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| **Purpose** | The service will ensure that service users and their family/ whānau are provided with the information they need to make informed choices and give informed consent to the interventions/support or treatment offered. |
| **Scope** | The service, service providers/staff and service users. Informed consent is about treatment/interventions and support. Consent to share health information is a different process under different legislation.  The processes and principles documented in this policy apply to all ages. |
| **References** | |
| **Legislation** | * [Code of Health and Disability ServicesConsumers’ Rights 1996](http://www.hdc.org.nz/the-act--code/the-code-of-rights) * [Health and Disability Commissioner Act 1994](http://legislation.govt.nz/act/public/1994/0088/latest/DLM333584.html) * [New Zealand Bill of Rights Act 1990](http://www.legislation.govt.nz/act/public/1990/0109/latest/DLM224792.html) * [Mental Health (Compulsory Assessment and Treatment) Act 1992](http://www.legislation.govt.nz/act/public/1992/0046/latest/whole.html) * [The Privacy Act 1993](http://www.legislation.govt.nz/act/public/1993/0028/latest/DLM296639.html) * [Protection of Personal Property Rights Act 1988](http://www.legislation.govt.nz/act/public/1988/0004/latest/DLM126528.html) * [Criminal Procedure (Mentally Impaired Persons) Act 2003](http://www.legislation.govt.nz/act/public/2003/0115/latest/DLM223818.html) |
| **Health Industry Documents** | * [Advanced Directives in Mental Health](http://www.hdc.org.nz/publications/resources-to-order/leaflets-and-posters-for-download/advance-directives-in-mental-health-care-and-treatment-(leaflet)) * [Consent for Consumers who are not competent (HDC)](http://www.hdc.org.nz/media/247994/consent%20for%20consumers%20who%20are%20not%20competent.pdf) * [Department of Health. 1991. *Principles and Guidelines for Informed Choice and Consent: For all health care providers and planners*](http://www.moh.govt.nz/notebook/nbbooks.nsf/0/8c5def62b3fc52b14c2565d7000ded50/$FILE/87801.pdf) * [Guidelines on informed consent NZ Psychologists Board](http://www.psychologistsboard.org.nz/cms_show_download.php?id=421) * [Medical Council of New Zealand, 2011. Information, Choice of Treatment and Informed Consent.](http://www.mcnz.org.nz/assets/News-and-Publications/Statements/Information-choice-of-treatment-and-informed-consent.pdf) * [Ministry of Health, *Consent in Child and Youth Health* (1998)](http://www.health.govt.nz/publication/consent-child-and-youth-health-information-practitioners) * [What makes a child a competent child? NZ Medical Council](https://www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2015/vol-128-no-1426-4-december-2015/6751) |
| **Standards** | * [NZS 8134:2008 Health and Disability Services Standards](http://www.health.govt.nz/system/files/documents/pages/81341-2008-nzs-health-and-disability-services-core.pdf) * [NZS 8158:2012 Home and community support sector Standard](http://whcs.org.nz/Documents/policy8158-2012Working-201307101_6A_.pdf) |
| **Service Documents** | * Service Delivery Pathways |
| **Definition** | Consent may be defined as ‘granting someone permission to do something they would not have the right to do without such permission’.  It implies that relevant information is provided to enable a reasoned decision to be made, and that the information was understood. Without understanding what is involved, no one can make a reasoned decision.  The consent must be voluntary. There should no pressure on the person to give their consent. No undue influence or duress should be present.  (New Zealand Health Council Working Party on Informed Consent, 1989) |

**[Principles and Processes](http://www.hdc.org.nz/about-us/mental-health-and-addictions/help-and-support/getting-treatment)**

The decision to give consent is made by the service user without pressure or coercion.

The service user is competent to make an informed decision.

Information is provided in a manner that is

understood by the service user and their family /whānau.

Sufficient information is provided to facilitate service users & their family/ whānau decision about services, and interventions.

**The services staff and other service providers**

**Provision of:**

* Service information.
* Purpose of interventions.
* Alternative interventions.
* Effect and side effects of interventions.
* Success/expected outcome of the services offered and interventions provided.
* Recovery/wellness plans are developed in collaboration with the service user and their family/whānau.

**Means of communicating the information in/by:**

* Writing.
* Discussions.
* The preferred language of the service user and their family/ whānau.
* Video.
* Facilitating internet access.
* A culturally appropriate manner.
* Age appropriate manner.
* Using an interpreter.
* Being cognisant of the decision maker in the family/whānau.

**Ensuring the service users rights are adhered to by:**

* Assisting the service user and/or their family/ whānau to initiate legal processes to clarify competence.
* Ensuring decisions made are in the service users’ best interest.
* Acknowledging that competence is not necessarily all-encompassing.
* Determining that the service user has understood the information.

**Supported by:**

* Including advocates in the consent processes.
* Including peer supports in the consent processes.
* Sourcing advanced directives.
* Responding to the service users’ right of refusing treatment and withdrawing consent.
* Determining that the service user has made the decision voluntarily.
* Acknowledging that consent is an on-going process.
* [Youth Law](http://www.youthlaw.co.nz/information/health-wellbeing/medical-decisions/)
* [Age concern](https://www.ageconcern.org.nz/)

**Exemptions to requiring informed consent**

**Medical Emergency**

**Incompetency**

**Therapeutic Privilege**

**Waiver**

**When:**

* The service user is unable to provide consent.
* Action is required to

preserve health and wellbeing.

* Saving of life during serious injury or illness.

**When:**

* The service user lacks the capacity to make rational decisions.

Specific information can

be withheld if providing

all the information might

cause harm to the client.

A situation where the

service user specifically waives the right to information or decision making.

Clear documentation is required.

Such a decision need to be justified.

Decisions to be made by[family court](http://www.justice.govt.nz/courts/family-court/what-family-court-does/powers-to-act)

[**Diminished competence**](http://www.legislation.govt.nz/regulation/public/1996/0078/latest/DLM209085.html?search=sw_096be8ed8059dcbe_diminished+competence_25_se&p=1&sr=0)

Where a service user has diminished competence, that service user retains the right to make informed choices and give informed consent, to the extent appropriate to his or her level of competence.(‘Consumer Right’ 7(3).

The DHB service provider will facilitate access to an assessment for competence.

**Children under 16 years that are not able to provide informed consent**

Consent to treatment/interventions can only be given by the person legally entitled to consent on a child's behalf.

Just because a section of law excludes someone from giving informed consent, the service user is still entitled to information about treatment/interventions/support. Do not assume that he/she is unable to understand the purpose of the services/interventions provided and its benefits or risks.

**Written Consent Required**

**Experimental Procedures**

**Routine Situations**

**Considerable Risk of Adverse Treatment** **Effects**

**Emergency Situations**

* At service entry.
* When referring to other services.
* At reviews – minimum six monthly.
* For treatment/interventions.
* For support.
* At discharge.
* Any treatments with possible severe side effects.



* [Any drug or treatment](https://www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2012/vol-125-no-1362/article-benatar)

[trials](https://www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2012/vol-125-no-1362/article-benatar).

* [Unapproved medicines](http://www.medsafe.govt.nz/profs/riss/unapp.asp).



* Invasive treatment necessary to keep person alive.



[**Teaching/Research**](http://neac.health.govt.nz/streamlined-ethical-guidelines-health-and-disability-research)

[**Advanced Directives**](http://www.hdc.org.nz/about-us/mental-health-and-addictions/help-and-support/advance-directives)

[**Mental Health Act**](http://www.legislation.govt.nz/act/public/1992/0046/latest/DLM262176.html)

**Filming/Photographing**

**Taping**

* For supervision.
* Television programme.
* Posters.
* Newspaper or magazine

articles.

* Ethical approval.
* Publications.
* Service user participation or identifiable case presentation in training/forum/workshops.
* [Appointment of power of attorney.](http://communitylaw.org.nz/community-law-manual/chapter-22-elder-care-and-powers-of-attorney/power-of-attorney-appointing-someone-to-make-decisions-for-you-chapter-22/)
* Preferred treatments.
* Preferred treatment setting.
* [HDC advanced directive guide](http://www.hdc.org.nz/publications/resources-to-order/leaflets-and-posters-for-download/advance-directives-in-mental-health-care-and-treatment-(leaflet))
* [Advanced directive brochure for service users.](http://www.hdc.org.nz/media/30071/brochure-%20advance%20directives.pdf)

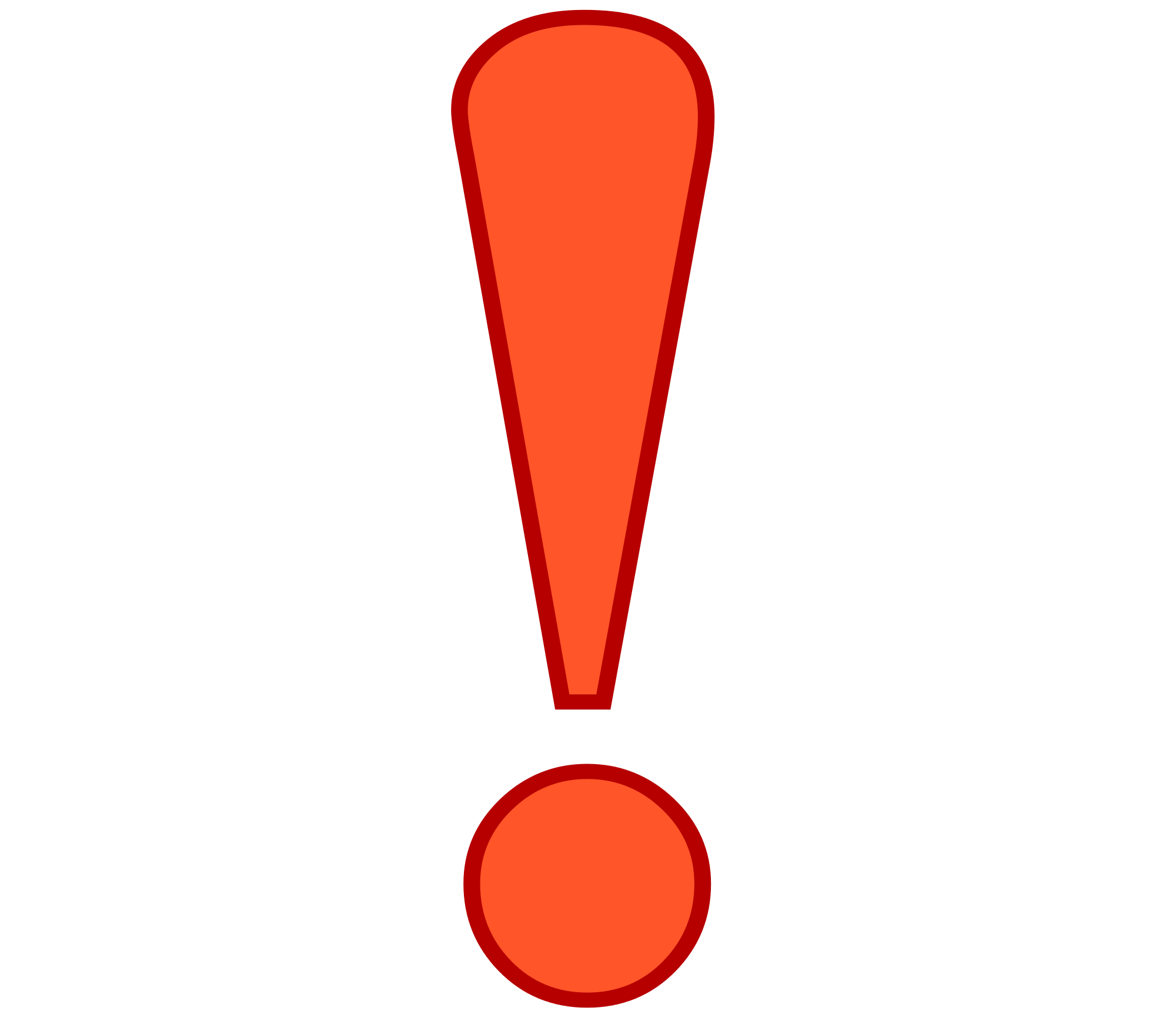
Specific treatments -example:

* brain surgery
* electro convulsive therapy
* specific medication

**within 6 weeks of employment**

**within 6 weeks of employment**

Compulsory treatment under the Act only applies to mental health treatment.



**Recording options/requirements**

**Before commencing interventions/support.**

**When intervention /support changes.**

**At least at 3 or 6 monthly review.**

**Service user/Define designated staff member**

**Person authorised to consent on behalf of the**

**Service user**

Document and sign the recovery/treatment

wellness or support plan.

D Documenting and signing

advanced directives.

Documenting and signing a contract to receive specific services that are clearly defined.

Collaborative note writing

**with both parties signing**

**the record.**

Evidence that service user has diminished capacity to provide consent needs to be documented.

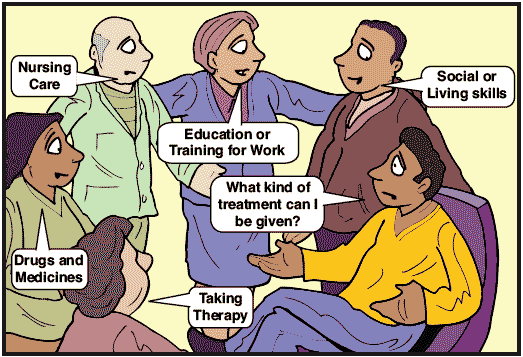
If informed consent is

given by another person

than all

legal documentation has to

be completed.



# Consultation

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| **Group/Role** | **Date** |
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