

Consent to research with children

Where research involves interviewing children, or looking at data about them (where the data are not in the public domain), or taking blood or other samples from them, careful thought should be given as to who can give the requisite consent.

As a preliminary, it is worth asking: what is consent for?

If the consent is for medical treatment, the purpose is clear: refusal of consent protects the patient from unwelcome treatment, while the giving of consent protects the person giving the treatment from an action for assault. Similarly, the requirement that consent be given before research is carried out protects both the subject (if consent is refused) and the researcher (if consent is given). Therefore a proposed subject of research must be free to refuse consent; and if the researcher does not give them (adults or children) the opportunity to refuse, the researcher and the University are legally vulnerable.

Children CAN give a valid consent, to research as well as to medical treatment. That much is clear from *Gillick v West Norfolk Area Health Authority* [1986] AC 112 HL. They can do so if they have sufficient maturity and understanding to do so (often referred to as being *Gillick*-competent). It is certainly in their interests and in the researchers' interests that they should do so wherever possible.

Case law after *Gillick* makes it clear that when a child is not *Gillick*-competent, or even if they ARE, a person with parental responsibility ("PR") can consent to medical treatment and, therefore, also to this sort of research, on their behalf. Indeed, the consent of an adult with PR overrides the child's refusal and is a valid protection for the doctor or, in this case, the researcher. However, our concern is with ethics as well as with the law, and accordingly the Research Ethics Committee insists that the *child* should give consent whenever he or she possibly can. If in doubt, the consent of the child AND of a person with PR should be obtained.

If the child is unable to give consent, or it is felt more appropriate for the PR to give consent on their behalf, the child should be involved in an assent process as far as possible. This may mean developing a simplified Information Sheet to explain to the child what the research involves.

Parental responsibility is a term of art, deriving from the Children Act 1989. All mothers have it; so do all fathers who are married to the child's mother, and many unmarried fathers. When a child is in local authority care, the local authority has PR in addition to the parents, and the parents cannot exercise PR without the local authority's agreement; so when a child is in care any consent should come from the local authority.