



APAGBI statement on decision making and consent following the update to GMC guidance published on 9th November 2020

The General Medical Council (GMC) has recently published an updated version of their consent guidance: *Decision making and consent*. This came into force on 9 November 2020 and affects all doctors throughout the UK. The guidance applies to the treatment of children as well as adults, and should be read alongside the GMC's *0-18 years: guidance for all doctors*.

The document reinforces the current situation following the judgment of the Supreme Court in *Montgomery v Lanarkshire Health Board* [2015] UKSC 11. In particular it places a responsibility on the doctor to:

1. have a **'meaningful dialogue'** with the patient (and/or the consenting adult in paediatrics) (Principle 2);
2. to **tailor the discussion of risk**, not just to the patient's individual medical circumstances, but also to what particularly matters to that individual patient as elucidated during the dialogue (para 23 c);
3. and also, to **check whether they have understood** the information, and if they would like more information before making a decision (para 30).

The guidance also goes further than the judgment in *Montgomery*, in particular in relation to risks that should be discussed. It states that:

"You should usually include the following information when discussing benefits and harms."

a Recognised risks of harm that you believe anyone in the patient's position would want to know. You'll know these already from your professional knowledge and experience.

b The effect of the patient's individual clinical circumstances on the probability of a benefit or harm occurring. If you know the patient's medical history, you'll know some of what you need to share already, but the dialogue could reveal more.

c Risks of harm and potential benefits that the patient would consider significant for any reason. These will be revealed during your discussion with the patient about what matters to them.

On behalf of APAGBI Council, January 2020.

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d Any risk of serious harm, however unlikely it is to occur.

e Expected harms, including common side effects and what to do if they occur.

(bold emphasis added – not in original document)

In relation to the risk of serious harm, it notes that this is 'likely to be easier to discuss in advance if possible'. The guidance also recommends a 'proportionate approach' but gives little further guidance on this of relevance to anaesthesia.

There are specific recommendations regarding managing time and resource constraints, including considering the role other members of the health care team might play, and what other sources of information and support are available (paras 60-61). The Royal College of Anaesthetists has extensive information available on their website at www.rcoa.ac.uk/patientinfo, including leaflets written for children and parents in conjunction with the APAGBI.

Useful links:

1. General Medical Council. *Decision making and consent* (2020) <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/decision-making-and-consent>
2. General Medical Council. *0-18 years: guidance for all doctors* (2007) <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/0-18-years>
3. Information for children, parents and carers about anaesthesia <https://rcoa.ac.uk/patient-information/patient-information-resources/information-children-parents-carers>