



Getting parental consent when treating children



Rupert Hoppenbrouwers, senior dento-legal adviser at the Dental Defence Union (DDU), discusses parental consent within blended families.

When treating young children, it may be necessary to get the authority of someone with parental responsibility. With complex family relationships however, it might not be clear to dental professionals who has parental responsibility, and this can create a dilemma. Here we explain the principles and procedures around parental responsibility when treating younger children.

Parental responsibility means the legal rights and obligations that parents and guardians have for their child. Parental responsibility is a very important legal concept between parents and children. It is defined by The Children Act 1989 as 'all the rights, duties, powers, responsibility and authority' which by law a parent has in relation to their child. This includes:

- The right to give consent to medical and dental treatment
- The freedom to arrange for some of the responsibility to be met by someone acting on their behalf
- Statutory right to apply for access to the health records of their child.

Biological parents usually have parental responsibility for their child if they were married at the time of birth or marry later unless it is removed by way of a Court Order. It is also possible to apply for parental responsibility.

Stepparents do not automatically acquire parental responsibility for a child by marrying or entering into a civil partnership with the child's parent. A stepparent who is married to, or the civil partner of, a parent who has parental responsibility for their child may apply for an order for parental responsibility.

Parental responsibility and informed consent

Ordinarily, any one person with parental responsibility can authorise a child's treatment if that child does not have the capacity to consent. If the child is so called 'Gillick competent' and has the capacity to give valid consent, consent from someone with parental responsibility is unnecessary. However, with the child's agreement, it may be wise to seek to involve those with parental responsibility to avoid a potential complaint that they should have been involved in the decision making.

Obtaining valid consent is an ethical as well as a legal requirement, and section 3 of *Standards for the dental team* sets out the GDC's expectations in relation to consent.¹ In general, dental professionals are required to explain to patients or, in the case of young children who lack capacity, to someone with parental responsibility, in non-technical language, the nature, purpose and risks of the

'Dental professionals are required to explain to patients or, in the case of young children who lack capacity, to someone with parental responsibility, in non-technical language, the nature, purpose and risks of the proposed procedure and any alternatives.'

proposed procedure and any alternatives. If the treatment is difficult to understand, you can consider using drawings, diagrams and models.

What to do if a stepparent wants access to a child's records

If a stepparent requests access to a child's records, it's important to establish if they have parental responsibility. If the child is over 16 or capable of understanding the significance of disclosure of their records, you should respect their confidentiality and only disclose records with their consent.

If the child lacks capacity to make the decision, you can allow someone with legal parental responsibility to access a child's records for the purpose of exercising their parental responsibility on behalf of the child. If you are in doubt about the person's status, you could ask to see a copy of the child's birth certificate and/or the parents' marriage certificate, or any other official document confirming they have parental responsibility.

If more than one person has parental responsibility, there is no obligation to seek consent to disclosure of records from others with parental responsibility, but it may be wise to make sure they are aware of the request for access to the child's records and that you take into account any objection they may raise.

What to do if a child is accompanied by a grandparent or other carer

Someone with parental responsibility can arrange for decisions about routine dental care to be met by a grandparent or carer, and normally such an arrangement should be confirmed in writing by the person with parental responsibility. In the absence of such an arrangement, and if you are unable to contact a person with legal parental responsibility (which can be done by telephone if necessary), your overriding consideration should be the best interests of the child. You should take into account the nature and possible risks of the proposed treatment, the consequences to the child if untreated and the urgency.

If a child is in pain and a temporary solution isn't possible, you should not be justifiably criticised if you provide emergency treatment that is in the child's best interests. Whatever your decision, make a full note of any discussion in the patient's clinical records, including details of who the discussions were with. In such emergency situations, it may be prudent to consider getting a second opinion from a colleague to back up your own treatment decisions.

If you have a query about parental responsibility or consent, your dental defence organisation is a good source of guidance and support.

References

1. General Dental Council. *Standards for the dental team*. Updated 28 June 2019. Available at: <https://www.gdc-uk.org/standards-guidance/standards-and-guidance/standards-for-the-dental-team> (accessed May 2022).

<https://doi.org/10.1038/s41407-022-0922-y>

Why didn't you tell me?

FREE



10 **FREE** hours of CPD a year



<https://cpd.bda.org/login/index.php>

BDJ Team