

CHILDREN AND YOUNG PEOPLE

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In England and Wales, a person is a child until their 18th birthday; older children are distinguished from their younger counterparts, since 16- and 17-year-olds are additionally described as 'young people'. Citizens under 16 years are presumed incompetent, but they may rebut that presumption and establish their competence by demonstrating that they have sufficient maturity – intelligence to understand fully what is proposed – to make the relevant decision. Hence 'Gillick' competence. In the case of incompetent children (or competent children who choose to rely on a proxy), parents or someone with parental responsibility are ordinarily required to provide consent on their behalf. This said, surgeons should: /uni25CF take care to explain to children what is being surgically proposed, and why; /uni25CF always consult with children about their response; /uni25CF where possible, take the child's views into account and note that even young children can be competent to consent to treatment provided that they can 'pass' the Gillick test for the decision in question; /uni25CF it is almost always appropriate, in addition, to separately discuss the treatment with their parents, although it should be noted that, if a child is Gillick competent to defend their confidential information, it should not be assumed that they wish to share this with their parents. When such Gillick competence is present, under English law, children can provide their own consent to surgical care, although they cannot unconditionally refuse it until they are 18 years old. These provisions illustrate the importance of respecting the autonomy of child patients and remembering that, for the purposes of consent to medical treatment, they may be just as capable as adults. If faced with a surgical emergency in a child of 15 for whom no consent is available for life- or limb-saving treatment, and there really is no time to seek authority from someone with parental responsibility, the child or the court, then proceed with the operation without consent. So far, in the English common law stretching back 800 years, no case has been brought to court complaining of a child's life being saved using this doctrine of necessity . CHILDREN AND YOUNG PEOPLE

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