

# Consent

## Overview

- Consent is an essential part of clinical care. While it is not always the primary cause of a claim, it is frequently a contributing factor, underscoring its importance in reducing medico-legal risk.
- Cases involving consent as a contributing factor included those where the main issue related to the procedure/ surgery, practitioner behaviour, or medication.
- The recurring concern was that patients received insufficient information.
- The most frequently reported gaps in information related to explanations of risks, details about the procedure, treatment or test, alternative options, and fees.
- In almost half of consent claims, care was assessed as not meeting expected standards.

## Practice points

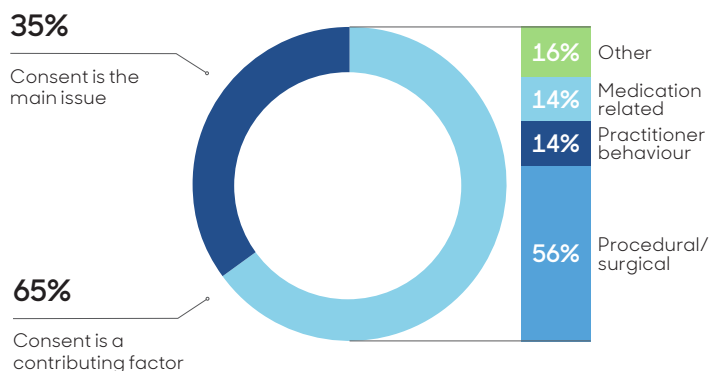
- A thorough, ongoing consent process is important across all aspects of care, not only procedures.
- Ask yourself:
  - Information – *Does your patient have enough?*
  - Capacity – *Is your patient able to make this decision?*
  - Voluntariness – *Is your patient making this decision freely?*
- As well as general risks, discuss the risks that are significant to your patient ('material risks').
- Providing information alone is not sufficient – ensure the patient understands what has been discussed.
- Document consent discussions including the information you provided to your patient.

All data is based on Avant claims and complaints closed from 1 July 2020 to 30 June 2025.

## 1 in 6 claims involved consent.

Consent was a concern across a wide range of claims including about a procedure or surgery, practitioner behaviour (e.g. tests, physical examinations) and medication.

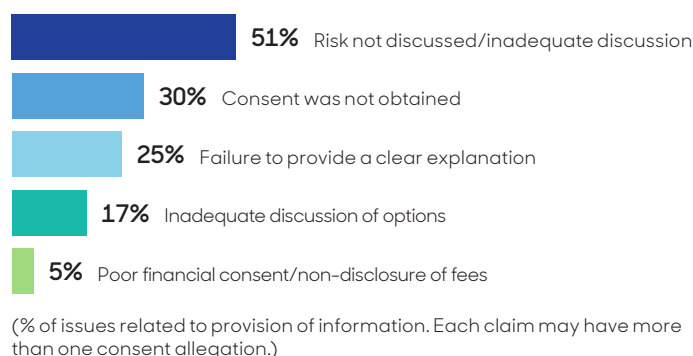
In most cases, it was a contributing factor to the claim rather than the main cause.



|                                  | Procedural/surgical                                                                                                                                                               | Practitioner behaviour                                                                                                                       | Medication related                                                                                                    |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| <b>Main issue often raised</b>   | <ul style="list-style-type: none"> <li>• cases where outcomes did not meet patient expectations</li> <li>• concerns about the appropriateness of the surgical approach</li> </ul> | <ul style="list-style-type: none"> <li>• issues about tests and inappropriate examinations</li> <li>• poor communication</li> </ul>          | <ul style="list-style-type: none"> <li>• prescribing issues</li> <li>• concerns about drugs of dependence</li> </ul>  |
| <b>Most common consent issue</b> | <ul style="list-style-type: none"> <li>• inadequate or no discussion of associated risks</li> </ul>                                                                               | <ul style="list-style-type: none"> <li>• consent was not obtained</li> <li>• lack of clear explanation of the test or examination</li> </ul> | <ul style="list-style-type: none"> <li>• inadequate discussion of the risks associated with the medication</li> </ul> |

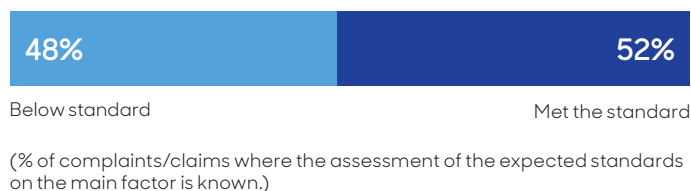
## Across these claims, insufficient provision of information was the predominant issue.

- 91% of consent claims related to provision of information. Other issues involved capacity and documentation.
- The most common information gaps related to:
  - the risks involved
  - explanation about the procedure, treatment or test
  - available options
  - clinical fees (e.g. no financial consent, incorrect quote, unhappy with fees charged).
- Not obtaining consent was another significant concern.



## Assessment of the care provided

Experts and/or regulators assessed the care provided in consent claims, with the following results:



## About the analysis

This report is based on our analysis of the underlying themes in nearly 16,000 claims for Avant member doctors from all specialties, including complaints to regulators and compensation claims finalised between 1 July 2020 and 30 June 2025.

Claims involving consent were classified as those for which an issue with consent was the main or contributing factor.

## Medico-legal advice

If you receive a claim or complaint, contact us on 1800 128 268 for expert [medico-legal advice](#) on how to respond – available 24/7 in emergencies.

Avant's Risk Advisory Service provides personalised support to help proactively reduce your exposure to claims. You can benefit from a personalised risk assessment with a focus on strategy to improve your medical records. Contact us at [Risk.Advisory@avant.org.au](mailto:Risk.Advisory@avant.org.au) or visit [avant.org.au/risk-advisory-services](https://avant.org.au/risk-advisory-services).

For any queries on this analysis, please contact us at [research@avant.org.au](mailto:research@avant.org.au).

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