

Consent - children

For a child or young person to consent to an intervention they must have capacity, be sufficiently informed and be able to make a decision of their own free will.

Basic considerations

Capacity

There is a legal presumption that once a young person has reached the age of 16, they have the capacity to consent to their own treatment unless they have been assessed and found to lack capacity.

Below that age a young person may have capacity to consent to their own treatment depending on their maturity and ability to understand and fully appreciate what is involved in an intervention, including its nature, purpose and possible consequences. This is known as Gillick competence.

In Scotland, a child of 12 or more is presumed to be of sufficient age and maturity to form a view, although it is important to remember that this presumption is only a starting point and that each child must be assessed as an individual to determine whether or not they have capacity.

Difficult situations may arise where a child or young person with capacity refuses an intervention that is considered in their best interests. In such circumstances legal advice should be sought as resolution can be complex and may require court intervention.

Parental responsibility

Where children and young people under the age of 16 lack capacity, valid consent can be provided by someone with parental responsibility. This might include:

- The mother
- The father (providing that he is married to the mother or named on the birth certificate)
- A legally appointed guardian
- A person who has had a parental responsibility granted by the Courts
- A designated local authority
- For further information on parental responsibility see [Parental Responsibilities - Medical & Dental Guidance for Practitioners | MDDUS](#)

It is usually sufficient to have consent from one person with parental responsibility. In cases of dispute, legal advice should be sought and court intervention may sometimes be necessary.

Patients over 16 years old

For patients aged 16 or 17, who are found to lack capacity there is variation as to how decisions are made:

- In England, Wales and Northern Ireland: someone with parental responsibility can consent to investigations and treatment that are in the young person's best interests. In some cases an intervention can be provided in the patient's best interests without parental consent, although consideration should be given to seeking legal advice in these circumstances, particular where interventions may be significant.
- In 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.

Best interests

All decisions made for a child or young person who lacks capacity should be made in their best interests. It is important to involve them in discussions about their care as far as possible.

In an emergency, where it is not possible to obtain the appropriate consent, a clinician can provide the necessary immediate treatment to safeguard a child's life or prevent a serious deterioration to their health.

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, or where an intervention considered to be in a child's best interests is refused 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>
- GMC. 0-18 years: <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/0-18-years>

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