

BRIEFINGS ON TRANS HEALTHCARE

MEDICAL CONSENT

2024



FACT SHEET: MEDICAL CONSENT

In Australia, young people under the age of 18 years are usually able to consent to medical care on their own if they are deemed mature enough to consent. This is referred to as “Gillick competence” or the “mature minor principle.”

Gillick competence comes from an important legal case in the UK where the courts first recognised that a minor might be competent to make decisions about their own medical care without parental consent.^{1,2} Gillick competency is assessed on a case-by-case basis for each decision. For a young person to be Gillick competent, they must have sufficient “understanding and intelligence” to enable them to understand fully what is proposed.²

Consideration is given to:

- The young person’s age and maturity,
- And their ability to fully understand
 - The medical advice being given
 - The nature, consequences, and implication of the proposed treatment
 - The potential side effects or risks to health from the proposed treatment
 - The impact of accepting or rejecting the treatment.³

Consent requirements for accessing gender-affirming healthcare in Australia differs between states. All paediatric gender services in Australia prefer including parents and caregivers alongside the young person when making decisions and providing consent for gender-affirming medicines. This may not be possible or safe in every case. Families should speak to their care team to understand the local regulations governing consent.

Intended use of information

While we make every effort to make sure the information in this resource is accurate and informative, the information does not take the place of professional medical advice.

Do not use our information as a substitute for the advice of a health professional.

If you are an individual seeking medical or health information for yourself or for someone else, you should obtain advice relevant to your particular circumstances from a health professional.

More information and support

For clinicians, please contact AusPATH for resources and support. www.auspath.org.au

For families and young people, please contact Transcend Australia for resources and support. www.transcend.org.au

This resource and associated evidence briefs and fact sheets can be downloaded from www.transcend.org.au/resources/evidence

REFERENCES

1. Bird S. Consent to medical treatment: the mature minor. *Aust Fam Physician*. 2011;40(3):159-160.
2. Huesch C. What is a Gillick competent child? Alliance Family Law. 2021. Accessed September 1, 2024. <https://www.familylawincanberra.com.au/what-is-a-gillick-competent-child/>
3. Youth Legal Service. What age can I consent to my own medical treatment? 2020. Accessed September 1, 2024. <https://youthlegalserviceinc.com.au/fact-sheet-medical-treatment/>