

LETTER

England uses a competency-based approach to consent for health interventions

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Senecal *et al.*¹ raise an important issue in their recent paper. The amount and complexity of information produced by next generation sequencing (NGS) poses difficult ethical issues, particularly when minors are involved. Unfortunately, the authors incorrectly ascribed a fixed-age basis to the question of consent for health-based interventions in England and Wales (E&W).

Their quoted source, the Family Law Reform Act 1969,² did indeed reduce the age of majority in E&W to 18, and a fixed age of consent for health interventions to 16.

The significance of this was clarified by a ruling of the House of Lords, England's then Supreme Court, in 1986. The 'Gillick' case involved a parent (Mrs Gillick) seeking a court order preventing any doctor from providing contraceptive advice to her under-16 daughters without the mother's consent.

The court held that,³ in exceptional cases, it was permissible for doctors, using their clinical judgement, to give contraceptive advice to an under-16 girl without parental permission. The Fraser guidelines set out, in the judgement, the approach to be followed specifically in relation to contraceptive advice.

The term 'Gillick competence'⁴ has come to apply more generally to consent by people under-16 in the field of health-related interventions.

It requires that where the child has sufficient maturity not only to understand what is proposed but also to consider the nature, risks and outcomes of the proposed course of action, the consent of a parent or guardian is not required. As the growing child develops such competencies, he or she gradually assumes the ability to consent; the parental right, or rather responsibility, for consent correspondingly diminishes. It was clearly envisaged that each set of circumstances would be different and a judgement would need to be made in each case.

This approach provides an excellent framework for considering health interventions (including the provision of health-related information) arising from information derived from NGS. Having said that, the complexity of applying the Gillick competency framework in specific cases should not be underestimated.

CONFLICT OF INTEREST

The author declares no conflict of interest.

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1 Senecal K, Thys K, Vears D *et al*: Legal approaches regarding health-care decisions involving minors: implications for next generation sequencing. *Eur J Hum Genet* 2016; **24**: 1559–1564.

2 Family Law Reform Act 1969 c46. Available at: <http://www.legislation.gov.uk/ukpga/1969/46> (accessed on 13 January 2017).

3 Gillick v West Norfolk and Wisbech Area Health Authority (1985) 3 All ER 402. Available at: <http://www.bailii.org/uk/cases/UKHL/1985/7.html> (accessed on 13 January 2017).

4 Lord Scarman in Gillick v West Norfolk and Wisbech Area Health Authority. (1985) 3 All ER 402. Available at: <http://www.bailii.org/uk/cases/UKHL/1985/7.html> (accessed on 13 January 2017).