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Consent and refusal: selective respect for a young person's autonomy?

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Friday 19 – Saturday 20 September 2008

Thistle Hotel, Cheltenham, Gloucestershire

**Conference programme**



# RCN conference and exhibition for nurses working with children and young people

Children and families: cutting edge or on the edge?

### 2.1.1

#### **Consent and refusal: selective respect for a young person's autonomy?**

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#### **Aim**

To explore the ethical issues around consent and refusal of treatment in young people.

#### **Abstract**

Within healthcare, it is widely accepted that young people under the age of 16 years can provide valid consent for their own treatment, so long as they are deemed to have the mental capacity to do so, based on the principles of "Gillick" competence or according to "Frazer" guidelines. This would indicate that health care professionals respect young people's autonomy in relation to decisions regarding their treatment. Recent changes to legislation (Children Act 1989; United Nations 1989) have resulted in the rights of children and young people being recognised and protected to ensure that their views are taken into consideration. However, there would appear to be reluctance, on the part of health care practitioners and of the law to apply the same principles when it comes to respecting a young person's autonomy when refusing treatment, indicating selective respect for a young person's autonomy. According to Gillon (1986) doing things to someone without their consent constitutes overriding their autonomy.

It would seem that treating a young person who has refused that treatment, goes one step further than this, as not only has treatment been provided without their consent, but also against their expressed wishes. This is a clear example of paternalism. It is remarkable that a young person under the age of 16 who is deemed Gillick competent can have their consent to treatment accepted, but up to 18 years can have their refusal overruled by the person with parental responsibility or the courts (DH 2001). When young people's decisions conveniently match those of the parent/carer or practitioner, then this is honoured and regarded as good practice but when it does not, then the wishes of the young person are weakened, on the basis that the adult knows best.

#### **Learning outcomes**

At the end of this session participants should be able to:

- Describe the law regarding consent and refusal in young people
- Understand the principles of "Gillick" or "Frazer" competence
- Identify the ethical dilemmas faced by nurses when young people refuse treatment

#### **Recommended reading list**

- Beauchamp, T.L. & Childress, J.F. (2001) Principles of Biomedical Ethics. 5th Edition. Oxford: Oxford University Press
- Lowden, J. (2002) Children's rights: A decade of dispute. Journal of Advanced Nursing. 37, 1, 100-107
- Department of Health Policy and Guidance- Consent forms. [www.dh.gov.uk/consent](http://www.dh.gov.uk/consent) Accessed 01/12/07

#### **Biography**

Jackie Vasey has worked in the field of children's nursing for 18 years, prior to gaining a Senior Lecturer post with the Child Branch Team at the University of Huddersfield 18 months ago. Jackie has undertaken the role of Pain Management Sister for Children's services and ultimately as Practice Development Sister for Children's services at Mid Yorkshire Hospitals. Jackie is also undertaking the MSc in Health Professional Education. Jackie is also writing three chapters in a children's skills book, editing and leading on the book. Jackie has a particular interest in clinical skills, problem based learning, pain management, orthopaedics and ethical issues in child nursing.