Title of Standard Operating Procedure: RDSOP07 Informed Consent – Incapacitated Adults (for CTIMP’s)

Document Summary: To describe the process for seeking informed consent for an incapacitated adult to enter a research study classified as a Clinical Trial of Investigational Medicinal Product (CTIMP), and to document that consent has been obtained.

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Target Audience: Trust-wide, Research Community, Internal and External Researchers

Consultation: R & I Office, research community and R & I Committee members

Approval Committee: R & I Committee

Cross Reference Document(s): Research Approval Policy RDSOP06 Informed Consent All Trust R & I SOP’s

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RDSOP07 Informed Consent – Incapacitated Adults (for CTIMP’s)

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1. Introduction

Informed consent is the process by which a subject voluntarily confirms their willingness to participate in a research study (where it has been established they have the capacity to make that decision) having been informed of all aspects of the study that are relevant to their decision to participate. Informed consent is an ongoing process. It involves giving information to the subject, discussing and clarifying the information, taking the subject’s written consent and subsequently providing any new information that might affect the subject’s willingness to continue in the study.

Consent is documented by means of a written, signed and dated informed Consent Form. Further information on designing appropriate patient information and Consent Forms is available on the HRA website (see section 5).

2. Purpose

To describe the process for seeking informed consent for an incapacitated adult to enter a Research study, and to document that consent has been obtained.

Guidance on consenting adults is outlined in Trust Wide R & I SOPS 6.

3. Roles and Responsibilities

3.1 Within the Organisation

It is the responsibility of the Research & Innovation Office to make Trust R&I SOPs available to all research active staff working on Trust-approved research studies.

It is the responsibility of the study Chief Investigator (CI) or local Principal Investigator (PI) to ensure that up-to-date copies of Trust R&I SOPs are available to research staff.

It is the responsibility of the study Chief Investigator or local Principal Investigator to ensure up-to-date SOPs are filed in the Investigator Site File and are available to research staff, and to inform the Research Support Co-ordinator of the names of all research staff involved on a study so that copies of SOPs can be distributed appropriately.

It is the responsibility of the study Chief Investigator or Principal Investigator to designate if the SOPs of another organisation are to be followed for a study. For example those of a Clinical Research Network or commercial sponsor. If there is significant conflict between the external SOP and the Trust R&I SOP it is the responsibility of the CI or PI to resolve these with the Research Office prior to starting the study.
It is the personal responsibility of all staff to follow Trust (or the designated alternative organisations) procedural documents.

The Research & Innovation Office is responsible for managing Trust R & I SOPs including their approval, dissemination and archiving. All Trust R & I SOPs must be made available via Q-Pulse and published on the Trust website.

### 3.2 Specific to this SOP

Overall responsibility for all elements of research activity, including seeking informed consent, rests with the local Principal Investigator (PI). If the task of seeking informed consent is delegated to another member(s) of the research team, it is the responsibility of the PI to ensure that the individual(s) is suitably trained and qualified. In particular, have sufficient knowledge of the research study and understand the risks involved in order to provide any information the subject may require.

It is the responsibility of the PI to ensure that the delegation of the task of seeking consent is clearly documented.

It is the responsibility of the person seeking consent to ensure they have provided a copy of their signed and dated CV for the Investigator Site File and completed and signed the Delegation of Duties Log.

It is the responsibility of the person seeking consent to ensure they are fully familiar with all aspects of the study as described in the latest version of the protocol and approved by the Research Ethics Committee (REC).

### 4. Informed Consent

The Medicines for Human Use (Clinical Trials) Regulations 2004 (CT Regulations) allow for the inclusion in a clinical trial of an incapacitated adult, who is unable to consent, or who has given consent prior to the onset of incapacity.

There should be grounds for expecting that administering the medicinal product (if applicable) to be tested in the trial will produce a benefit to the subject outweighing the risks, or produce no risk at all.

The clinical trial should relate directly to a life-threatening or debilitating clinical condition from which the subject suffers.

In the case that an individual is unable to consent due to physical or mental incapacity then a legal representative should be approached to give informed consent.

A “legal representative”, in relation to an adult unable by virtue of physical or mental incapacity to give informed consent and who is being considered as a subject for a clinical trial, is:
A person who, by virtue of their relationship with the adult is suitable to act as their legal representative for the purposes of the trial and is available and willing to so act.

Or, if no such person is identified:

(b) The doctor primarily responsible for the medical treatment of the adult;
Or,

(c) A person nominated by the relevant health care provider.

A legal representative should not be connected with the conduct of the trial.

If an incapacitated adult has, prior to the onset of incapacity, refused to give informed consent to taking part in a clinical trial that individual cannot be included as a subject in a clinical trial.

Clinical Trial Regulations allow for the inclusion in a clinical trial of an incapacitated adult as a matter of urgency where it is not reasonably practicable to identify a legal representative, if inclusion in the trial is carried out in accordance with a procedure/protocol that has received prior approval by an ethics committee.

4.1 Who should seek consent?

The Declaration of Helsinki states that the person seeking informed consent should be a qualified physician. However, ICH Good Clinical Practice (ICH GCP) guidelines state ‘The Investigator, or a person designated by the Investigator, should fully inform the subject’ and the written informed consent form should be signed and dated by the ‘person who conducted the informed consent discussion’ (ICH GCP 4.8.5).

It is considered best practice that only those with good knowledge of the study should seek consent. In the case of a Clinical Trial of an Investigational Medicinal Product (CTIMP) this should normally be a qualified physician, unless agreed by the main Research Ethics Committee and the Research Governance Sponsor.

4.2 When to seek consent

Consent should be sought prior to any study related procedures being conducted. The timing of the signing of the consent form relative to study registration and the initiation of study procedures is subject to scrutiny. It is therefore essential to record dates correctly on both the consent form and in the subject’s medical notes.
The practice of giving information about the study to legal representatives should be an ongoing process performed by all members of the research and/or multidisciplinary team.

4.3 Informing the subject and the subject’s legal representative

Patient information should be provided to the legal representative in written and oral format. Where applicable, information should also be made available in a format appropriate to the need of the individual e.g. videos, diagrams, etc.

The language used in all information to be presented to the legal representative, including the written Consent Form, should be as clear and concise as practical and should be described in “layman's” terms so as to be understandable to the subject.

All information presented to the legal representative must have prior ethical approval.

All information presented to the legal representative should be version numbered and dated.

If information is to be translated into other languages it is advisable to obtain a certificate of assurance that the translation is correct.

The legal representative should be provided with ample time and opportunity to read the written patient information. Generally this should be at least 24 hours, however following a debate between 24 Research Ethics Committees the Research Ethics Service stated a timeframe of 24 hours is not always helpful and time given to consideration needs to be thought through for each study (see section 5). The timeframe for consent must be stated on the Ethics application and approved the Ethics Committee. This allows the legal representative sufficient time to review the information and discuss the study with family, friends or others.

Prior to the legal representative signing the Consent Form they should be given opportunity to ask questions of appropriate members of the research team.

If required, the legal representative should be given further opportunity to consider their involvement, and to ask further questions of the research staff.

If the legal representative does not speak English or has hearing loss and requires an interpreter, it is best practice to use an independent translator, as opposed to a family member.

Any information imparted to the legal representative (written or verbal) should not contain any language that causes the subject to waive (or appear to waive) any legal rights, or that releases (or appears to release) the investigator, institution or sponsor from liability for negligence.
Neither the Investigator nor any member of the clinical research team should coerce or unduly influence, by any means, a subject or their legal representative to participate or to continue to participate in a trial.

The subject should be given information according to his/her capacity of understanding regarding the trial, its risks and benefits.

### 4.4 Documenting consent

The Consent Form should be printed on letter headed paper associated with the hospital/Trust where the study is being conducted.

The Consent Form should be version numbered and dated.

The Consent Form should make reference to the version number and date of the Patient Information Sheet (PIS) that the legal representative has been given.

When the person seeking consent is satisfied that the legal representative has been fully informed and understands what study participation entails, the Consent Form should be completed by the legal representative.

It is considered best practice for the legal representative to initial each statement on the Consent Form to indicate their agreement.

The Consent Form should be signed and personally dated in ink by the legal representative and the authorised person who conducted the informed consent discussion. Each should also clearly print their name by their signature.

The process of seeking informed consent should be documented in the subject’s medical records (if applicable), detailing the study title and/or acronym, the date that consent was obtained, details of the legal representative and the version number and date of the relevant PIS and Consent Form. The entry should be dated and signed by the person authorised and responsible for conducting and obtaining informed consent.

Two copies of the original signed and dated Consent Form should be made, the original should be filed in the medical records, a copy should be given to the legal representative and a copy filed in the Investigator Site File.

The legal representative should be provided with a copy of the written patient information sheet and any other information provided to subjects.

All discussions with the legal representative and decisions should be fully documented in the Trial Master File.
4.5 Re-consent

If revisions to the research protocol throughout the course of the study result in changes that may affect a subject’s continued involvement in the study, then legal representatives should be asked to re-consent.

A revised PIS and Consent Form, appropriately version numbered and dated, should be provided to the subject. All revised documentation should be approved by the REC that originally reviewed the study before use.

The subject should be informed of the new information in a timely manner and communication of this information documented in the subject’s medical notes.

The subject should be given ample time to consider their continued involvement and to ask questions before being asked to sign the revised Consent Form.

A copy of the revised documentation should be provided to the subject, and placed on the medical notes and Investigator Site file.

4.6 If the subject regains capacity

If the subject regains capacity they should be provided with full information about the study and consent should be sought from the subject.

The decision made by the subject outweighs any prior decision made by a legal representative.

If the subject consents to continue in the clinical trial they should sign a consent form to indicate this.

If the subject does not wish to continue in the clinical trial they should be withdrawn. Any data collected up to and including that point should not be included in any analysis, unless it has prior approval by an ethics committee.
5. References and Bibliography

HRA/MRC: Principles of Informed Consent:
http://www.hra-decisiontools.org.uk/consent/principles.html

ICH Good Clinical Practice Guidelines:

Declaration of Helsinki:
https://www.wma.net/policies-post/wma-declaration-of-helsinki-ethical-principles-for-
medical-research-involving-human-subjects/

The Medicines for Human Use (Clinical Trials) Regulations 2004 (Plus subsequent amendments):