

Consent - children

To a limited extent, 16 and 17 year olds are able to take medical decisions independently; they are presumed in UK law to have the capacity to consent to medical treatment. However, their refusal of treatment can in some circumstances be overridden. Below that age, if a patient has capacity they can provide consent in their own right. Where young people lack capacity, those with parental responsibility can usually provide legally valid consent.

Basic considerations

It is assumed that once a young person has reached the age of 16 they have the capacity to consent to their own treatment unless there is significant evidence to suggest otherwise. Below that age a young person may have capacity to consent to their own treatment depending on the nature of the intervention and their maturity, ability to understand and being able to fully appreciate what is involved in the treatment, thus being "Gillick competent".

In circumstances where children lack capacity, consent from someone with parental responsibility will usually be appropriate; in cases of dispute court intervention may be necessary.

To obtain valid consent the usual principles apply, i.e. the patient has capacity, is adequately informed and freely agrees.

Parental responsibility

When children lack capacity, valid consent can be provided by someone with parental responsibility. This might include:

- The mother or father (healthcare professionals only need one person with parental responsibility to give consent for them to provide treatment)
- A legally appointed guardian
- A person with a residence order
- A designated local authority
- A local authority or person with an emergency protection order.

Note the variation in rules across the UK in relation to 16-17 year olds who lack capacity:

- England, Wales and Northern Ireland: parents can consent to investigations and treatment that are in the young person's best interests. In some cases treatment can be provided in the patient's best interests without parental consent (though input from parents may be necessary to assess best interests).

- Northern Ireland: treatment can be provided in the young person's best interests if a parent cannot be contacted, but legal advice should be obtained about seeking court approval for significant interventions (unless an emergency)
- Scotland: 16 and 17 year olds who lack capacity to consent are regarded as adults and any treatment should be in line with the Adults with Incapacity (Scotland) Act 2000.

Where a child does not have capacity to consent in their own right, it is nonetheless important to consider their involvement in discussions about their care.

Key points

- For young people under the age of 16, consider if they are competent to consent to a procedure in their own right.
- Consent from someone with parental responsibility is usually sufficient when a young patient lacks capacity to consent.
- For complex cases, especially those which involve disputes about treatment, seek specific advice from your employer's legal team or MDDUS.

Further guidance

- GDC. *Standards for the dental team*: <https://www.gdc-uk.org/professionals/standards>
- GMC. *Consent – patients and doctors making decisions together*: <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/consent>

MDDUS Training & CPD resources: <https://www.mddus.com/training-and-cpd>