

Consent for Minors

Do you Treat Children or Young People?

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The issues relating to the treatment of minors are full of contention, as a Health and Well-being Professional you have a right to choose whether to treat those who are below the age of consent or not, but what does the law say? And when should you ensure you have sort the consent of a parent or guardian?

The policies Balens offer require that the consent of a parent or guardian be sought before treatment of a minor below the age of 16, and we would advise all therapists to abide by the terms as set out by their own Insurance. However, there is legal precedent for when this may not necessarily be the case and it is important that you consider the **Fraser guidelines** and **'Gillick competency'** when treating children and young people (which our policies also give note to).



It is viewed in UK law that a minor can make their own decisions related to their health, according to 'Gillick competency' and the 'Fraser guidelines' where appropriate. A UK Law Lord's ruling in the early 1980's on the Gillick Contraception case states:

"...whether or not a child is capable of giving the necessary consent will depend on the child's maturity and understanding and the nature of the consent required. The child must be capable of making a reasonable assessment of the advantages and disadvantages of the treatment proposed, so the consent, if given, can be properly and fairly described as true consent."

And that

"Parental right yields to the child's right to make his own decisions when he reaches a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision."

Gillick Competence and the Fraser guidelines originally issued in connection with contraception advice, have since cascaded into other areas especially those concerning the health and well-being of the minor involved. However it is important if deciding to work in line with Gillick competence that you can demonstrate how the competence was evaluated and that you have relevant experience/qualification to assess Gillick competence as this will need to be proved if a claim is made.

Whether you choose to treat a young person or not without parental consent, based upon the above will be individual to you and your own conscience. But regardless of this, do also bear in mind that the statute of limitation is much longer and may be overturned in the case of minors. This is why we always recommend you keep case notes in accordance with your policy terms and Data Protection requirements (see also our article on Record Keeping) and include your rationale as to why you decided (or not) to treat /advise without parental consent, in order to defend a late discovered claim should the need ever arise.

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