

POLICY AND PROCEDURE

Consent

Category: Member/**Client**
Staff/Volunteers



SoLO
Life
Opportunities

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England Company No.
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Introduction

SoLO believes that its members and **clients** have a fundamental legal and ethical right to determine what happens to them. Valid consent is therefore absolutely central to the delivery of our service, from providing personal care to giving permission for the use of photographs. Seeking consent is also a matter of common courtesy between our organisation and those who use SoLO's services.

Policy Statement

Consent relates to a member/**client**'s agreement to a course of action being taken. Member/**clients** may indicate consent non-verbally (for example by presenting their hand to take part in an activity or using Makaton sign language to indicate preference), verbally, or in writing.

However, for the consent to be valid, the member/**client**, or their representative (parent/carer) **if the individual does not have mental capacity or is a child**, must, following an assessment by the person gaining consent.:

- have capacity to make the particular decision (**in complex cases this may require a decision from the Court of protection**);
- have received & **retained** sufficient information to take it; and
- not be acting under duress
- be able to display their wishes either verbally, non-verbally or in writing

Where mental capacity does not exist a "best interest" decision may be required. Depending on the type of decision to be made this could fall to a Social Worker, health professional, Lasting power of Attorney or deputy, or in the case of smaller day to day decisions SoLO staff.

Where any form of restraint or restriction of free movement is required consideration should be given as to whether it constitutes a "deprivation of liberty" which would require court order.

Consent, in relation to issues such as:

- Use of photos in publicity, website etc.
- Use of safety measures, such as sun cream & insect repellent etc
- Sharing of information
- Taking part in activities that have a greater degree of risk
- Receiving medication

will be indicated by the signing of a form either by the member (where they are deemed to understand the decision they are making) or the agreed representative of the member, e.g. their parent or carer (where they are either under the age of 18 or deemed not to have capacity to understand the decision).

In other cases, such as participation in an activity, 'seeking consent' is better described as 'joint decision-making', the member/client and Support Worker or volunteer will need to come to an agreement on the best way forward, based on the member/client's values and preferences and the Support Worker or volunteer's knowledge and understanding of that member/client.

Best interest decision

Written consent

Where an adult member/client does not have capacity to give or withhold consent, this fact should be documented by the indication of degree of learning disability on the central database, with additional information contained on their profile. (SoLO operates a customer relationship management database which records all contacts details, including members as well as information that is relevant to welfare and best interests. It is a secure system that can only be accessed by password by authorised staff. Some important information such as needs, preferences or expectations may be highlighted by a 'red flag' to minimise the risk of it being overlooked. This capacity should be reviewed alongside the routine re-assessment process, although there should be a recognition that capacity can change relating to the specific decision being made. In all cases, the lack of communication alone cannot be considered an inability to give or withhold consent.

Written consent can be withdrawn whenever the person giving the consent decides to revoke that consent and must be acted upon immediately.

Consent will be held with the member's files in the office and on-site, recorded on the organisation's central database and shared with other members of staff on a "need to know" basis.

Where the member is illiterate, but clearly able to give their own consent, another person should witness their mark or their indicating behaviour on the form as agreement.

When should consent be sought?

Consent should be sought for routine issues such as photos, social media & website, administration of medicine, information sharing, marketing preferences, etc. at the point of assessment. However, the process of consent should be woven into the

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service delivery and should be based on the person centred approach taken within the organisation. Therefore, all members involved in activities, making decisions about food preferences, asked to indicate preferences etc. should be given the opportunity to consent or withdraw consent and specific needs, such as communication should be addressed to enable consent to be real and not tokenistic.

GDPR

In line with General Data Protection Regulations (GDPR)

SoLO requires consent for all aspects of data handling to be implicit, clear and transparent. Consent will be recorded in appropriate ways and held centrally to ensure that people's directives are respected and adhered to. Consent can be given verbally, via email or in writing but must always be recorded.

Privacy notices will precede the request to consent, and will be written in clear, concise language. Privacy notices will include:

- How the information will be used
- What we will do with the information
- Where we will share the information
- How we will share the information

Where there is a legal requirement to share data that overrides GDPR, eg. Criminal law, safeguarding SoLO will working within the legal parameters

- Data Protection is not breached if the requesting agency has a legal right to demand it.
- Data Protection is not breached if we choose to disclose information because not doing so would prejudice child protection, crime prevention, catching criminals or collecting taxes or duties.

At all times SoLO will work within the best interests of the individual.

Treatment of children

Only people with 'parental responsibility' are entitled to give consent on behalf of their children. It is recognised that not all parents have parental responsibility for their children (for example, unmarried fathers do not automatically have such responsibility although they can acquire it). Where there is any doubt about whether the person with the child has parental responsibility for that child, a check must be carried out and this might involve other professionals such as social workers.

Emergencies

Where an emergency occurs, consent should still be sought, but the needs and well-being of the member/client should always be paramount, for instance calling emergency services.

Provision of information

The provision of information is central to the consent process. Before anyone can make a sensible informed decision, comprehensive information about the choices, benefits and consequences of any such decision will be needed.

Where members/**clients** have limited verbal communication, aids to communication must be used, for example, 'Talking Mats' may be used during the assessment process and also when informing members about activities etc.

For members/**clients**, their parents and carers, where English is not their first language, reasonable efforts will be made to ensure that the information is communicated in such a way as to be fully understandable.

Who is responsible for seeking consent?

For initial consent, the person carrying out the assessment will be responsible, and this usually will be Project Manager or a Project Leader with delegated responsibility from the Project Manager. In terms of consent for activities and other day to day decisions, the Project Leader or Support Worker or, in some cases, the volunteer will be responsible for gaining consent.

Training

Training on consent will be part of the Induction Training and will be delivered alongside training on confidentiality, data protection and record keeping.

Linked to Policies:

1. **Confidentiality**
2. Information Sharing
3. Medicines Management
4. **General data protection regulations**