



**RESPONSE TO**

**GMC Consultation on New Guidance on Consent  
and Making Decisions**

**AUGUST 2007**

## **Introduction**

Thank you for providing an opportunity to comment on this guidance. On the whole we found the guidance clear and to cover the right principles. We do however have the following comments which we hope you will find useful in finalising the guidance.

## **Second Opinions**

Paragraph 6(i) refers to a patient's "right to seek a second opinion, where appropriate". We believe it would be helpful to expand upon the 'rights' to a second opinion and the usefulness of obtaining second opinions in making difficult decisions. For example, in circumstances it may be good medical practice for a doctor to recommend and possibly arrange a second opinion (rather than just respecting a patient's right to seek one). An example might be where a patient lacks capacity or where a decision is very finely balanced. Also, we feel that the phrase 'right to seek a second opinion, where appropriate' should be revised. If we understand the matter correctly, all patients have a 'right to seek a second opinion (not just where 'appropriate'). If the word 'appropriate' is used, some definition or examples of what circumstances make this appropriate would be helpful. It would also be useful if the guidance were to clarify what rights, if any, a patient has to obtain a second opinion (as opposed to 'seek' one) or to have help from their treating doctor to obtain one.

## **Additional Support/Advocacy**

In paragraph 14 and elsewhere the guidance refers to potential sources of additional support for a patient to consider giving informed consent/making decisions. We believe it would be helpful if the guidance referred to the potential sources of such support, and explains the differences between them and applicability to different situations. For example, the role of PALS and of independent advocates. This may be particularly important under the section dealing with patients who may have impaired capacity.

## **Discussing side effects, complications and other risks with patients**

We believe that more attention/prominence needs to be given to the need to identify and explain risks which, although relatively minor for most people, may have particular significance for the individual because of their employment, social, or personal life.

Paragraph 28 says that "In most cases you must tell patients if an investigation might result in a serious adverse outcome, even if the likelihood is very small". We do not think that the use of 'In most cases' is helpful or appropriate without further explanations of what might constitute an acceptable exception to this rule. Inevitably, this introduces the question of 'where to draw the line'. For example, what is a 'very small' risk; a 'significant risk'; or 'insignificant risk'. At the moment, the guidance does not attempt further definition of terms such as these. We appreciate that this is a very difficult set of issues to cover, but fear that not to do so may be a missed opportunity and leave doctors and patients with little guidance as to what is good or bad practice in this crucial part of the discussion.

## **Scope of Decisions – Who will provide treatment**

We believe that the guidance should be clearer about the obtaining of consent including, wherever possible, information about who will be providing the proposed treatment (investigation and their relevant experience, success rates, complication and complaints rates). A patient may be prepared to consent to surgery to be carried out by a particular surgeon, for example, but not by another.

Alternatively, they may want assurances about the level of experience or skill of a surgeon. Wherever possible such information should be given to help inform a decision. The nature of any guarantee as to the individual or level/experience of a person to provide treatment, or the unavailability of such an undertaking, needs to be made explicit.

### **Training**

The guidance, quite rightly, raises the bar in terms of what is expected from doctors in terms of the consent process. We believe that doctors need considerable help through training, supervision and appraisal to be able to meet the expectations of the guidance. We suggest that the guidance should refer to the need to receive training in the consent process, and in communication with patients, and for skills to be reviewed with supervisors/in appraisal. Although not part of the guidance itself, we would like to be assured that training on the consent process for doctors will be considerably enhanced.