Health Research Authority

Seeking Informed Consent for Simple and Efficient Trials in the NHS

Draft Guidance: For Comment

Summary of Responses

v1.0 July 2015

Contents

Context

In many cases we don't always know (due to a lack of evidence) which of the large number of existing treatments routinely used in the NHS is best for an individual patient, or group of patients. It's important, therefore, to compare the medicines and other treatments used in order to better inform evidence-based treatment[1].

The best way to get the evidence is to carry out large-scale randomised controlled trials with the help of patients who are willing to take part so that we can reliably compare the different treatments available. This can be costly and time-consuming.

However, such trials could be carried out more **simply and efficiently by GPs and other healthcare professionals (HCPs) recruiting patients into the research at the time they are prescribed their medicine or treatment at the GP Surgery or hospital.**

These trials in a real life setting are often referred to as "pragmatic trials", and can be cheaper to run than large scale explanatory trials which are designed to measure efficacy in a well-defined and controlled setting. Pragmatic trials are especially suitable for testing the effectiveness of existing treatments. Such trials present little or no risk to the participant as they would receive a standard treatment routinely prescribed within the NHS for their condition anyway. In many cases this will be exactly the same treatment they would receive if they decline to take part in the research.

The patients recruited to these trials can be followed up through their electronic health records held by their GP or, where applicable, their hospital medical records. **For the vast majority of these types of trials the patient would not be asked to do anything other than agree to be randomised** (rather like tossing a coin or rolling a die) **to a standard treatment and to the use of their data for purposes of the research**. For some trials it might also be necessary to ask them to agree to some additional research procedures such as extra blood tests or answering a simple questionnaire.

These 'simple and efficient trials' can be randomised in two ways:

- Individual randomisation where each patient who is suitable to join the trial will be individually allocated to an intervention, or
- Cluster randomisation where whole units rather than individuals are randomised, for example, GP practices, hospitals, or wards are randomised to provide different interventions.

This latter type of trial is known as a **cluster randomised trial[2] or 'cluster trial'** for short.

A forthcoming piece of European legislation (the 'Clinical Trials Regulation', likely to come into force in 2016/17) will allow informed consent to be obtained in cluster trials involving drugs by what is referred to as '*simplified means' in the Regulation*. Whilst this EU Regulation is not yet applicable to drug trials we need to consider what the practical and ethical implications of this important provision are now so that that we are able to provide appropriate guidance regarding the seeking of consent by simplified means once this Regulation is in force.

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[1] In line with the Secretary of State for Health's statutory duty to promote "(a) research on matters relevant to the health service, and (b) the use in the health service of evidence obtained from research". Health and Social Care Act 2012.

[2] A type of research design that randomises the drugs or treatments being investigated to different groups or clusters of individuals (such as households, primary care practices, hospital wards, classrooms, neighbourhoods or communities), rather than individuals.

Why do we need guidance on seeking consent for such trials?

'Simple and efficient' trials could involve testing anything in routine use, from hospital mattresses to existing licensed medicines. Whilst trials involving mattresses or other non-drug interventions only need to comply with the "common law"[3], research involving medicines also needs to comply with complex legal regulations (known as The Clinical Trials Regulations) setting out in detail how patients should be recruited to such trials in the U.K. (see para 4.2. 'UK Legal Framework' for more information). In order to comply with these regulations patients recruited to them must have had the nature, significance, implications and risks of the trial explained to them in a 'prior interview' with a member of the investigating team. These Regulations apply to all drug trials, where the drug the patient receives is decided by the research protocol rather than their doctor, regardless of whether they are looking at a completely new experimental medicine or comparing medicines that have been shown to be safe and are already in routine use.

We believe guidance is needed in order to facilitate simple and efficient trials looking at the effectiveness of routinely used standard treatments so that patients can be recruited in a way that complies with the law but does not overly burden either the patient or the health care professional seeking consent. Central to this more proportionate approach is the use of a suggested short information sheet template bearing in mind that participants would also have access to the pack insert leaflet with their prescription as the trials would not be blinded.

What we did

In October 2014 the HRA published draft guidance entitled "Seeking Informed Consent for Simple and Efficient Trials in the NHS" for comment (see http://www.hra.nhs.uk/consent-simple-trials). The comment period ran for 30 days from 6th October 2014 and closed on 28 November 2014.

In parallel, the HRA launched a month-long public dialogue exercise to gain better understanding of public attitudes towards the recruitment of participants in health research. This exercise also explored participants' views on the procedures for seeking consent set out in the draft guidance. Four reconvened deliberative events took place in England and Wales throughout November 2014. Over 130 members of the public, experts, and expert patients took part in these workshops held in Liverpool, Nottingham, London, and Cardiff[4]. The summarised responses from these workshops are included in this report where they relate to the questions contained in the call for comment response sheet.

A summary of all comments received and our responses can be found in this report. These comments will inform the development of the HRA guidance representing an agreed ethical framework for seeking consent in such trials.

This document

This document is the post-comment report summarising the responses to the HRA's 'Seeking Informed Consent for Simple and Efficient Trials in the NHS. Draft Guidance'. It also includes feedback from the public dialogue workshops.

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[3] Law developed by judges through decisions of courts and similar tribunals, as opposed to statutes adopted through the legislative process or regulations.

[4] This work was supported and part-funded by Sciencewise (www.sciencewise-erc.org.uk). The findings from this separate project will be made available on the HRA website and will be used to inform future policy development.

This project is part of our work to develop a new policy framework for research in the NHS. Further information about the development of the new policy framework can be found at http://www.hra.nhs.uk/about-the-hra/consultations-calls/uk-policy-framework-health-social-care-research-comment-active/.

This document covers:

- the background to the report
- a summary of responses to the report
- specific responses by question
- the next steps following this call for comments.

Further copies of this report can be found at http://www.hra.nhs.uk/consent-simple-trials/ or can be obtained from Gordon Harrison (HRA Head of Communications) email: gordon.harrison@nhs.net.

Summary of Responses

A total of **103 responses** were received: 25 from organisations and 78 from individuals:

Respondent Type	Number
Individual (Professional)	**57**
Individual (Public)	**17**
Individual (Patient)	**3**
Individual (Not Stated)	**2**
Organisation	**24**
Total	**103**

Respondent Category	Number
Ethics Committee/Ethicist	**41**
Researcher	**20**
R&D function	**10**
Patient	**5**
Nurse	**5**
Professional body	**4**
University	**4**
Industry	**3**
NHS staff	**2**
Charity	**2**
Representing a patient organisation	**1**
Hospital Doctor	**1**
GP	**1**
Other	**1**
Not Stated	**3**
Total	**103**

In general, respondents welcomed and supported the HRA's call for comment on proposed guidance for the seeking of consent in a proportionate manner in simple and efficient trials:

> *"The Academy [of Medical Sciences] supports the timely move towards simpler, more proportionate procedures when seeking consent for low risk-trials in the NHS. It is consistent with recommendations made in the Academy's 2011 report on health research governance, which is going to be followed up by a comprehensive review to assess impact."*
>
> *"The BMA fully supports the motivations behind the consultation and guidance. Research which seeks to identify which of two routinely used treatments is most effective in clinical practice has the potential to be of significant benefit to patients and commissioners alike"*
>
> *"There remains a gap in clinical knowledge in regards to efficacy of standard treatments. The above measures would help/encourage such knowledge to be uncovered"*

- Overwhelming support shown for the central theme of the proposed guidance that ***informed consent procedures should always be proportionate to the nature of what is proposed, the risk of the research and the ethical issues at stake*** with 93 respondents explicitly agreeing with this statement (2 individuals disagreed, one individual was "not sure" and 7 respondents did not answer this question)
- All suggested principles regarding the use of simplified consent procedures received at least 80% support
- A majority (65%) indicated that simplified consent procedures could be used in 'simple and efficient' research involving children
- There was less support for the use of such procedures in 'simple and efficient' research involving adults unable to consent (50% in support / 50% not in support or unsure)
- The "Suggested Short Information Sheet" (see Annex 1) was considered by 81% of respondents to provide sufficient information for patients to make an informed decision regarding taking part in a 'simple and efficient trial' (although 59% cautioned against reducing the amount of information provided any further)
- A number of practical difficulties were identified regarding the conduct of 'simplified trials' including:

    - current IT systems may need to be revised in order to better support such trials.
    - additional finance/resources needed
    - limited consultation time available
    - training required (in research/consent/GCP)
    - additional burden on Health Care Professionals (HCPs)/staff

Consent Scenarios:

- A small majority (44%) considered that the use of a short information sheet in conjunction with asking if they have any questions constituted an adequate "interview" and opportunity for the patient to ask questions. However, It was pointed out by several respondents that:

    - patients may feel under pressure to consent and that additional time should be given to consider participation
    - it would be difficult to standardise the informed consent process which would differ depending on the particular patient and HCP involved

- There was little support for the use of posters alone to inform potential research participants, even if coupled with their being asked to confirm consent.
- The majority (60%) did not consider it acceptable for consent to be 'deemed' to have been given in circumstances where consent could be sought directly. However, a majority (66%) did consider that 'deemed consent' *backed up by asking the patient whether they would wish to opt-out* was an acceptable approach in low-risk research.
- In very low-risk trials strong support (69%) was shown for not seeking consent where the patient would have received the research intervention as part of their standard treatment anyway such as a study involving mattresses currently in standard use. A small number of respondents suggested other scenarios where not seeking consent might be acceptable including:

    - access to medical records/patient data:
    - observational studies (no change from standard care)
    - access to anonymised data only
    - studies involving "equipment" - bandages/dressings etc.

Responses to Specific Questions

Consultation questions

General questions

Q1. Are the suggested general principles regarding the seeking of consent identified in 2.5 reasonable?

Principle	Yes %	No %	Not sure %
Informed consent is central to the ethical conduct of research and desirable should be sought in all cases unless a strong justification can be provided for dispensing with this important requirement	**97**	2	1
Informed consent procedures should always be proportionate to the nature of what is proposed, the risk of the research and the ethical issues at stake	**97**	2	1
Informed consent should always be documented	**92**	7	1

Our response:

The clear support for the principle of informed consent to be upheld except in specific circumstances, where strong justification can be provided for dispensing with this requirement, will be clearly stated in the final guidance as will the requirement to document that consent where obtained either verbally or in writing.

The overwhelming support for the concept that informed consent procedures should always be proportionate to the nature of what is proposed, the risk of the research and the ethical issues at stake will remain as the central theme of the final guidance.

Q2. Are the suggested principles regarding the use of simplified means for obtaining informed consent identified in 2.6 reasonable?

Principle	Yes	No	Not sure
Following the normal consent process would place a disproportionate burden in terms of time and resources in relation to the perceived risk	**83**	5	12
The study addresses a clinical question where there is uncertainty regarding the relative merits of relevant interventions	**80**	12	8

All medicines used in the trial are in routine use and within the terms of their licence	**90**	7	2
The study involves little or no deviation from usual care (including monitoring for adverse effects, extra research-specific laboratory tests, study visits, questionnaires etc.)	**88**	6	5
All interventions/diagnostic tests are in routine use within the NHS and will be undertaken by those qualified to do so	**96**	3	1
Research risks are no greater than those involved in standard care/not greater than minimal (e.g. extra blood tests/tissue samples taken during a 'clinically directed' procedure)	**87**	9	4
The use of simplified means to obtain consent does not adversely affect the rights or welfare of study participants	**90**	7	3
Healthcare Professionals (HCPs) have the option of using an intervention other than the one assigned if they believe doing so is important for a particular patient	**82**	10	9
Patient has not expressed a strong preference for any particular treatment	**82**	12	6

Our response:

The majority support for all suggested principles will inform further consideration of those to be included in the final guidance related to the use of simplified means for obtaining informed consent. One respondent pointed out that "The principles described in Q2 are not principles but procedural criteria. This does not detract from their utility, but they should not be understood as principles underlying the research, but criteria necessary to justify the use of simplified consent processes." This distinction is well made and will be taken into account, along with other critical comments, in the final guidance.

Q. No.	Question	Yes	No	Not Sure
Q3.	**Many treatments routinely used in children have never been properly tested or licensed. Could a simplified consent process be used in 'simple and efficient' research comparing existing treatments with children?**	**65**	16	19
Q4.	**Could a simplified consent process be used in 'simple and efficient' research involving adults unable to consent?**	**50**	27	23

Our response:

The extension of the use of simplified means for obtaining informed consent to either children or adults unable to consent will clearly need to be carefully considered and more detail provided and consulted upon before inclusion in any final guidance. However, the

broad support received regarding the use of simplified means for obtaining informed consent with children in particular, and to a lesser extent adults unable to consent, suggests that further consideration is warranted.

Q. No.	Question	Yes	No	Not Sure
Q5.	**Do you think that the "*Suggested Short Information Sheet*" (in conjunction with the medicine information leaflet which covers side-effects and possible interactions with other drugs etc.) would provide sufficient information for patients to make an informed decision regarding taking part in a 'simple and efficient trial'?**	**81**	13	5
Q6.	**Could the information provided in the "Suggested Short Information Sheet" sheet be simplified further (without compromising consent)?**	19	**59**	22
Q6.	**If 'yes' what could be REMOVED from the information sheet?:**	**Number of Respondents**		
	Reduce overall length of text			**8**
	Length of PIS will depend on the specific study			**3**
	Who is organising and funding the research?			**3**
	Invitation			**1**
	What would taking part involve?			**1**
	Do I have to take part?			**1**
	Will my taking part in this study be kept confidential?			**1**
	Further Information			**1**
	Contact Details:			**1**
	If you decide NOT to take part			**1**
	Remove acronyms			**1**
	Remove Jargon			**1**
	Remove Duplication ("If you decide to take part you will receive either [X] or [Y] as your treatment")			**1**
	Remove: "You do not need to do anything more. If you agree to take part all the information needed for the research (but not anything that could identify you) will be collected from your medical records and shared with the researchers."			**1**
Suggested Additions/Clarifications				
	Shorten paragraph: "Will my taking part in this study be kept confidential?"			**1**
	Do not rely on internet access for provision of further information			**1**
	Clarify: emphasise that there are no extra risks			**1**
	Clarify: stopping rules			**1**
	Add: Duration of access to medical records/individual's participation			**1**
	Add: Treatment alternatives			**1**
	Add: Benefits/Risks of treatment			**1**
	Add: Side-effects of the alternative treatments			**1**
	Add: All alternative treatments available to patient			**1**

	Add: Publication of results	**1**
	Add: How to report adverse events	**1**
	Add: Study has REC and MHRA approval	**1**
	Pilot PIS to ascertain acceptability	**1**
	Rewritten PIS provided by respondent	**1**

Public Dialogue Workshops:

Participants broadly supported the use of the suggested short information sheet (in conjunction with the medicine information leaflet). Some individuals and groups argued that the suggested simplified information sheet is still too complicated and that it should be shortened further. Others were happy with the information contained in the example.

Our response:

The majority felt that the use of a short information sheet (in conjunction with the medicine pack information leaflet) did provide sufficient information for patients to make an informed decision regarding taking part in a 'simple and efficient trial'. A number of respondents suggested shortening the information sheet further and we will explore the provision of a short information sheet template and its content (within existing legislative requirements) further.

Q. No.	Question	Yes	No	Not Sure
Q7.	**Can you foresee any practical difficulties in conducting simple and efficient trials in the NHS? What additional support or changes to current systems might be required e.g. IT systems/coding/technical/administrative/other?**	74	17	9

Q7. Difficulties Identified	Number raising issue	Illustrative Comments
IT Systems	**23**	"There is little integration of IT systems within the NHS" "…variability in the electronic patient records and data collection across the NHS… may make this research more difficult" "In the absence of an expansion of CPRD with care.data the studies will be limited to CPRD participating practices." "NHS Organisations struggle identifying potential recruits via electronic systems – either through absence of system, lack of standardisation, backlog in data entry or disparities in application of coding, so I would foresee that significant work would need to be done to generate efficiency"
Additional Finance/Resources	**14**	"additional resources required in terms of staffing infrastructure to carrying out even brief consultations

		with patients" "It will take extra time, and this will need to be allowed for/funded" "Time is stretched so any additional burden could mean that patient care is compromised unless specific provision of resources for the research is carried out."
Limited Consultation Time	**13**	"GPs' time is already very limited; this might compromise it even further" "I find it hard to envisage how they would have time to follow the procedure that involves printing and giving a short information sheet to patients" "GPs cannot be expected to do this on top of the consultation" "If GPs are responsible for recruiting and obtaining patients' consent for these trials as part of a normal consultation, the process will inevitably and, to an extent, unavoidably represent an additional pressure on the limited time available for appointments
Training (Research/Consent/GCP)	**12**	"GPs will need to be GCP trained before engaging in research but this could be a modified process" "Currently any HCP taking consent has to have documented GCP training, training in the protocol and how to take consent" "It is important that good clinical practice and study specific training are considered for healthcare professionals treating patients in low-risk trials"
Additional Burden on HCPs/Staff	**12**	"Additional burden on GPs, additional resources required in terms of staffing infrastructure to carrying out even brief consultations with patients." "Possible extra workload/ responsibility on G.P. Surgery staff. Possible extra workload in hospital during appointment."
Research Validity: Data Quality/Coding etc.	**9**	"NHS Organisations struggle identifying potential recruits via electronic systems – either through absence of system, lack of standardisation, backlog in data entry or disparities in application of coding, so I would foresee that significant work would need to be done to generate efficiency" "…there is no one overreaching clinical database; the CPRD for example only covers one type of IT system, so there is the issue of the introduction of bias and non-generalisability of the practices any one resource includes. Additionally, coding within GP surgery medical records is notoriously poor" "… concern over how robust the data collection around Quality of life and treatment compliance would be if this is done by means of GP system routine data capture"
Cultural Inertia	**7**	"there would a cultural challenge of implementing this type of trial into common practice. Many teams will have been involved in clinical research for a long time now so they may have many questions and a reluctance to change." "The needed changes in attitudes and tradition will present the most difficult challenges"

Information Provision	**6**	"Providing information to those who do not have internet. Providing information in all languages" "Package leaflets are generally too dense to be properly read and compared in under five minutes"
Public Perception/Acceptance/ Reputational Risk to NHS	**4**	"There is a risk that this could be perceived in a way other than intended by the general public which could result in a damaged reputation for, and lack of trust in, all those involved."
E-Health Records: Flagging Participation in Research/Coding	**3**	"Is there a code that exists, or can be created, for the medical records to alert researchers that the patient has consented to a trial?"
Communication/coordination between primary and secondary care institutions	**2**	"Communication between primary and secondary care is of the utmost importance for patients involved in any type of research."
Lack of Control over IMP (investigational Medicinal Product)	**1**	"In a routine clinical trial the IMP is managed carefully to avoid bias. If over the period of the study the patient receives at each dispensing different items from a branded medicine, a generic (one or more types) and a parallel import the difference in bioequivalence may be up to 45% which may impact upon efficacy, safety and tolerability. As such some control of IMP supply should be in place."
Regulatory Approvals (for GP Surgeries)	**1**	"getting approvals to recruit in GP settings is an incredible slow process."
Handling and Documenting Refusals/Withdrawals	**1**	"Handling refusals to take part or withdrawals, especially in cluster trials"
Ineligibility to take part in secondary care-based CTIMPs (if patient is already enrolled in primary care trial)	**1**	"..there is a concern that patients involved in such a wide scale primary care based study, may then be ineligible to take part in secondary care interventional research. Many commercial drug studies eligibility criteria specifically exclude patients taking part in any other research."

Q. No.	Question	Yes	No	Not Sure
Q8.	**Do you think that seeking patients' consent to take part in simple and efficient trials might affect the relationship between the patient and their doctor?**	22	**54**	24

Those respondents who felt that the patient/doctor relationship could be affected tended to cite the ambiguity that acting as both the healthcare professional with responsibility for patient care and as part of the research team potentially introduces and the possibility that this might impact upon patient trust e.g.:

> *"...research conducted in a clinical context can blur the line between clinical care and research and can create ambiguity, in particular the nature of the relationship between the doctor and the patient."*

Our response:

Whilst the majority did not think that the doctor/patient relationship would be affected by the seeking of consent to take part in simple and efficient trials a significant minority did express some concern. We fully understand these concerns and note that the ambiguity identified in

the context of GPs is true of all research where the HCP responsible for patient care is also involved in seeking consent for research participation. In the context of simple and efficient trials this ambiguity is reduced as patients would be randomised between *existing standard treatments* routinely prescribed within the NHS for their condition. Of course the HCP will still need to ensure the patient understands that they are being asked to take part in *research* but the tension between acting in the patients best interest and the interests of the research is lessened as therapeutic intent is not compromised and the possibility of 'therapeutic misconception' on behalf of the patient does not arise.

Consent scenarios – questions

Scenario 1: Explicit consent (short information sheet) - Clinical trial of Statins (GP Surgery)

Q. No.	Question	Yes	No	Not Sure
Q9.	**Do you think that the GP handing the patient a short information sheet and asking if they have any questions constitutes an adequate "interview" and opportunity for the patient to ask questions?**	44	27	29

Q9. Additional comments:	Number Respondents raising issue
Patient may feel under pressure to consent/time constraints	27
Additional time needs to be given for patient to consider participation	15
Variation: Difficult to standardise process/will depend on individual patient (age/literacy etc.) and GP	13
Q&A Session required/GP to lead patient through PIS	11
Consent less likely to be fully informed	7
Proposed approach reasonable but possibly disproportionate (only difference is data would be used anonymously to inform best practice)/Similar to clinical practice	4
Send PIS prior to GP visit	3
follow up appointment	2
Patient may not understand only involves standard care	2
PIL (pack insert) should be given prior to decision	2
Inadequacy of PIL to inform of possible adverse events	1

Public Dialogue Workshops:

Overall, participants expressed a good deal of support for simplified consent processes, however many respondents caveated their support with associated concerns. There was a good deal of support for an opt-in model as this was felt to give patients suitable agency to decide whether they would wish to be involved or not.

There was a concern that simplified processes may lead to patients feeling pressured to take part or to make decisions more quickly than they would like. Many participants therefore

thought that it was important to give patients the option to discuss whether they wish to take part in more detail if they wish.

The key reassurance sought by participants was that the treatment prescribed was known to be effective for their condition.

It was recognised that GPs would not have time to talk through the issues in depth. However, participants felt a patient should be able to talk to someone further if they wanted to know more about the research or their part in it.

Appointments should not be disrupted because of the time pressures attached to the use of simplified consent.

Outcome data should always be anonymised.

The data should never be released to insurance companies.

A number of suggestions were also made to try to give participants more thinking time, e.g. informing patients that they might be asked to take part in a trial before they meet their GP. Some participants also suggested that if participants are able to change their mind and opt out at a later date, this helps to reduce the pressure on them. Participants sought reassurance that taking part in a trial would not negatively affect their care e.g. by making it harder to change treatment if the current one is not working out.

Our response:

There is cautious but encouraging support for the use of a 'short information sheet' for simple and efficient trials, in conjunction with asking if potential participants have any questions, before explicitly confirming consent to take part in a simple trial. However, many respondents raised practical issues around the time that could be set aside for the "interview" and the need not to place undue pressure on patients to take part in research. The final guidance will incorporate a short information sheet template for use in simple and efficient trials and will highlight potential pressures to take part and practical methods for dealing with these.

Scenario 2 – 'Deemed' consent (opt-out) - Patient asked to confirm consent - Randomised Cluster Trial (GP Surgery)

Q. No.	Question	Yes	No	Not Sure
Q10.	In order to satisfy the cluster trials requirements in the forthcoming EU Clinical Trials Regulation the information regarding the trial would have to be "given" to the patient. Do you think displaying a poster in a waiting room satisfies that requirement?	12	67	20

Q10. Additional comments:	Number Respondents raising issue
Patients unlikely to read posters/attention needs to be drawn to it and opt out nature of study/attention documented	47

Insufficient on its own - must be backed up by other methods (provision of information sheet/flyer etc.)	**29**
Inadequate for patients with visual impairment/English not first language/poor literacy skills etc.	**21**
Does not respect patient autonomy/undermines principle of informed consent	**7**
Danger of diminishing Trust (in NHS/Research/HRA)	**2**

Our response:

There is very little support amongst respondents for the use of posters as the only method used to inform potential participants. The use of posters on their own will not be endorsed in the final guidance for use in clinical trials (drug trials).

Scenario 3 – 'Deemed' consent (opt-out) – Patient not asked to confirm consent - Randomised Cluster Trial (GP Surgery)

Q. No.	Question	Yes		No	Not Sure
Q11.	**Is it ever acceptable for consent to be 'deemed' or assumed to have been given even where consent to be involved in (low risk) research could be sought directly from patients?**	**20**		**60**	**19**
Q12.	**In order to satisfy the cluster trials requirements in the forthcoming EU Clinical Trials Regulation the information regarding the trial would have to be "given" to the patient. Do you think displaying a poster in a waiting room satisfies that requirement?**	**13**		**74**	**12**
Q13.	**Do you think the use of a poster with no further information provided by the GP (option 2) would mean that participants are "being informed"?**	**Fully**	**Partially**	**72**	**4**
		2	**22**		
Q14.	**Is 'deemed consent' coupled with asking the patient whether they would wish to decline to take part (opt-out) an acceptable approach in low-risk research?**	**66**		**18**	**16**

Q14. **Additional comments:**	**Number Respondents raising issue**
Participants must always be made aware of enrolment by opt-out/be given opportunity for questions	**21**
Patients unlikely to read posters/cannot assume informed consent	**18**
Insufficient on its own - must be backed up by other methods (provision of information sheet/flyer/discussion etc.)	**11**
Where possible direct (opt-in) consent should always be sought	**5**

Danger of diminishing Trust (in NHS/Research/HRA)	**5**
Does not respect patient autonomy/undermines principle of informed consent	**4**
Large scale NHS campaign required for this method/patients should be made aware more generally of such research	**3**
Not "opt out" as patient asked to confirm (is "opt-in")	**3**
Patient may feel under pressure to consent	**1**
Patients should give 'one off' generic consent to 'deemed' consent in future	**1**
Does not comply with Data Protection Act	**1**
Potential benefits of "deemed consent" are minor in comparison with potential risks	**1**
"deemed consent" should not be referred to in guidance prior to implementation of EU CT Reg.	**1**

Public Dialogue Workshops:

Some participants were worried about the opt-out model because they felt that it could put people under pressure to take part, or harm the trust relationship between patients and their GP. Others thought that it might be good because it reduces the amount of decisions that a patient has to make in a short time scale.

Our response:

The majority of respondents rejected the suggestion that the use of a poster alone could constitute information being "given" to a potential research participant in the context of a cluster randomised drug trial. In doing so, a large number cited that it was unlikely that patients would notice or read any such poster. Some suggested any use of posters would always need to be backed up by other direct methods of information provision.

The revised guidance will not endorse the use of posters without additional direct methods of ensuring that information is provided to potential participants.

The concept of 'deemed consent' received little support in the context of randomised cluster trials, however when combined with asking the patient whether they would wish to decline taking part a majority felt that this would be acceptable. It is arguable if such an approach is truly an 'opt-out' model and might be better understood as support for 'opt-in' procedures involving explicit consent, particularly given the majority rejection of posters alone as a method of information provision.

Deemed consent, where patients are not asked whether they would prefer to withdraw from the trial, will not be endorsed in final guidance in circumstances where it is possible and practical to seek explicit consent.

As 'deemed' consent in the context of randomised cluster trials involving medicines will only be legally acceptable once the EU Clinical Trials Regulation comes into force the HRA will not publish guidance regarding its use until that time.

Scenario 4: No Consent - Cluster Trial (Hospital Ward)

Q. No.	Question	Yes	No	Not Sure
Q15. (a)	Is it acceptable not to seek consent in very low-risk trials, such as the mattress study, where the patient is likely to receive this as part of their standard treatment anyway?	69	13	18
Q15. (b)	Are there other scenarios where not seeking consent would be acceptable?	45	10	44

Q15. Additional comments:	Number Respondents raising issue
Other scenarios where not seeking consent would be acceptable:	
Observational studies (no change from standard care)	5
Access to anonymised data only	4
Studies involving "equipment" - bandages/dressings etc.	4
Studies involving anonymised surplus tissue	2
Studies involving non-medical procedures - mattresses, chairs, lighting etc.	2
Randomisation to existing treatment/care (where equipoise)	2
Retrospective observational studies	2
Children's Intensive care: new team management protocol)	1
Quality of life studies	1
Educational technique programmes	1
Access to medical records where seeking consent may cause distress (e.g. terminal illness)	1
Biobanks using surplus tissue	1
Where intervention is ward/department policy	1
Other Comments:	
Consent required for access to medical records/patient data	12
Transparency: Where no consent taken – there is a requirement to inform (posters etc.)	6
Consent to a "treatment" is always required (whether or not randomisation involved)	2
Low risk should not mean no consent	1
Acceptability will depend on risk of intervention AND loss of confidentiality	1

Q16.	Should verbal consent be sought (documented in the medical notes) to access the patient's medical data for the purposes of the research?	60	17	23

Q16. Additional comments:	**Number Respondents raising issue**
Verbal consent must be recorded	**6**
Documentation of verbal consent dependent upon whether researcher has existing clinical access to patient data	**6**
Patients should be involved in/informed of decisions regarding their participation in research	**5**
Verbal consent suitable for access to anonymised data/Identifiable data should only be accessed with consent	**5**
Verbal consent suitable provided fully informed (inc. access to records)	**2**
Verbal consent not required for access to anonymised data	**2**
Verbal consent not required if onerous to seek/very low risk of harm involved	**2**
Consent must be written	**2**
Provision of information and patient opt-out sufficient	**1**
Generic Trust form for access to data/tissue could be used	**1**
It may not be appropriate to ascertain consent where too burdensome to patient	**1**
Patient may feel under pressure to consent	**1**

Public Dialogue Workshops:

There was a good deal of support for not seeking consent in some situations, including the mattress example, although the extent of this support varied between participants.

Some participants thought that the appropriate situations would be very limited and suggested limits such as only using this approach for medical equipment (rather than treatments) or for very low risk activities.

Other participants thought that so long as risks were low, not seeking consent could be used widely, possibly even including trials of medical treatments for which there are not major practical barriers to seeking consent.

It was felt on a number of tables that treatments that enter the body in some way (including catheters and any medication) were too invasive to be appropriate for not seeking consent. Other groups emphasised the importance of allowing patients to make their own decisions where possible.

One concern that was commonly raised around not seeking consent was about the possibility for scope creep. Many participants felt that very clear guidelines would need to be put in place to ensure that zero consent did not start to become used for inappropriate studies, or more types of study than initially intended.

It is interesting to note that the discussions around not seeking consent (scenario 4) led some participants to reflect further on the previous discussion around simplified consent. For example, participants in one group said that they would be comfortable with the idea that a statins trial (scenarios 1 & 2) might be conducted on a no consent basis, so long as all the possible treatments that they might get were already considered to be medically appropriate.

Our response:

There was broad support for not seeking consent in very low-risk trials, where the patient is likely to receive the research intervention as part of their standard treatment. The legality of such an approach will need to be explored further before any final HRA guidance is issued. Some respondents pointed out that such activity may be better understood or framed as "audit" or "service evaluation" rather than "research".

There was some support for applying this approach (not seeking consent) to other research including the use of identifiable data and tissue. However, the use and extension of a "no consent" approach will need to be clearly assessed in terms of its legality in such scenarios before inclusion in any final guidance.

Next Steps

In addition to this call for comments, we also conducted a series of public dialogue workshops[5] to debate the topic of simplified consent and to consider what information should be included on a shorter information sheet. The feedback from this exercise will be considered alongside the responses to this call for comments in developing future guidance concerning seeking consent in a proportionate manner not just in simple and efficient trials but also other types of research.

[5] The workshops used a deliberative approach and were part funded and supported by Sciencewise. (see: http://www.hra.nhs.uk/recruiting-participants-health-research/ for more information).

Annex 1

Suggested Short Information Sheet for Use in Simple and Efficient Trials:

The following is an example of a short participant information sheet (PIS) that could be used in a simple trial conducted to compare two licensed medicines that are routinely prescribed within the NHS.

In the case of simple and efficient trials involving participants taking routinely used licensed medicines (primarily for the purposes of their treatment), detailed information related to the medicine itself (what the medicine is for, possible side effects, dosage, etc.) will always be provided inside the standard pack. This means that the information provided to the patient about the *research* component (randomisation, data collection and use etc.) can be relatively brief.

We would like to invite you to take part in a research project.
You do not have to take part if you do not want to.

Please read this information leaflet to help you decide.

Research Title: [*A research study to find out if [X] is better than [Y] for treating people with [medical condition]*].

REC Reference Number:
EudraCT No./ EU trial number[6]

Why am I being asked to take part in this research?

You and your doctor have agreed that you would benefit from treatment for [*patient's medical condition*].

[*X*] and [*Y*] are [two] treatments licensed to treat [*patient's medical condition*] and they are believed to be equally good. However, we do not know this for certain.

In order to find out whether [X] or [Y] is better for patients with your medical condition we are inviting patients like you to take part in a research project in which some patients will be given [X] and some patients [Y] and the two groups of patients compared.

If you decide to take part you will receive either [*X*] or [*Y*] as your treatment.

Although you would not receive any extra benefit from taking part, research like this helps to continually improve the treatments and care provided to all patients now and in the future.

Do I have to take part?

No.

It is entirely up to you to decide. If you would prefer not to take part that's OK. Your decision will not affect the standard of NHS care you receive.

If you decide NOT to take part you and your GP will agree on which treatment you will receive. This may be the same as the one you would have received by taking part in this research project.

[6] Required by forthcoming EU Clinical Trials Regulation

If you do decide to take part you are free to withdraw at any time, without giving a reason, by contacting your GP.

What will happen to me if I take part?

If you agree to take part in this research you will be given either [*X*] or [*Y*] both of which are used in the NHS to treat [*patient's medical condition*].

The actual treatment YOU get will be decided at random (like tossing a coin to make a decision) and NOT by your doctor.

You do not need to do anything more. If you agree to take part all the information needed for the research (but not anything that could identify you) will be collected from your medical records and shared with the researchers.

[Describe any additional samples/tests etc. beyond normal care]

You will be one of [number of patients to be recruited] patients taking part in this research which will last for [duration of study]. At the end of the research, or earlier if you experience any unpleasant side effects, your GP will discuss with you whether you should continue with the treatment given to you or switch to another treatment.

What are the Risks?:

[There are no extra risks involved in taking part in this research.]

[There are only minimal risks involved in this research. These are (*give detail any risks due to additional research procedures*)]

The possible side effects of the medicine you will take are included in the information leaflet that comes with that medicine.

If we do find that one treatment is better than the other for you the trial will be stopped [and you will be given the better treatment, if suitable, and you are not already taking it.]

A summary of the results of this research will be sent to all participants who would like to receive this.

Will my taking part in this study be kept confidential?

Your medical information will be kept strictly confidential by your doctor. The researchers will only be given as much information from your medical records as is needed for this research. They will not be given your name, where you live or anything that could identify you.

Who is organising and funding the research?

This study is being carried out by [details of researcher(s) and institution(s)]. [*If applicable:* The researchers will pay your GP £[amount] for including you in this study.] The research is funded by [funder]

Thank you for reading this information and for considering taking part in this research

Further Information: You can ask your GP any further questions you may have about the study.

You may also obtain further detailed information about this research, including how your medical information will be used, your privacy protected, and the compensation arrangements in the unlikely event that anything goes wrong, from the following website: [insert URL]

Contact Details:

Your G.P.:
Chief Investigator:

PIS Version No. …… Date……..