

CQC Guidance - Gillick Competency and Fraser guidelines

There is often confusion over the meaning of Gillick competence and Fraser Guidelines during CQC inspections.

The terms Gillick competence and Fraser guidelines are not interchangeable.

Some background information first...

In UK law a person's 18th birthday draws the line between childhood and adulthood (Children Act 1989 s105) – so in health care matters, an 18 year old enjoys as much autonomy as any other adult.

To a more limited extent, 16 and 17 year olds can also take medical decisions independently of their parents. The right of younger children to provide independent consent is proportionate to their competence - a child's age alone is clearly an unreliable predictor of his or her competence to make decisions.

Gillick competence

The 'Gillick Test' helps clinicians to identify children aged under 16 who have the legal capacity to consent to medical examination and treatment. They must be able to demonstrate sufficient maturity and intelligence to understand the nature and implications of the proposed treatment, including the risks and alternative courses of actions.

In 1983, a judgment in the High Court laid down criteria for establishing whether a child had the capacity to provide valid consent to treatment in specified circumstances irrespective of their age.

Two years later, these criteria were approved in the House of Lords and became widely acknowledged as the 'Gillick test.' The Gillick Test was named after a mother who had challenged health service guidance that would have allowed her daughters aged under 16 to receive confidential contraceptive advice without her knowledge.

Fraser guidelines

As one of the Law Lords responsible for the Gillick judgment, Lord Fraser specifically addressed the dilemma of providing **contraceptive** advice to girls without the knowledge of their parents. He was particularly concerned with the welfare of girls who would not abstain from intercourse whether they were given contraception or not. The summary of his judgment referring to the provision of contraceptive advice was presented as the "Fraser guidelines." Fraser guidelines are narrower than Gillick competencies and relate specifically to contraception.