

Glossary

Abortion: the intentional destruction of a foetus within the uterus or the premature termination of pregnancy with the intention to cause death of the embryo or foetus.

Advance decision: an anticipatory decision made by an adult with capacity intended to be used in the future to refuse a specified proposed treatment, in the event of future incapacity.

Assisted suicide: assisting or encouraging another to commit, or attempt to commit, suicide.

Best interests: a test used by the courts and decision-makers to determine a range of issues that pertain to the well-being of children and adults who lack capacity.

Bolam test: a test to determine the expected standard of care in specific clinical circumstances. A doctor is not guilty of negligence if he or she has acted in accordance with practice accepted as proper by a responsible body of medical professionals skilled in that particular art.

Bolitho principle: requires that the practice accepted as proper can withstand logical analysis.

Brainstem death: irreversible cessation of the integrative function of the brainstem. It is the standard recognised in law and clinical practice as being definitive for the diagnosis of death for clinical and legal purposes.

Breach of duty: failure to meet the standard of care as measured by the **Bolam test**.

'But for' test: the basic test in law for factual causation. It means that 'but for' the negligent act, the damage would not have occurred.

Caldicott guardian: a senior person within the NHS or local authority, who is responsible for protecting confidentiality of patient information. Applications must be made to this person for appropriate information sharing.

Capacity: the mental status that is required to make self-determined choices regarding medical interventions. It requires the ability to understand, retain, and weigh relevant information and to communicate the decision made.

Causation: the actionable damage was caused by the negligent act, on the balance of probabilities.

Cell nuclear replacement: a technique by which the nucleus of an ovum is removed and replaced with the nucleus of an adult cell. This is then stimulated to undergo cell division, thereby producing stem cells without need of fertilisation.

Clinical governance: a system by which NHS and other care organisations continuously monitor and improve the quality of their services for patients.

Cloning: a process by which exact genetic replicas of organisms are produced.

Commissioning: the purchasing of healthcare services from providers.

Compulsory admission: a person who has a mental health disorder and who is admitted under **section 2, 3 or 4 of the Mental Health Act 1983** for the purpose of assessment and treatment.

Compulsory treatment: treatment that can be given on statutory grounds to a person with a mental health disorder who is competent, and even if there is refusal of consent.

Confidentiality: a duty upon medical practitioners that precludes disclosure of medical information about patients (subject to certain exceptions).

Consent: the voluntary decision of a patient who has capacity to undergo clinically indicated interventions. For consent to be valid, the decision must be voluntary, made by someone with capacity, and based on sufficient information.

Deprivation of liberty procedure: provisions under the **Mental Capacity Act 2005** that are intended to safeguard the rights of persons with a mental disorder who may lack capacity.

Doctrine of double effect: an ethical principle that distinguishes between intended good outcomes of an intervention and any unintended (yet foreseen) undesirable or bad side effects of the same.

Duress: a subjective test of whether threat or pressure is such as to overbear a person's will sufficient to affect the validity of consent.

Duty of care: a legal obligation imposed on doctors or healthcare organisations that they take reasonable care in their actions to avoid any foreseeable harm to patients.

Embryo: the first eight weeks of life. After this, the term 'foetus' is used.

Euthanasia: intentionally ending the life of a person usually to relieve pain and suffering. Active euthanasia is brought about by a positive act; passive euthanasia is brought about by an omission.

Futility: a justification used to withdraw active treatment from patients with a very poor clinical prognosis.

Gametes: reproductive cells that unite during fertilisation.

Human Fertilisation and Embryology Act: the 1990 Act, which provides the legal framework that regulates infertility treatment and research. The Human Fertilisation & Embryology Authority is the independent regulator of treatments that are regulated by the Act.

Human Tissue Act: the **2004 Act** which governs human tissue and organ donation in England, Wales, and Northern Ireland.

Informal patient: a person with a mental health disorder who does not resist hospital admission for investigation or treatment. This person is also known as a voluntary patient.

Lasting power of attorney (healthcare and welfare): a legal instrument that empowers a trusted or willing person over the age of 18 to be appointed by an adult with capacity to make healthcare decisions in the event of that adult losing capacity in the future.

Life-sustaining treatment: whether treatment is 'life-sustaining' depends on the type of treatment, as well as the circumstances in which it is prescribed.

Mental disorder: any disorder or disability of the mind. The civil aspects that pertain to the detention and treatment of those with mental disorders are governed by mental health law.

NHS Constitution: a framework for the provision of quality within the NHS. This sets out the key rights and responsibilities of patients and staff.

Opt-in system for transplantation: a system that allows the posthumous removal of organs and tissue only with appropriate consent.

Opt-out system for transplantation: a system for organ donation that is based on the assumption that everyone is willing to donate their organs and tissues unless they register their refusal. This is also known as presumed consent.

Pre-implantation genetic diagnosis: the process of screening embryos for genetic conditions before implantation and during *in vitro* fertilisation. Screening to ascertain tissue type is called pre-implantation tissue typing.

Prenatal negligence: negligence either before birth or at birth that leads to injury of the child.

Property in the human body: the concept of ownership of the body and its parts with rights to control, sell, transfer, or destroy. Under common law there is no property in a corpse.

Research Ethics Committee: a committee of professional and lay members who advise on the extent to which a research proposal meets established ethical standards and criteria.

Resource allocation: a decision to limit some forms of investigations and treatment based on finite resources.

Risk management: a process to identify clinical risk and minimise this for the future in order to improve patient safety.

Transplantation: the transplantation of tissues, cells, or organs from humans (or artificially created) into another human being. Xenotransplantation is the transplantation of tissues, cells, or organs from one species to another.

Wrongful birth: prenatal negligence that results in an unwanted birth.

Wrongful conception: prenatal negligence that leads to an unwanted conception.

Wrongful life: prenatal negligence that leads to impairment in the life of the child.