

## **Children and Young People under 18 years of age Consent for Treatment and Parental Responsibility**

When a child has been referred for treatment, consent for this intervention is required either from the child or one person with parental responsibility for the child.

Although legally only one person's consent is required, ideally, if there is any difference in opinion between the child and/or the people with parental responsibility, we would expect everyone to try to reach an agreement before proceeding.

Without consent we cannot offer treatment. If treatment plans change then we will seek further consent.

### **When is a child considered competent to consent?**

A young person aged 16 -18 years can give consent for themselves if they have the capacity to do so. Children under 16 years may also give consent but they must have the maturity to understand fully the nature of the treatment, risks, benefits and alternatives.

### **What is Parental Responsibility?**

This refers to the rights, duties, powers and responsibilities that most parents have in respect of their children. Parental responsibility includes the right to consent to medical treatment on behalf of the child. Without parental responsibility we are unable to involve you in decisions about the healthcare of the child.

### **Who has Parental Responsibility?**

- A birth mother automatically has parental responsibility for her child.
- A father usually has parental responsibility if he's either:
  - Married/ civil partner to the child's mother
  - Listed on the birth certificate
- An adoptive parent will acquire parental responsibility on adoption.

## **SPECIFICS**

### **Births registered in England and Wales**

- If the parents of a child are married/ civil partners when the child is born, or if they've jointly adopted a child, both have parental responsibility.
- They both keep parental responsibility if they later divorce.

## *Unmarried/ non civil partner parents*

An unmarried/ non civil partner father can get parental responsibility for his child in one of three ways:

- jointly registering the birth of the child with the mother
- getting a legal Parental Responsibility Agreement with the mother
- getting a Parental Responsibility Order from a court

## **Births registered in Scotland**

- A father has parental responsibility if he's married to the mother when the child is conceived, or if he marries her at any point afterwards.
- An unmarried father has parental responsibility if he's named on the child's birth certificate (from 4 May 2006).

## **Births registered in Northern Ireland**

- A father has parental responsibility if he's married to the mother at the time of the child's birth.
- If a father marries the mother after the child's birth, he has parental responsibility if he lives in Northern Ireland at the time of the marriage.
- An unmarried father has parental responsibility if he's named, or becomes named, on the child's birth certificate

## **Births registered outside the UK**

If a child is born overseas and comes to live in the UK, parental responsibility depends on the UK country they're now living in.

## **Same-sex female parents**

### *Civil partners/ married*

Same-sex female parents will both have parental responsibility if they were civil partners or married at the time of the treatment, e.g., donor insemination or fertility treatment.

### *Non-civil partners/ married*

For same-sex female partners who are not civil partners or married, the second parent can get parental responsibility by applying for a legal Parental Responsibility Agreement

### **Same Sex Male Parents**

- When conceiving via a surrogate, same sex male parents usually make an application for a Parental Order under the 'Human Fertilization and Embryology Act 1990'.
- The Court Order will have the effect of removing any Parental Responsibility from the surrogate. The couple will then have full Parental Responsibility in relation to the child.

### **Notes**

- This leaflet refers to 'mother' and 'father' as this is how it is set out in British law. We do however recognise that the parent who carries and delivers the baby may self-identify in a different way. This of course may also apply to the other parent.
- Stepparents can gain parental responsibility by obtaining a Parental Responsibility order from the court.
- Parental responsibility for Looked After Children will vary. Foster parents **do not** have parental responsibility. This can either remain with the parents or is shared between the parents and Local Authority or lies wholly with the Local Authority. Always seek clarification from a Looked After Child's named social worker.
- Teachers, or staff from children's residential establishments such as mental health institutions/boarding schools/specialist units **do not** have parental responsibility.
- If a child is brought to hospital under a Police Protection Order, parental responsibility **does not lie** with the police, but is instead remains with the parent(s) with parental responsibility until such time that an Emergency Protection Order is granted by the Local Authority
- If there are difficulties obtaining a consensus for consent to treatment between individuals with Parental Responsibility or between a young person competent to give consent and their parents then advice and support will be sought from the hospital Legal Department



