

Consent and Child Protection Considerations



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Consent

- What is consent?
- How much information?
- Parental responsibility - who has it?
- When can a child give consent?
- What if a child refuses consent?
- When to seek legal advice
- Other issues

What is Consent?

Ethical or Legal?

- Consent relates to individual autonomy, not medical outcome
- Any informed and competent person can authorise a medical procedure
- Age is not *necessarily* a major factor
- For legal consent 5 preconditions are required

What should we cover when seeking consent?

- Use language that child and carers can understand
- Discuss techniques and choices
- Invasive procedures
- Risks ? What and how
- Documentation
- Therapeutic privilege?

Parental Responsibility

Who can give consent?

- For children born after 1/12/03 (E&W)
- Biological mother and father if registered on birth certificate whether married or not
- Adoptive parents (formal adoption process)
- A legally appointed guardian
- Others by a court order
- Persons delegated the right to consent by a parent or legal guardian
- Foster carers who have control and care

When can a child consent?

- In E&W no statute exists governing the right of minors under 16 to consent to treatment
- In common law competent young people may have decision making autonomy although this is not clear
- In practice a young person may consent provided that he/she understands the nature, purposes and consequences of the treatment

Quotable Quote

- "... Good parenting involves giving minors as much rope as they can handle without an unacceptable risk that they will hang themselves..."
- (Lord Donaldson 1992)

Refusal of Consent

- Refusal to consent or refusal of anaesthesia?
- The Law says....?
- Validity Issues
- How to proceed in the face of a valid refusal
- The legal implications

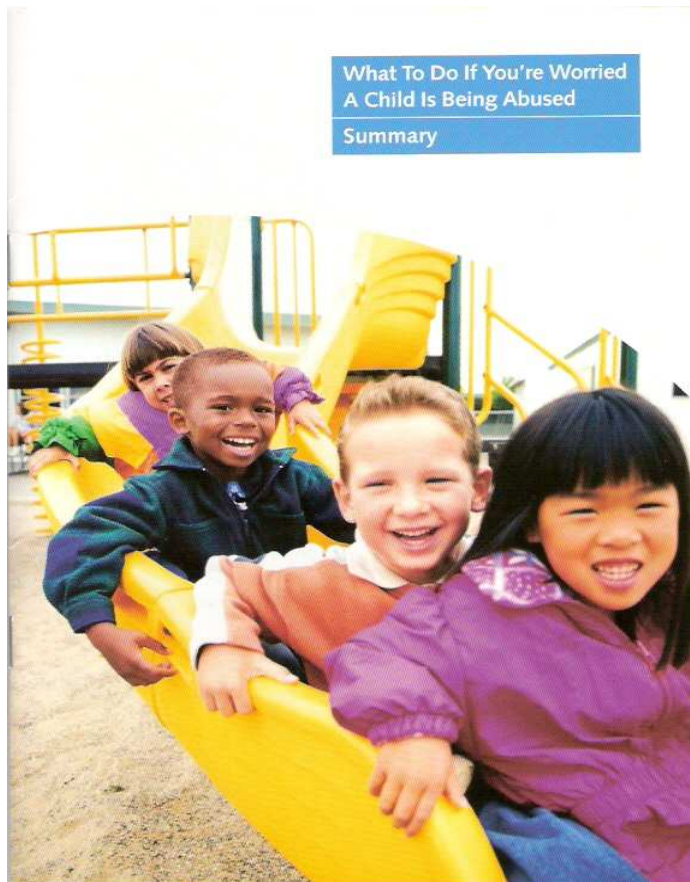
Seeking Legal Advice

- If a competent young person refuses consent
- If those with responsibility may not be acting in the child's best interests
- Those with responsibility lack the competence to decide
- Detention/Restraint required
- The child is a ward of court and the proposed treatment is important

Other Issues

- Restraint
- Liability to legal action/prosecution
- Parent under 16 and not competent
- Documentation

Child Protection Issues in Anaesthesia



- What Should we Know?
- General principles
- Terminology
- Scenario discussion
- Further information

Anaesthetists and Child Protection Issues

- Resuscitation
- ICU Treatment
- Anaesthesia for Forensic Examination
- Unexplained Finding during the Conduct of Anaesthesia

What Do We Need to Know ?

- **Royal College of Anaesthetists:**

“Anaesthetists should be aware of The Children Act, the rights of the child, child protection issues and the process of obtaining consent”

- **British Medical Association:**

“All doctors working with children should be able to recognise, and know how to act upon, signs that a child may be at risk....”

- **Healthcare Commission:**

Service Improvement Review 2005

General Principles 1

- Concerns about a child at risk of abuse must be acted upon
- The best interests of the child must guide decision making and override those of parents or carers
- Efforts should be made to include children (and their carers) in decisions which closely affect them

General Principles 2

- Doctors must keep clear, accurate, comprehensive and contemporaneous notes of their concerns, findings and discussions with colleagues.
- All doctors working with children must be aware of their local Area Child Protection Committee's (ACPC) procedure manual

Relevant Information

- UN Convention on the Rights of the Child 1989
- The Children Acts 1989 and 2004
- The Laming Report into the death of Victoria Climbié 2003
- DoH guidance "What To Do If You're Worried A Child Is Being Abused" 2003
- BMA guidance "Doctors responsibilities..." 2004

Child Abuse – Terminology and Definitions

- “Child Abuse and Neglect” defines all ill treatment of children including physical and sexual assault as well as failure of support of a child’s health or development.
- Four broad categories of abuse are set out in the DoH guidance “Working Together to Safeguard Children” (1999)

Potential Child Abuse ?

- Does this finding concern me?
- Is the child in immediate danger?
- What do I do if I'm not sure?
- Who can I ask for assistance?
- How do I find out about what to do next?

Scenario

- Girl 6 years old
- MUA # Left arm
- Suppository insertion following induction
- Suspicious bruising to buttocks and genital area noted
- No history or explanation of this noted at clerking

Suggested Approach 1

- Must do something!
- Immediate proceedings not necessary
- Discuss with colleagues/seek advice from a senior paediatrician
- Ask a colleague to confirm the findings
- Document your findings and concerns
- Complete the proposed treatment

Suggested Approach 2

- Discuss the findings with the child's mother, seek an explanation
- Explain (without accusation) that the injuries require further assessment
- Keep the child in hospital
- Ensure full documentation of the discussion
- Inform the designated senior paediatrician
- Follow local child protection procedures

Further Considerations

- Consent
- Disclosure of Information and Confidentiality
- Child Care Proceedings
- The Social Context
- Impending Changes

Other Issues

- The Patulous Anus?
- Mandatory Training?
- Specific Guidance for Anaesthetists

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