might not be able to:



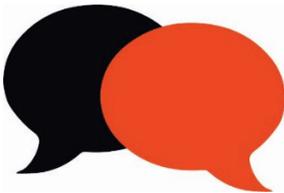
- understand the information they are given



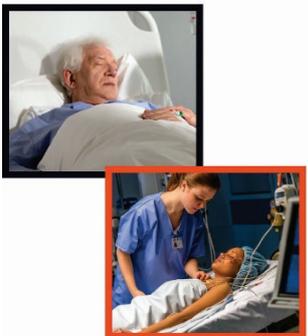
- remember the information they are given



- use the information they are given to make a decision



- communicate in any way well enough to tell people what their decision is.



Decisions can't be made by someone who is:

- **unconscious** – they look like they're sleeping but they won't wake up
- in a coma.

Who can give consent?

16+

Anyone 16 years or older can give consent to medical treatment for themselves.



Someone who has impaired decision-making capacity might not be able to give consent.



If a person can't give consent, the person who is giving the treatment must get consent from someone else.



This could be a:

- **substitute decision-maker** – someone who makes decisions for you under an Advance Care Directive
- **person responsible** – we explain this more on page 10.





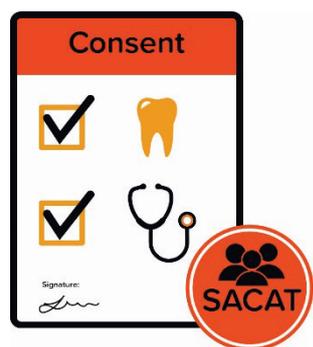
A substitute decision-maker has the most **authority**.
Their decision is more important than any decision made by a person responsible.



Some people appoint a substitute decision-maker for the future by making an **Advance Care Directive**.



They make an advance care directive when they still have decision-making capacity.



If there is no substitute decision-maker or person responsible available, you can apply for consent from the South Australian Civil and Administrative Tribunal (SACAT).



You can only apply to SACAT if there are no other options left.

Who is a person responsible?

A person responsible could be:



- a guardian appointed by SACAT to make health care decisions



- your husband, wife, partner or a family member you have a close relationship with



- a close friend



- a carer.

Person responsible	
1	_____
2	_____
3	_____
4	_____
5	_____

These people have decision-making power according to how high they are on this list.



For example, a guardian has the most power. They would be the first choice for a person responsible.



If they aren't available, you would go to the next person on the list – your husband, wife, partner or a family member you have a close relationship with.

Person responsible	
1	_____
2	_____
3	_____
4	_____
5	_____

You move down the list until you find someone to be the person responsible.



The person responsible must be:

- an adult
- available
- willing to make decisions.

Substitute decision-making



Substitute decision-making is when someone makes decisions for you.



They must 'stand in the person's shoes' and make the same decision they think the person would make.

They should find out as much as they can about:



- the treatment and how it will work



- what might go wrong



- other treatments that could be used



- the benefits of having the treatment



- how it will affect the quality of the person's life.



If the person has an advance care directive, the substitute decision-maker must follow what it says.

Emergency treatment

The Consent Act says that a person can be given emergency medical treatment if:



- they can't give consent



- the person giving the treatment thinks they need the treatment to save their life



- they haven't said they don't want the treatment



- the person giving the treatment has tried to find out if there is an advance care directive.



If the person giving the treatment knows there is an advance care directive, they must do everything they can to get consent from the substitute decision-maker.

Consent for children under 16



If a child is under 16 years of age, their parent or guardian can decide what medical treatment they are given.



This includes step-parents or anyone who has the role of parent in the child's life.

The child can give consent if the person giving the treatment thinks they understand:



- what the treatment is and how it will work



- what might go wrong.



The person giving the treatment needs to have the support of another health care professional who has also examined the child.



They need to show they support the treatment by putting it in writing.



If a child needs treatment in an emergency, the parent or guardian needs to give consent.



Even if the parent or guardian won't give consent, the child can still be given the treatment.

The person giving the treatment must decide it's the best thing for their health and wellbeing in an emergency.

People who are near the end of their life



Sometimes decisions need to be made about treatment for someone who is **terminally ill** – sick and getting near the end of their life.

The Consent Act says a person giving treatment to someone who is terminally ill does not have to try and keep them alive if:



- the treatment would only make their life longer – not better – as their health gets worse



- the person is in a **persistent vegetative state** – they are awake but their brain is damaged so badly it won't ever work properly again.



The person giving treatment has this power even if someone who represents the person has said they want the treatment to continue.



If a patient asks for treatment that is keeping them alive to be stopped, the treatment must be stopped.

Prescribed treatment



Only SACAT can make decisions about prescribed treatments.

Prescribed treatments include:



- ending a pregnancy



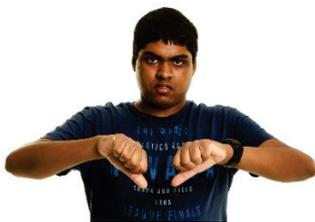
- permanently stopping someone from being able to have children.



The *Mental Health Act 2009* has different rules that apply to people who need mental health treatment.

Solving problems about decisions

The laws say OPA can help people when:



- a decision can't be made



- an Advance Care Directive is making it hard to make a decision



- there are concerns about a decision a person responsible has made.



We have a special service to help people solve problems about decisions – our **Dispute Resolution Service**.



If the problem still can't be solved, you can apply to SACAT for help.



You can only apply to SACAT if there are no other options left.

Word list



Advance Care Directive

When someone appoints a substitute decision-maker for the future.



Authority

Their decision is more important.



Decision-making capacity

You can make decisions on your own.



Dispute Resolution Service

A special OPA service to help people solve problems about decisions.



Impaired decision-making capacity

When a person can't make decisions about their own life.



Persistent vegetative state

A person is awake, but their brain is damaged so badly it won't ever work properly again.



Person responsible

A person responsible could be:

- a guardian appointed by SACAT to make health care decisions
- your husband, wife or partner
- a family member or relative
- a close friend
- a carer.



Substitute decision-maker

Someone to make decisions for you.



Terminally ill

Someone is sick and getting near the end of their life.



Unconscious

Someone looks like they're sleeping but they won't wake up.

Contact us

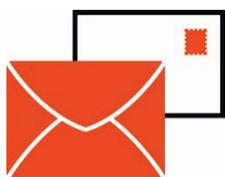


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