It is essential that the people we serve are afforded the right to determine what happens to their own body at all times. Therefore, prior to providing any type of treatment or care, including personal care, valid consent needs to be obtained from the person themselves or their representative.

“Consent” is a person’s agreement to someone providing the care or treatment to them. However for the consent to be deemed as valid the person must:
- be competent to take the particular decision;
- have received sufficient information to take it; and
- not be acting under duress.

Consent is often wrongly equated with a person’s signature on a consent form.

A signature on a form is evidence that the person has given consent, but is not proof of valid consent.

For instance, if the person was rushed into signing a form, on the basis of too little information, the consent may not be valid, despite the signature. Similarly, if the person has given valid verbal consent, the fact that they are physically unable to sign the form is no bar to treatment.

**Types of Consent - Verbal (explicit) and non-verbal (implied or implicit) consent**

Sometimes verbal consent may be referred to as explicit consent and non-verbal referred to as implied or implicit consent.

An example of non-verbal or implied consent would be where a person, after receiving appropriate information holds their arm out to have their blood pressure taken or opens their mouth to have their teeth examined. However the person must have understood what examination or treatment is intended and why, for such consent to be deemed as valid.

An example of verbal or explicit consent would be where a doctor carries out an internal investigation and tells the person what they are going to do and asks them if they agree to the examination. If they agree this is explicit consent. (verbal)

In all cases, staff should be aware of the different types of consent and the importance of making sure the person understands what is going to happen to them and what is involved. Staff should also be aware of and understand what to do if a person refuses care or treatment or when consent is no longer valid. These details should be included in the person’s support plan and agreed with them and their representatives if necessary. (they have been assessed as lacking capacity)

Any person we serve is within their rights, if they wish, to withdraw consent after they have signed a form as the signature is evidence of the process of consent-giving, not a binding contract.

It will not usually be necessary to document the consent of a person we support to routine and low-risk procedures, such as providing personal care. However, if you have any reason to believe that the consent may be disputed later or if the procedure is of particular concern to the person (for
example if they have declined, or become very distressed about, similar care in the past), it is advisable to do so.

Where an adult Service User lacks the mental capacity (either temporarily or permanently) to give or withhold consent for themselves, **no one else can give consent on their behalf**. However, treatment may be given if it is in their best interests, as long as it has not been refused in advance in a valid and applicable advance directive.

If the person does not have the capacity to give or withhold the consent this fact should be documented in their care plan along with the assessment of the person’s capacity and a best interests meeting held. This should be attended by other professional’s and people closest to the person and agreements made and recorded.

The person carrying out the care or treatment is ultimately responsible for ensuring that the person is genuinely consenting to what is being done: it is they who will be held responsible in law if this is challenged later.

**Refusal of consent**

If the process of seeking consent is to be a meaningful one, refusal must be an option. Any adult is entitled to refuse care or treatment except in circumstances governed by the Mental Health Act 1983.

For all routine interventions and treatments the care plan should be followed and fully documented.