

Consent Policy & Procedures

Consent Policy

Patients have a legal and ethical right to determine what happens to them. Ensuring we always have valid consent to treatment or investigations is therefore central to our practice principles at Crescent Dental Surgery.

The aim of this policy is to ensure that all team members:

- Understand and apply the principles of consent consistently.
- Understand that treatment performed without consent is assault and a breach of the patient's human rights.
- Understand that patients may indicate consent in a number of ways.
- Understand that some patients may, for reasons of mental incapacity or illness, be unable to give valid consent due to a lack of understanding. In this situation, we will always seek to put the best interests of the patient first.

Gaining valid consent to treatment or investigation

At Crescent Dental Surgery we understand that valid consent means consent given freely by a patient prior to commencing treatment when they have enough information that they understand about all their treatment options and the risks, benefits, and costs of all the options.

We understand that merely providing information to a patient (informed consent) is not enough and we must ensure that the patient has understood the information we provide for consent to be valid.

At Crescent Dental Surgery we ensure all our clinicians follow the guidance issued by the General Dental Council in their publication 'Standards for the Dental Team' that lays out what all dental professionals must do to ensure they gain valid consent prior to commencing any treatment or investigation.

In our practice our patients are always given the opportunity to consider all options available and the benefits and any material risks prior to commencing treatment.

We will always encourage our patients to ask questions or seek alternative opinions in order to arrive at a balanced judgment on whether to proceed with any treatment proposed.

It is our policy never to make our patients feel pressurised into accepting treatment and to give them time to consider the treatment options available to them.

We understand that consent is an ongoing process, and we ensure that we have consent to proceed at every stage of a patient's treatment. We recognise that patients have a right to withdraw their consent at any time.

We understand that a signature on a consent form is not enough to confirm that valid consent has been obtained. We therefore ensure that we check the patient has understood the information provided and we ensure that details of all discussions and agreements reached are recorded contemporaneously in the patient's records.

Mental Capacity

We understand that in order to give valid consent to treatment or investigation, a patient must have the mental capacity to be able to:

- Understand the information relevant to the decision.
- Retain the information.
- Weigh up the information as part of the process of making the decision.
- Communicate their decision.

If, in our considered opinion, a patient lacks the capacity to make a certain decision we will always act in the patient's best interests. Our approach to patients who may lack capacity to make decisions is described in our Consent Procedures below.

This policy was implemented on 29/01/2025.

This policy and relevant procedures will be reviewed annually and are due for review on 29/01/2026 or prior to this date in accordance with new guidance or legislative changes.

Consent Procedures

Our patients may indicate consent in a number of ways. It can be:

- Implied.
- Given verbally.
- Written.

At Crescent Dental Surgery implied consent only applies when patients have contacted us for an initial consultation appointment or have requested a recall appointment for an examination and then subsequently attended the practice for that appointment and sat in the dental chair when invited to do so. We understand that we only have implied consent to undertake an initial dental examination or a recall examination.

For all other appointments, we aim to obtain verbal or written consent or both.

Procedures for gaining valid consent

At Crescent Dental Surgery we understand that consent is not valid if our patients do not understand:

- What requires treating and why.
- The treatment alternatives and options.
- The clinician's recommended option.
- The benefits of the treatment proposed.
- What the chosen treatment involves.
- What the potential risks are as they apply to that individual patient.
- The likely prognosis and potential longevity of a treatment.
- The consequences of not having the treatment done.
- Any expected post-operative problems, e.g. bleeding, pain swelling.
- The cost of all treatment options.

In certain circumstances, we may guarantee a treatment, in which case we would ensure that the patient understands how long it is guaranteed for and whether any exclusions apply. In these circumstances, this would be fully documented in the patient's record.

We ensure that our patients receive clear instructions on what they need to do in order to maintain their oral health and how best to care for particular restorations.

We ensure that we check our patients' understanding of all these points.

Treatment options

All alternatives regarding materials and techniques will be presented to the patient and we ensure that all information has been understood and explored fully with the patient in appropriate language and using suitable visual aids (if needed). A note of these discussions will be recorded in the patient's records.

Our patients are always given the opportunity to consider all options and can be provided with written descriptions of these along with details of cooperative actions required on their part and any anticipated payment terms or conditions.

We will always encourage patients to ask questions or seek alternative opinions in order to arrive at a balanced judgment on whether to proceed with the treatment proposed. We ensure that our patients never feel pressurised into accepting treatment and we ensure they are always given time to consider the treatment options available to them.

Where a potential treatment option is outside the scope, experience, or skill level of a clinician we ensure that the patient is made aware of the potential to be referred to another clinician either within or outside the practice.

Gaining ongoing consent

We recognise that a patient can give or withdraw consent at any time. All patients will be provided with full information at all times to ensure that consent continues to be valid. Should circumstances change during a procedure as a result of new information or clinical findings, renewed consent will be sought from the patient.

In some circumstances specific consent may be required, for example treatment under sedation. We recognise that this specific consent relates only to the sedation aspect of treatment and not to any other treatment procedures undertaken.

Consent can take many different forms, ranging from an active request from a patient for a particular treatment (which may or may not be appropriate or available) to the passive acceptance of a health professional's advice. In all cases, full details of the alternatives discussed, and all investigations and potential risks of the treatment options will be recorded in the patient's records. Correspondence, referrals, and detailed treatment plans will also be recorded in the patient's record.

Capacity to consent

For consent to be valid, it must be specific, informed, and normally be given by the patient or a parent or guardian (if the patient is under 16 and is unable to give valid consent). We understand and apply

Gillick competence as the standard test to assess the competence of a child under 16 years of age to consent to medical or dental treatment.

The Mental Capacity Act

We understand that the Mental Capacity Act aims to provide guidance on how best to ensure that the best possible decisions are made about the care of patients who do not have the capacity to make some decisions for themselves. The Act starts from the premise that such patients will continue to make decisions whenever possible or be included in decisions as much as possible, but if decisions have to be made - they are always made in their best interests.

We understand and apply the key principles of the Act and ensure that:

- We assume patients have capacity unless it is established they have not.
- We do not treat a patient as unable to make a decision unless all steps have been taken to help them without success.
- We do not treat a patient as unable to make a decision just because they have made an unwise decision.
- Decisions made under the Act are always made in the patient's best interests.

About mental capacity

We recognise that mental capacity can be affected by:

- Stroke.
- Brain injury.
- Mental health problems.
- Dementia or Alzheimer's.
- A learning disability.
- Confusion, drowsiness, or unconsciousness caused by an illness or treatment for it.
- Substance abuse.
- Anaesthetic or sedation.

Determining mental capacity

When determining capacity to give consent we will always consider whether the patient is able to understand, retain, and weigh up the information we provide. We will consider if they have:

- An impairment or disturbance in the functioning of the mind or brain.
- An inability to make some decisions.

We understand that a patient is unable to make a decision if they cannot:

- Understand the information relevant to the decision.
- Retain the information.
- Weigh up the information as part of the process of making the decision.
- Communicate their decision.

Making decisions for someone

If, having taken all practical steps to assist a patient, we come to the conclusion that a decision should be made for them, that decision will always be made in the patient's best interests.

In situations such as this we will hold best interest meetings with the patient's next of kin, Independent Mental Capacity Advocate or where patients are detained under the Mental Health Act 1983 by reference to the Court of Protection. Patient records will be completed indicating how consent has been obtained.

Advocacy

The term advocacy means receiving support from someone to help an individual express their views and wishes, and to help them stand up for their rights. The person who providing support and help is called an advocate. Advocacy can help people understand their rights and express their views.

The role of an advocate

At Crescent Dental Surgery, we are fully supportive of decisions to involve an advocate. The advocate's role depends on the patient's specific situation and the type of advocacy required.

We will fully support our patients should they require the following:

- Help with listening to their views and concerns
- Help with exploring their options and rights in a pressure-free manner
- Providing information to help them make informed decisions
- Helping them contact relevant people, or contacting them on their behalf
- Accompanying them and supporting in meetings or appointments if required. Note: It may be more appropriate for an external advocate to provide this support.

An advocate will not:

- Give their personal opinion
- Solve problems and make decisions for the patient
- Make judgements about them.

The support of an advocate is often particularly useful in appointments when the patient may not feel confident in expressing themselves.

They can:

- Support the patient to ask all the questions they want to ask
- Make sure all the points the patient wants to cover are covered at the appointment.
- Explain the options to the patient without giving their opinion
- Help keep the patient safe during a meeting – for example, if they find the meeting upsetting, the advocate can ask for a break until the patient feels able to continue.

When acting in a patient's best interests we will:

Encourage participation

We will do whatever is possible to permit and encourage the patient to take part, or to improve their ability to take part, in making the decision e.g. use simple language or illustrations and choose a time or location where the person is most at ease.

Identify all relevant circumstances

We will try to identify all the things that the patient who lacks capacity would take into account if they were making the decision or acting for themselves i.e. risks and benefits of treatment and alternatives.

Find out the patient's views

We will try to find out the patient's views, including:

- By looking at whether the patient has shared past and present wishes and feelings, either verbally, in writing, or through behaviour or habits and we will seek guidance from someone who knows the patient well.
- Through considering any beliefs and values (e.g. religious, cultural, moral or political) that would be likely to influence the decision in question in case they may have made an advance statement.
- Taking into account any other factors the patient would or might be likely to consider if they were making the decision or acting for themselves.

Avoid discrimination

We will avoid assumptions about the patient's best interests simply on the basis of the person's age, appearance, condition or behaviour.

Assess whether the patient might regain capacity

We will consider whether the patient is likely to regain capacity e.g. after receiving medical treatment or learning new skills. If so, we will consider whether the decision could wait until then.

Consult others

We understand that we have a statutory duty under the Act to consult other people for their views about the patient's best interests and to see if they have any information about their wishes and feelings, beliefs and values. These people would include:

- Anyone previously named by the patient as someone to be consulted on either the decision in question or on similar issues.
- Anyone engaged in caring for the patient.
- Close relatives, friends or others who take an interest in the patient's welfare.

We are careful to ensure that another individual expressing a view on what would be in the patient's best interests is not the individual expressing their view of what they would do in a similar situation.

Deprivation of Liberty Safeguards (DoLS)

The Deprivation of Liberty Safeguards (DoLS) ensures that individuals who cannot make their own decisions due to conditions like dementia receive necessary and appropriate care without unnecessary restrictions on their freedom. If a patient under DoLS is to receive dental treatment, it must be in their best interest and comply with legal safeguards. This includes thorough assessments and ensuring the patient or their legal representative is informed and consents to the care provided.

Recording best interests decisions

We will record:

- How best interests decisions were reached.
- The reasons for reaching the decisions.
- Who was consulted to help determine an individual patient's best interests.
- What factors were taken into account when making the decision.

Disputes

If someone wants to challenge a decision-maker's conclusion, we will consider:

- Involving an advocate to act on behalf of the patient.
- Getting a second opinion.
- Holding a formal or informal best interests case conference.
- Attempting some form of mediation.
- Pursuing a complaint through our formal complaint procedures.

If all attempts to resolve the dispute fail, we will refer the matter to the Court of Protection.

Children, Consent and the Law

In cases where children are unable to give consent or where the child is able to consent but refuses to do so, the law allows for proxy consent either by parents (or someone having parental authority) or the courts. It is beneficence-based in order to protect the child or the child's future autonomy. The goal is to protect and nurture children until they are able to make decisions for themselves.

The law splits children into two categories those 16 and over and those under the age of 16.

Children 16 and over

Under English law, one is considered an adult and presumed competent at the age of 18. However, this principle has been modified with regard to healthcare treatment decisions by Section 8 of the Family Law Reform Act 1969, which provides that at 16 a child's consent is as effective as if s/he were an adult.

Section 8 reads:

'The consent of a minor who has attained the age of 16 to any surgical, medical or dental treatment which, in the absence of consent, would constitute a trespass to his person, shall be as effective as it would be if he were of full age; and where a minor has by virtue of this section given an effective consent to any treatment it shall not be necessary to obtain any consent for it from his parent or guardian.'

Put simply this means that young people of 16 and 17 years of age can give valid consent to any surgical, medical, or dental treatment without regard to their parents' wishes.

Although healthcare professionals may assume that a child's consent is valid, 16- and 17-year olds do not have complete autonomy as their consent can be overridden by a court 'in their best interests', but not by a parent.

Additionally, the law treats refusal of medical treatment differently from consent to medical treatment. Both the courts and parents can overrule a 16- or 17-year-old's *refusal* of medical treatment, irrespective of that child's competence.

Therefore, a parent cannot overrule a 16- or 17-year-old's consent to treatment but may overrule his/her refusal to treatment. Moreover, the courts can overrule both consent and refusal.

Children under 16

A minor's power to consent emanates from the common law. The ability of minors under the age of 16 to consent to treatment was considered by the House of Lords in *Gillick v West Norfolk and Wisbech Area Health Authority* in 1985. Here the court had to decide whether children under the age of 16 could seek contraceptive advice and treatment without parental consent. The court held that there is no fixed age at which a child can be said to have the capacity to consent.

The test of maturity must be assessed in respect of each individual child and each separate procedure. This test of maturity is known as Gillick competence because the young person was assessed as competent to consent to treatment as defined by the case of Gillick.

This term has now been applied to other types of medical and dental care involving children under the age of 16 and is the standard test used to assess the competence to consent to dental treatment of someone who is under 16 years of age. The key to Gillick competence is in the child's understanding and intelligence. A majority of their lordships held that a child below the age of 16 can consent to medical and dental treatment '*if and when [s/he] achieves a sufficient understanding and intelligence to enable him or her to understand fully what is proposed*'.

Consent Policy and Procedures for Children

At Crescent Dental Surgery, our policy is to obtain valid, written consent from the parents, or a person authorised by the parents or any person with Medical Power of Attorney prior to providing treatment for children under the age of 16 years. In the absence of valid, written consent we will not provide treatment until this is obtained.

If a child under 16 years is brought to the practice for treatment by a person who has been authorised by the parents or any person with Medical Power of Attorney and we have valid, written consent, then treatment will take place.

If a child attends unaccompanied for a pre-arranged appointment for an examination, we will conduct an examination on the grounds that we have implied consent.

When there is any doubt about consent being in place, we will always take a cautious approach and we will not provide routine treatment.

Should a child attend unaccompanied or accompanied by someone who has not been authorised, we will always act in the child's best interests, and under UK law, we will apply the Gillick competence test.

This policy and these procedures were implemented on 29/01/2025.

The policy and procedures will be reviewed annually and are due for review on 29/01/2026 or prior to this date in accordance with new guidance or legislative changes.

Signed Michelle Lancaster

Dated: 29/01/2025

Position: Practice Manager

Apolline Document Change Register for Consent Policy and Procedures

The table below is a record of all changes to the policy and procedures made by the Apolline Compliance Team. It is not intended to document changes made by the practice team.

Published Date	Document Version Number	Pages affected	Description of revision	Author
12/02/20	7.0	8, 9, 10	Addition of policy and procedures relating to children	IL/PL
22/07/20	7.2	11	Additional information on gaining consent during the COVID-19 pandemic	LH
21/06/23	7.3	11	Removed information on gaining consent during the COVID-19 pandemic	PP
08/07/24	7.4	7	The Deprivation of Liberty Safeguards (DoLS)	BH
16/08/24	7.5	6&7	Information about advocacy	IL
13/09/24	7.6	All	Review of completeness, ease of understanding, wording, and grammatical correctness	PL
18/09/24	7.7	12	Amended document changes register to clarify that these are changes made by Apolline and not the practice team.	PL
20/09/24	7.8	11	Removed the statement about the 'consent form'	BH