

Consent to treatment

circumstances. The task should not be delegated routinely to a junior doctor, especially if a complicated or specialised procedure is contemplated. It is not appropriate to ask a student to obtain consent. It is important that the person who discusses the procedure with the patient should whenever possible be the person who will carry out the procedure. If that is not possible then consent should be obtained by someone who is appropriately qualified and familiar with all the details and risks of the proposed procedure, and any alternatives.

In general practice consent is usually obtained by the doctor or dentist or healthcare professional who is treating the patient.

3. Duress

Consent must be freely given. It may not be valid if it is obtained under any form of duress.

4. Material risks

The *Sidaway v Bethlem Royal Hospital* (1985) judgement in the House of Lords confirmed that the test as to whether or not a doctor has been negligent in failing to mention a risk to a patient consenting to undergo surgery, is the same as the test to be followed in deciding whether or not a doctor has been negligent in any other aspect of his work. A doctor will avoid liability if the court finds that a reasonable doctor in his position would not have mentioned the risk and such a finding should follow evidence that there is a respectable school of thought which would not have mentioned this risk. However, doctors should mention material risks to patients, and material risks are defined as those to which a reasonable person in the patient's position would be likely to attach significance.

In the *Sidaway* case, the law retained the right to overrule medical opinion if disclosure was obviously necessary for an informed choice by the patient. However, even if the risk were material, the doctor would not be liable if, upon a reasonable assessment of the patient's condition, he considered that a warning would be detrimental to the patient's health and that a respectable school of thought would have the same view.

This concept applies to all healthcare professionals.

5. Alterations to the consent form

No alterations should be made to the consent form after it has been signed by the patient. If after the form is signed there is a change in the planned procedure the patient must be consulted and a new consent form should be signed.