

Whose consent to complete a CAF?

Children and young people are entitled to be involved and consulted about issues that concern them. From around the age of 12 there is a presumption that it is their agreement that is necessary for a CAF to be completed.

CAF is always a voluntary process and it is completed collaboratively with the subject of the CAF and/or their parents/carers, and involves their informed consent.

Although children at pre-school and primary school age should be involved in the plans made for them, and able to express their opinions, they are not deemed capable of giving or withholding consent. The Common Assessment will be completed by their parent or carer, but the child will need to know why this is happening, who is involved in the Team around the Child, what the hoped for outcomes are and how they will know that they have been achieved. They need to understand that this is not a punitive process, it is supportive and its purpose is to make sure that things go better in the future.

In relation to younger children, any one person with Parental Responsibility (see below) can give this consent; it is not necessary to involve all who may have Parental Responsibility. (section 2 (7), The Children's Act 1989).

In situations where families are in conflict you will need to consider carefully whose consent should be sought. If the parents are separated, it would usually be the consent of the resident parent.

If you judge a child or young person to be competent to give consent, then their decision is the one to consider even if a parent or carer disagrees.

Who has parental responsibility?

- Married couples who have children together both automatically have parental responsibility.
- Parental responsibility continues after divorce.
- Mothers automatically have parental responsibility.
- Where the parents are not married, the unmarried father has parental responsibility if:

His name is registered on the birth certificate - this is the case for births registered after 1 December 2003. Fathers can re-register if their names have not been placed on the birth certificate before this date.

- He later marries the mother.
- Both parents have signed an authorised parental responsibility agreement.
- He obtains a parental responsibility order from the court.
- He obtains a residence order from the court.
- He becomes the child's guardian.

Others, such as grandparents and stepparents, do not have parental responsibility. They can acquire it by:

- Being appointed as a guardian to care for a child if their parent dies.
- Obtaining a residence order from the court for a child to live with them.
- Adopting the child.

How do you decide if a young person can consent in their own right?

In the majority of cases the best outcomes for children and young people are achieved by the child, family and professionals working together. However there may be cases where the young person does not want his/her parents to be involved, or is happy to share the completed CAF but wants to be the sole completer.

Fraser Guidelines refer to a House of Lords' Judgment (following the case of Victoria Gillick 1985). The judge in the Victoria Gillick case gave the following general advice:

"It is suggested that a child or young person's ability to make decisions about his/her life depends on him/her having "sufficient understanding and intelligence to be capable of making up his/her own mind".

The ECM practitioners guide to information sharing states that from the age of 16 a young person who has the capacity to understand may give consent and make their own decisions. However children aged 12 or over may generally be expected to have sufficient understanding.

'Sufficient understanding' relates to a particular child/young person (CYP) on a particular occasion. Depending on the complexity of the issue a CYP may be competent to take some decisions and not others.

In order to assess a Child or Young Person's understanding you should explain the issues to them in a way that is suitable for their age, language and likely understanding. Where applicable you should use their preferred mode of communication.

Use the following criteria to assess whether a particular CYP has sufficient understanding

- Can they understand the question being asked of them?
- Do they have a reasonable understanding of
 - What information might be shared?
 - The main reasons for sharing information?
 - The implications for sharing information, and of not sharing it?
- Can they
 - Appreciate and consider the alternative courses of action open to them?
 - Weigh up one aspect of the situation against another?
 - Express a clear personal view on the matter, as distinct from repeating what someone else thinks they should do?
 - Be reasonably consistent in their view on the matter, or are they constantly changing their mind?

In all cases, you should record that you completed these steps. Also record the judgement that you made as a result, on whether the child or young person was competent to decide to engage in the CAF process, or in the sharing or withholding of information. Also ensure that the CAF itself is signed and there are details of which agencies there is consent to share with.

Recording is important so that you can evidence the grounds on which you made your decision.