



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Office of the Chief Clinical Officer
Dr Steevens' Hospital|Steevens' Lane|D08 W2A8
email: cco@hse.ie

Oifig an Phríomhoifigigh Clínicíúil
Ospidéal Dr. Steevens|Baile Átha Cliath 8|D08 W2A8

By Email Only

To: Hospital CEOs, Hospital Group CEOs, Community Health Organisation COs, National Directors, Hospital Group Clinical Directors, Executive Clinical Directors

For further distribution to Hospital and Mental Health Clinical Directors, Heads of Service, Directors of Nursing, Chief Operating Officers and other relevant members of staff

Re: Guidance regarding Consent for COVID 19 Vaccination

Date: 12 February 2021

Dear Colleagues

The implementation of the COVID 19 Vaccination programme is underway. Guidance documentation and webinar content is available to support staff in the process of Consent for Vaccination and this information is being updated intermittently (<https://www.hse.ie/covidnursinghomerresources>). The development of this guidance is led by myself on behalf of the CCO and in consultation with the members of the HSE Consent for COVID 19 Vaccination Working Group.

The purpose of this memo is to address requests from staff for clarity on supporting the process of consent. It includes a section on the specific consent process for people who are wards of court and has been informed by guidance from the HSE Office of Legal Services.

Supporting the consent process

Consent for vaccination is a process of communication between a healthcare worker and the person to whom the vaccine has been offered. The person should be provided with sufficient information on COVID-19 vaccination and in a format that they can understand. They may need additional support and time to achieve this. When vaccination is for the benefit of the person, every practicable effort should be made to support them to understand the risks of not receiving the vaccine and to consent to receiving the vaccine in addition to supporting them if they are anxious or fearful of the injection process.

If a person has the capacity to make the decision, they should make their own informed decision to consent or refuse consent to vaccination.

If a person lacks the capacity to make the decision a healthcare worker can decide on behalf of the person that they should receive vaccination and this should be based on the benefit to the person and knowledge of their will and preference. Knowledge of the person's will and preference can be informed through discussion with those closest to them and by past behaviour-for example, if someone has previously agreed to other types of vaccination.

The *Consent Flow Chart* (attached) sets out the decision-making process around consent for staff supporting people who may or may not have capacity and who are not wards of court. A separate *Consent Flow Chart for Wards of Court* is also attached.

Next of Kin

There are some misconceptions among healthcare workers and members of the public about the role of next of kin which has raised issues during the roll-out of the COVID-19 vaccine. In fact:

“Next of Kin” or another third party cannot consent or refuse consent on behalf of someone else.

While consent should not be sought from a third party such as a family member and a signature on a form by that third party is not necessary for vaccination to proceed, it is good practice to engage with someone close to the person to assist with finding out the person’s will and preference.

Recording the consent process

A signed consent form is **not essential** to the consent process - a note in the person’s health record or an electronic record is equally valid.

The person’s decision around consent should be recorded in their healthcare record, online on the HSE COVID vaccination software system or in print format if the online version is not accessible, to be uploaded to the software system at a later date.

A record of the process that was followed to establish a person’s decision to consent or not consent should be entered into the healthcare record where appropriate.

Consent for Wards of Court

The President of the High Court has provided guidance to the HSE on COVID 19 vaccination of adults who are wards of court. This is underpinned by the principle that it is in the **best interests** of most people who are wards to receive the COVID-19 vaccine and as soon as possible. They should be **supported through the consent process** by being provided with information on vaccination in a format they can understand if possible. If it is in their best interests to receive the vaccine every appropriate and practical effort should be made to persuade them to consent to vaccination and to support them if they are anxious or fearful of the injection process.

Process of consent for Wards of Court

A flow chart setting out the process of consent for Wards of Court is attached.

It is important that each service identifies any Wards of Court and considers when, in accordance with the roll-out programme, they are likely to be offered vaccination. The person who is a ward of court (Ward) and the Guardian ad Litem (court appointed representative/ GAL) or Committee should be given as much advance notice of vaccination as possible.

If, after they have been provided with information on the vaccine, a person who is a ward consents to vaccination, it should proceed.

If, after efforts to inform and persuade them, a person who is a ward refuses consent to vaccination a capacity assessment should be carried out by the treating physician to evaluate if they understand the consequences of their decision.



Following capacity assessment

If the treating clinician is satisfied that the person **has** capacity to object to the administration of the vaccine, then the vaccine should **not** be administered and the office of the Wards of Court must be notified.

If the treating physician is satisfied that the person does **not** have capacity to object to the administration of the vaccine written notification of the capacity assessment should be sent to the person who is the ward and their Committee/GAL and should include a decision whether vaccination will or will not proceed based on the person's **best interests**. It should also include a detailed description of the efforts made to support the ward to receive vaccination.

If the person is found to lack the capacity to make the decision to refuse and then proceeds to receiving the vaccination, appropriate preparation and supports should be provided to the person to make the process as comfortable as possible eg. distraction techniques or numbing cream in the injection area.

A treating physician may decide that the process of administration of the vaccine would not be in the person's best interests, e.g. if the process of receiving the vaccination injection(s) would distress the person to such an extent that it would damage relationships with his or her carers.

If a person who is a ward refuses the vaccine, has undergone a capacity assessment which determines they do not have capacity and the physician decides that the vaccination is not to proceed in their best interests, the **Office of the Wards of Court is to be notified of the decision and the rationale for not receiving the vaccine**.

The following should be included in the person's healthcare record:

- Record of advance notice of vaccination to the Ward, GAL or Committee
- Details of efforts to help the person who is a ward to make an informed decision
- Details of the decision to consent or refuse and the rationale for the decision, including capacity assessment (if it was required) and consideration of best interests of the person
- Efforts taken to support the person during the injection process, whether it proceeded to conclusion or not
- All written notifications to Ward, GAL, Committee or Courts

Please share this memo immediately with all relevant members of staff.

Yours sincerely

Dr. Siobhán Ní Bhriain, MCRN: 15579
National Lead for Integrated Care

Cc: Dr Colm Henry, Chief Clinical Officer
Prof Martin Cormican, National Clinical Lead, Antimicrobial Resistance and Infection Control

Consent Flow Chart to guide Healthcare Workers supporting COVID 19 Vaccination 12 Feb 2021

Information on supporting the consent process is available here: www.hse.ie/covidnursinghomeresources including the COVID Vaccination Checklist and a separate Flow Chart for Consent Process for Wards of Court

<p>Person consents to vaccination</p>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;">Provide person with the vaccine information & supports as required</div> <div style="text-align: center;">↓</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;">Record the person's consent in his/her healthcare record. This may be a record of a non-written (e.g. verbal or other means) consent or a consent form signed by the person</div> <div style="text-align: center;">↓</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;">Tick appropriate box in Covid Vaccination checklist</div>
<p>Person does not consent to vaccination</p>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;">Provide person with the vaccine information & support as required</div> <div style="text-align: center;">↓</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;">Person communicates that they do <u>not</u> consent to vaccine</div> <div style="text-align: center;">↓</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;">Include note in healthcare record to reflect person's wish</div> <div style="text-align: center;">↓</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;">Tick appropriate box in Covid Vaccination checklist</div>
<p>Person does not have capacity</p> <p>NOTE: Those close to the person, such as family and friends, cannot make a decision to consent/ or refuse vaccination on behalf of the person.</p>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;">If the person, after receiving information and support, does not have capacity to consent, ask him/her about their will and preferences regarding vaccination and seek their assent</div> <div style="text-align: center;">↓</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;"> <p style="text-align: center;">If they are unable to express a clear choice:</p> <ul style="list-style-type: none"> a. Ask those close to them of their likely will and preference (i.e if they were able to do so would they agree to be vaccinated) b. Consider past behaviour as a guide to their likely will and preference c. Consider if this is for the person's benefit </div> <div style="text-align: center;">↓</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;">Make a note of the discussion in the healthcare record signed by healthcare professional who has made the decision on a benefits and will & preference basis and include details if informed by discussion with someone</div> <div style="text-align: center;">↓</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px; text-align: center;">Tick appropriate box in Covid Vaccination checklist</div>



Consent Flow Chart to guide Healthcare Workers supporting COVID 19 Vaccination of Wards of Court 12 Feb 2021

Information on supporting the consent process is available here: www.hse.ie/covidnursinghomeresources including the COVID Vaccination Checklist

