Ethical challenges in staged and tailored consent

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Outline

- What we mean by consent
- The ‘orthodox’ model of consent in RCTs
- Justifications for departures from the orthodox model
- Specific ethical challenges
  - Awareness of randomization
  - The issue of time-lapse
  - Consent and respect for persons

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Consent

A form of communication whereby ‘an act that would have been impermissible for some reason is no longer impermissible for that reason.’

Walker T. Consent and autonomy. In: Müller A, Schaber P (eds.). *The Routledge Handbook of the Ethics of Consent*. Oxford: Routledge; 2018; 131–139.

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Consent

We assess the adequacy of consent in terms of:

- The extent to which the participant *understands* what he or she is agreeing to
- The extent to which the participant feels *free* either to grant or withhold consent (autonomy)

However,

- Consent is a *prima facie*, not an absolute, moral requirement.
- Consent is distinct from issues of welfare.

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The ‘orthodox’, specified model of consent in clinical trials

- Consent is obtained at the outset – before any measurement of outcome variables, randomization and delivery of interventions
- Information on the nature and content of *all* interventions is provided
- It is made clear that the aim of the activity is research, not clinical care (to minimize the therapeutic misconception)
- Consent is monitored and/or reaffirmed as appropriate

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Broad consent in TwiCs

Consent is obtained as follows:

- 'Specific' consent for the collection and use of data for research purposes
- 'Broad' consent regarding the possibility of being randomized into a trial of a new intervention
  - If such a trial takes place, those randomized to the intervention are asked to consent. No consent is sought from those remaining on standard care.

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Departing from the orthodox model – possible justifications

- The requirements of the orthodox model are still satisfied, albeit in a different way
- Certain requirements of the orthodox model are *unnecessary* in the present case
- Certain requirements of the orthodox model are desirable, but *unattainable* in the present case
- There are other countervailing ethical considerations (e.g., based on harms/benefits or utility)

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Three ethical challenges

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Challenge 1: awareness of randomization

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Awareness of randomization

Participants in the intervention group consent – but do so retrospectively – to being randomized to the intervention.

Participants in the standard care group do not consent to being randomized (though they may have previously consented to the *possibility* of being randomized).

Although their clinical care does not change, they are not aware of having been randomized to this group in the context of the RCT.

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Awareness of randomization

Random assignment (randomization) versus random sampling (Wendler, 2018).

'Rather than randomly *assigning* all of the eligible individuals in the pool to the experimental arm or the control arm, imagine that investigators randomly *sample* a percentage of the eligible individuals and offer them the experimental treatment. The remaining eligible individuals are offered standard treatment, and the outcomes in the two groups are compared.' (p. 18)

Wendler D. Innovative approaches to informed consent for randomized clinical trials: identifying the ethical challenges. *Clinical Trials* 2018;15:21–24 (original emphasis)

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Awareness of randomization

'If individuals do not need to consent prospectively to the use of random *sampling*, they do not need to consent prospectively to the use of random *assignment*. And if individuals do not need to be informed that they are being offered standard treatment because they were not *sampled*, they do not need to be informed that they are being offered standard treatment because they were randomly *assigned* to that option' (p. 18–19)

Wendler D. Innovative approaches to informed consent for randomized clinical trials: identifying the ethical challenges. *Clinical Trials* 2018;15:21–24 (original emphasis)

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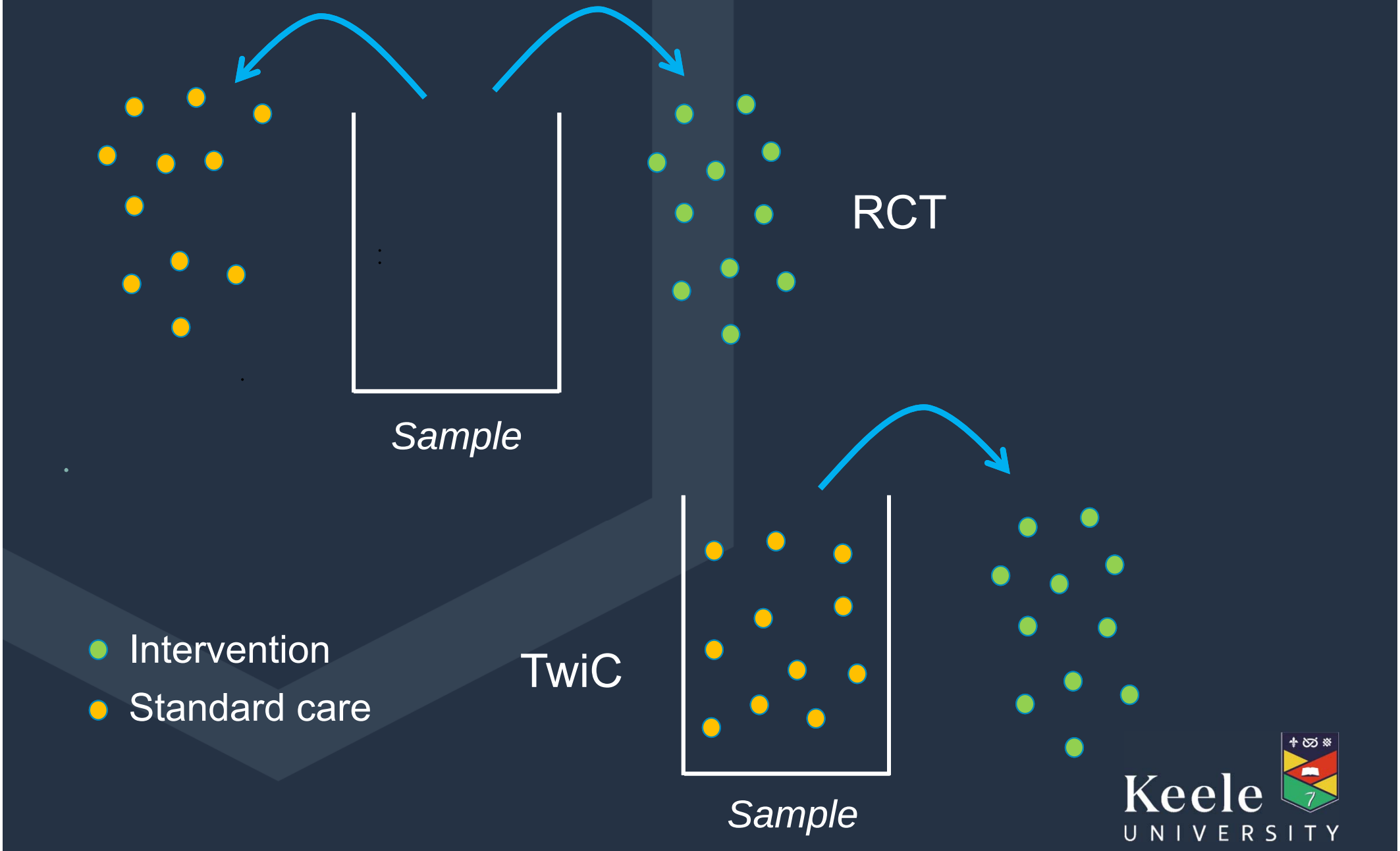
A distinction without a difference?



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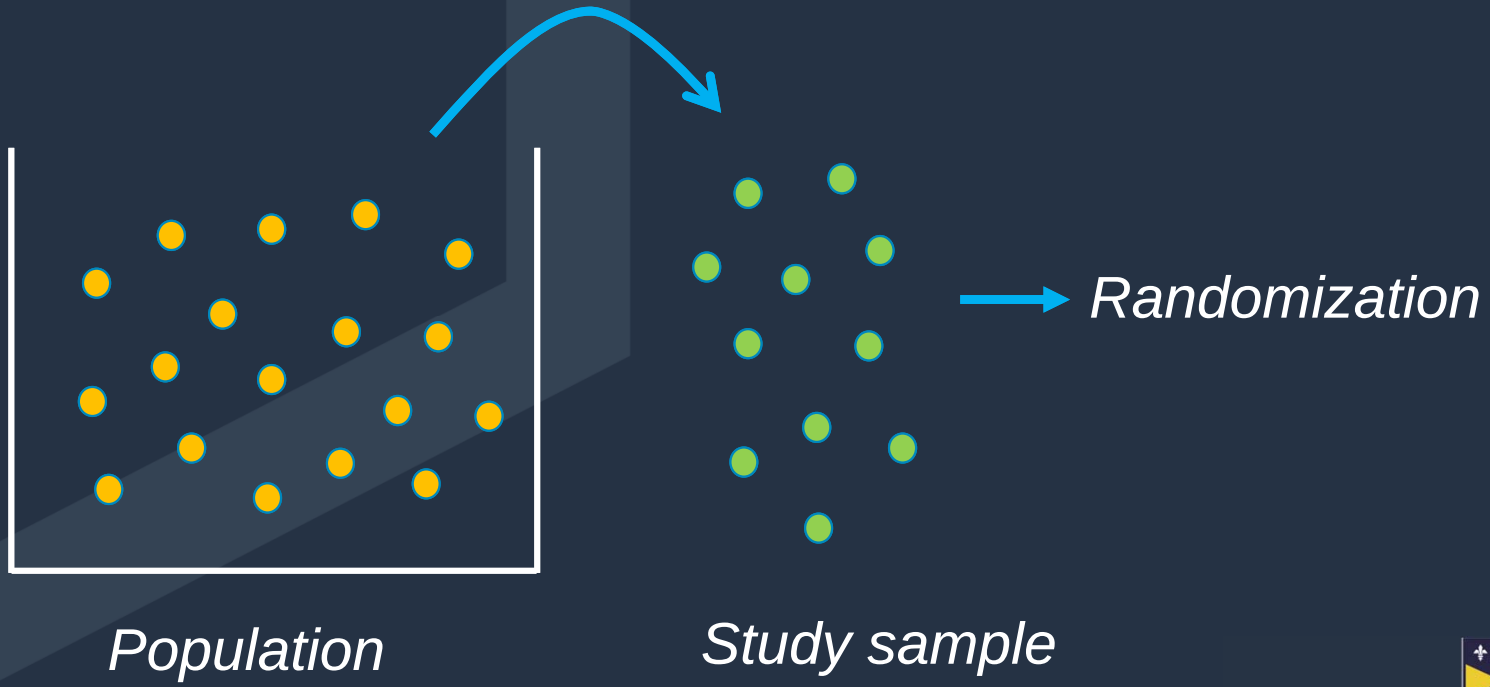
Awareness of randomization

A distinction *with* a difference.

You may or may not be randomly sampled *for* a study, but you are randomized *within* a study.



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Challenge 2: the issue of time-lapse

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The issue of time-lapse

At cohort inception, consent may be gained for possible future randomization.

As consent is commonly viewed as a process, not an event (Lidz et al, 1988), does this prior consent still carry the necessary weight for those later randomized to the usual care group?

Should it be reaffirmed?

Lidz CW, Appelbaum PS, Meisel A. Two models of informed consent. *Archives of Internal Medicine* 1998;148:1385–1389.

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Challenge 3: the issue of respect for persons

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Consent and respect for persons

'Research participants are treated with respect when they are given a reasonably complete description of the research project and *they identify the goals of the study as valuable to themselves*… by providing their informed consent participants agree to take on the goals, or ends, of the project. In so doing, the ends pursued are not merely those of the researcher, *they become the participants' ends as well*.'

Weijer C, Goldstein CE, Taljaard M. TwiC or treat? Are trials within cohorts ethically defensible? *Clinical Trials* 2018;15:21–24 (emphasis added)

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Consent and respect for persons

Does broad consent – rather than the orthodox model of 'specified' consent – satisfy the notion of respect for persons, in relation to the standard care arm?

Is having the opportunity to say 'yes' as important as being able to say 'no'?

(There are no implications in terms of care received, but the issue is not one of welfare)

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