

Agenda item:	M12
Report title:	Update on plans for Consent guidance consultation
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Action:	To note

Executive summary

Consent is one of the core ethical foundations on which the doctor-patient relationship is based, and it raises some complex ethical and legal issues. We have worked with an expert task and finish group to revise our 2008 [Consent guidance](#) to ensure that it remains compatible with the law across the four countries of the UK and relevant to medical practice. This paper provides an early update of progress on our plans for the consultation on the new draft guidance, which will take place from 14 March to 5 June 2018.

The draft consultation and the consultation plans will be discussed at Executive Board on 20 November 2017. Council will be asked to approve the draft consultation and consider the consultation process at its meeting on 28 February 2018. Following this Council will be asked to consider and approve the final post-consultation guidance towards the end of 2018.

Recommendation

Council is asked to note the update on plans for consent guidance consultation.

Background to the review

- 1 We are updating our 2008 [Consent guidance](#), to ensure it remains compatible with the law in all countries of the UK and is as useful to doctors as possible.
- 2 We have carried out extensive pre-consultation activities to develop the evidence base for the review, to gather feedback on the current guidance and identify areas to update. We ran two surveys, one for patients and one for doctors and other interested parties, and we held meetings and workshops with key stakeholders. We also commissioned research with focus groups of doctors.
- 3 In February 2017 we established a [multidisciplinary task and finish group](#), chaired by Professor Deborah Bowman, to oversee the revision of the guidance. The group is made up of doctors, patients, legal experts, and other healthcare professionals, and has representation from England, Scotland and Wales. We were unable to secure representation from Northern Ireland, but have sought input from our Belfast office.

The consultation process

- 4 We are planning a 12 week consultation on the revised guidance from 14 March 2018 to 5 June 2018.
- 5 The consultation is our opportunity to hear from those who could be affected by our policy proposals. We use the consultation to check that our proposals are lawful, practical and that we can mitigate any unintended or negative impact. This is particularly the case for individuals with protected characteristics.
- 6 The aim of this consultation will be to test the updated guidance with a range of audiences including doctors, patients, other healthcare professionals, legal experts, and policy professionals.
- 7 As well as seeking feedback on the updated guidance we will also explore what resources and learning materials, such as case studies or decision tools, would help doctors put the guidance into practice.
- 8 We have gathered evidence about the impact of issues relating to consent on groups with protected characteristics to make sure we comply with the public sector equality duty under the Equality Act 2010. We will use this to inform our engagement activities, and we will add to it over time, as more information becomes available.

Consultation plans

- 9 The consultation methods will include questionnaires, meetings and events. We are working with colleagues in the Strategy and Communication Directorate to develop a proportionate consultation plan, taking account of the priority groups and issues we

have identified. Council members are very welcome to input into the consultation plans.

- 10 We will use a series of questionnaires as the basis of the consultation. The full questionnaire will be aimed at organisations and individuals who are particularly interested in and/or well informed about the guidance. We also intend to produce two shorter questionnaires for patients and professionals who may have a less detailed knowledge of the guidance.
- 11 While we will encourage respondents to use our public consultation website, we will make all the consultation documents available electronically (as a writeable PDF), in hard copy, and on request in other formats such as large print. This will make sure that we fulfil our requirements under the Equality Act 2010. We will also make consultation documents available in Welsh.
- 12 In addition to the written questionnaires there will be other opportunities to give feedback on the draft guidance at events and meetings. We will ensure that the questions asked align with those in the written questionnaires so that we can analyse responses from different sources together.

Patient engagement

- 13 Patient engagement is a key priority for the consultation and we will work with patient organisations to reach as many patients and carers as possible, using both the questionnaires and through patient events. Council members are welcome to attend and observe these events.
- 14 Our early engagement highlighted challenges in relation to consent for groups who have particular communication needs, such as those who do not speak English as a first language or those who have a learning disability. We will carefully tailor our consultation methods to ensure that these groups have an opportunity to share their views. For example we propose having a video translated into British Sign Language, and making consultation documents available in easy read format.
- 15 We are also commissioning research involving focus groups and interviews with patients and the public. The research will focus particularly on groups that we have identified as unlikely to answer a traditional consultation, or groups that we think may be particularly affected by the guidance.
- 16 The consultation campaign will focus on the role of conversation and discussion when making decisions about treatment and care, and how we can encourage both doctors and patients to do this 'better'. By focusing our communications on a broad campaign concept that is understandable and accessible to all, rather than specific

amendments, revisions and the technicalities of guidance development, we hope to engage and receive responses from a diverse audience.