



Vocational Rehabilitation Association<sup>UK</sup>

Informed consent

A Brief Guide for Members of the VRA

June 2014

## Introduction

Informed consent is essential in many of our professional and therapeutic transactions with others. It is especially important where we are providing services of a personal, therapeutic or social nature to vulnerable people or where research is to be undertaken. This is because our role puts us in a position of potential power over our clients (also sometimes called 'service users' or 'customers') through status, knowledge or privileged access; this in turn may cause them to act or agree to interventions under duress. Informed consent is an acknowledged method of attempting to redress the balance of power so that we can work more as partners in an individual's rehabilitation. This is important not just for reasons of inclusion or social justice, important though these are, but also because the success or failure of the vocational rehabilitation itself often rests on the self-efficacy of the individual and self-efficacy cannot thrive when someone else calls all the shots.

As responsible VR practitioners we should automatically gain the informed consent of our clients as this is a fundamental part of our professional code of conduct. In addition to being a general driver for professionalism, a formal agreement of our clients to participate in our services and our commitment to a standard set of principles in this regard is important because:

- It demonstrates our core value of respect for the client including their right to choose in their own best interest.
- It makes others aware that we are sensitive to the fact that our service provision and research activities, which often involve more vulnerable individuals, may be intrusive and deal with issues and information of a sensitive and personal nature.
- It emphasises our commitment to public protection and promotion of the highest quality vocational rehabilitation services we can achieve.
- It shows that we consider our clients to be equal partners in the rehabilitation process and that individuals can legitimately withdraw from the process at any time.

It is the responsibility of the practitioner who is carrying out the intervention to ensure that the client has given their fully informed consent. Assuming that someone else has done so is not acceptable nor is delegating the task to another.

For VR practitioners who in addition to being members of the VRA are also members of other professional groups (nurses, OTs or psychologists for example) it is not intended that this brief guide should supersede their own professional body's recommended requirements for informed consent but complement them.

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## Definition

Informed consent is a method for gaining the permission of a person to carry out some intervention directly affecting them such as therapy, medical treatment or research where their cooperation is vital and their permission is necessary.

There are many more formal definitions but the following is short and fits our context.

*"Informed consent" is a process of sharing information with patients that is essential to their ability to make rational choices among multiple options in their perceived best interest'<sup>1</sup>*

Three elements follow from this and other definitions of informed consent in order for it to be valid:

1. **Information:** The client needs to be given information about the intervention.
2. **Capability:** The client needs to be able to make a decision on the basis of the information given.
3. **Freedom:** The client should have a realistically free choice in the matter.

## Information

This is not merely “*fact giving*” but an aid for appropriate decision making by the client; the practitioner needs to describe:

- the reason for the intervention,
- the aims of the suggested intervention,
- the methods to be used,
- the likely duration and frequency of meetings or the programme, for example,
- the consequences of agreeing to participate, or not, in the intervention including both the potential benefits and any potential risks there may be,
- what records will be kept or reports produced, who will see them and what will happen to the records once the intervention is complete,
- any alternative interventions that may be available to the client.

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<sup>1</sup> Simon RI 1992 in *Informed Consent in Psychotherapy* John O. Beahrs, M.D.; Thomas G. Gutheil, M.D. *Am J Psychiatry* 2001;158:4-10. doi:10.1176/appi.ajp.158.1.4

Partial or skewed information not only impedes gaining valid consent but also opens the VR practitioner to claims of misleading the client, which of course can lead to some very serious consequences for the practitioner in terms of professional complaints and legal claims, etc.

In short, the information we give to clients ought to be sufficient for them to be able to make the best decision in their own interests. This will vary from case to case but the practitioner must be alert to the quality and depth of information they are giving and sensitive to the impact that this is having on the client. Use of jargon, however technically accurate, can intimidate and confuse and it would be very difficult to show that the client made an informed decision given that the information provided was more suited to a professional audience than a client-centred conversation. The VR professional should scrutinise the information given, avoid potentially confusing language and actively seek the client's assurance that they understand the information they have been given.

## Capability

In order to give valid informed consent the client has to be capable of making a fully informed decision. This does not solely mean that the client has to have the cognitive ability to make a fully informed decision, although this is an important factor, but certain structural, institutional, constitutional as well as cognitive issues may get in the way of informed decision making. The VR practitioner needs to be vigilant and not automatically assume that clients who agree are doing so as fully informed and capable individuals.

As in the '*Information*' section above, the client needs to be able to comprehend the information you are giving. Barriers to this may arise from a host of sources including one or more of a combination of factors such as:

- the information itself,
- the cognitive capability of the client,
- the first language of the client (including alternatives to spoken language like signing),
- cultural and religious differences,
- fatigue,
- sensory impairments,
- environmental distractions (noise, temperature, etc),
- stress,

- the effects of medication,
- excessive use of alcohol or drugs,
- pain,
- difficulties with reading and writing.

The VR practitioner needs to anticipate and accommodate these factors and awareness, sensitivity, good forward planning and flexibility can go a long way to helping. In short, clients need to be able to recognise, comprehend, remember, ask questions, make decisions and communicate their decision to you.

Capability can change over time which can be seen in some of the temporary conditions that affect it and the impact of fluctuating conditions like mental health issues for instance. The VR practitioner should check informed consent from time to time and cannot assume that just because a client gave full informed consent in the past that they would be able to continue to do so.

Additionally, the practitioner should seek to re-validate the client's consent if new information arises that may affect their willingness to consent or changes occur to the programme, provider or procedures, etc. The practitioner ought to take the same precautions and care when re-validating informed consent as when they originally gained this and avoid any temptation to take short cuts.

## Freedom

The client should have the right to choose freely whether to participate in the services offered and also to withdraw from those services at any time. In order to exercise this freedom the client should be free from any extraneous forces real or perceived that may potentially force them to cooperate.

The VR practitioner should be aware that any agreement to cooperate with the intervention may not be valid cooperation but in fact as a result of pressure, real or perceived, applied on the client to force their cooperation. Such things may seem extreme but as practitioners we often have a certain status or seem to be in a position of power over the client. Pressure to simply cooperate without exercising full informed decision making is therefore a very real and not an extreme circumstance for us.

The position is doubly problematic when working on employment retention cases, with insurance companies, statutory programmes or as part of a court case. It is very easy for the client to see us as representing the interests of the employer, Government, case handler or opposing party rather than as a neutral agent working in the interests of the client. In any of the cases mentioned above the client can unduly accept but also unduly withdraw their cooperation, either of these may be because of the client's perception of extraneous influences. Therefore they cannot be truly accurately

described as exercising informed consent as the action may bring consequences that in other circumstances the client would want to avoid or deny benefits that they would ordinarily wish to have.

Others outside of the VR practitioner's immediate relationship with the client may also exert undue influences like partners, managers, other practitioners, family or friends. The practitioner needs to account for the potential for this and to try to ensure that the client is making the best decision for them by not contributing any additional undue pressures on the client for compliance. Apart from directly applying pressure for the client to agree to receive the service, the practitioner should avoid coercing the client into agreement by giving only partial information, minimising the risks or by over-promising the effectiveness or benefits of their services.

## Record Keeping

It is important that informed consent is given in writing. Where this is not possible a suitable alternative form should be used and the reason documented and witnessed. This is to show due process but also to protect the practitioner from later claims of coercion, etc. Remember that anything documented has the potential for use in court and you should always think about the form and content of case files with this potential use in mind. In addition, the written form can act as a reminder to the client about the nature of the consent discussion, what they have agreed and act as a record of contact details in case of changed circumstances or a decision by the client to withdraw from the service.

It is useful if the form is accompanied by a detailed description of the services offered, again to act as a useful reminder for the client and to allow the client to take the information away from the consent meeting and consider at their leisure or by consulting others, thus giving more time for the client to consider or re-consider their consent and whether they want to, or continue to participate in the service.

Alternative ways of recording the consent can be used and may be desirable where the client's preferred mode of communication is not written. It is the practitioner's responsibility to find the client's preferred method for recording their consent and then to arrange for copies to be given to the client and copies kept for the case file.

There are many ways of constructing a consent form and it is not the intention of this guide to suggest just one way. However it is done, a permanent record is recommended with some evidence that the client has read and understood the information given, often a signature along with the date and if necessary, witnessed, i.e. if the client can only give consent orally.

## Remember

- Vocational rehabilitation practitioners should ensure that every client has adequate information about the practitioner's services and that they give consent to be involved in the service.
- Clients should be able to withdraw at any time from the service being delivered.
- Consent should be sought in a form that is appropriate to the communication needs of the client so that they are able to understand the service, its consequences and be able to freely give and withdraw consent.
- Consent should be documented in a way that is appropriate to the service being delivered and the documentation of the consent retained for an appropriate period.
- Consent should not be considered a once-and-for-all activity; it should be regularly reviewed to make sure the client still consents and especially when things change.



## Vocational Rehabilitation Association <sup>UK</sup>

The VRA is a multi-disciplinary UK-wide organisation supporting and promoting all those working in vocational rehabilitation whether in the public, private, or third sector.

Contact us at: [admin@vra-uk.org](mailto:admin@vra-uk.org) or visit it us at: [www.vra-uk.org](http://www.vra-uk.org)

*This document is one of a series of documents being developed to support the VRA's 2013 Standards of Practice and Code of Ethics for VR Practitioners. The Standards are available as a free download from the VRA website.*

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