What is Gillick competency? What are the Fraser guidelines?

Written and compiled by the NSPCC Safeguarding Information Service (December 2009)

When deciding whether a child is mature enough to make decisions, people often talk about whether a child is 'Gillick competent' or whether they meet the 'Fraser guidelines'. This factsheet briefly explains the meaning of these terms.

What do 'Gillick competency' and 'Fraser guidelines' refer to?

Gillick competency and Fraser guidelines refer to a legal case which looked specifically at whether doctors should be able to give contraceptive advice or treatment to under 16-year-olds without parental consent. But since then, they have been more widely used to help assess whether a child has the maturity to make their own decisions and to understand the implications of those decisions.

In 1982 Mrs Victoria Gillick took her local health authority (West Norfolk and Wisbech Area Health Authority) and the Department of Health and Social Security to court in an attempt to stop doctors from giving contraceptive advice or treatment to under 16-year-olds without parental consent.

The case went to the High Court where Mr Justice Woolf dismissed Mrs Gillick's claims. The Court of Appeal reversed this decision, but in 1985 it went to the House of Lords and the Law Lords (Lord Scarman, Lord Fraser and Lord Bridge) ruled in favour of the original judgement delivered by Mr Justice Woolf:

"...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."

References


Gillick v West Norfolk & Wisbech Area Health Authority [1985] UKHL 7 (17 October 1985) from the British and Irish Legal Information Institute (BAILII) website.

For further information please see:

http://www.nspcc.org.uk/inform/research/questions/gillick_wda61289.html#How_is_Gillick_competency_assessed?

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Fraser Guidelines

Please follow the Fraser Guidelines and complete the checklist below in all cases.

The young person signing this form must be able to understand the advice given and have sufficient maturity to understand all implications*  

The young person cannot be persuaded to inform his/her parent/carer that advice on contraception has been sought.

The young person is very likely to have sexual intercourse with or without contraceptive advice or treatment.

The young person’s mental or physical health or both might suffer unless he/she receives contraceptive advice/treatment.

It is in the young person’s best interest to receive the advice or treatment even without parental/carer consent.

Is the worker satisfied that these guidelines are being met?

*Staff must work within these guidelines to ensure that the young person is able to understand the contraceptive choices available and their consequences. This includes the implications and risks of sexual relationships.

Signature of Worker: ………………………………………………………………………………………………………

Print Name: ……………………………………………………………………………………………………………

Date: …………………………………………………………………………………………………………………

I understand that information about me will be stored in accordance with the Data Protection Act 1989.

Signature of Young Person: ……………………………………………………………………………………………

Print Name: ……………………………………………………………………………………………………………

Date: …………………………………………………………………………………………………………………