

BAPT Policy regarding Consent for Children and Young People under the age of 18

The British Association of Play Therapists (BAPT) has a duty to afford the highest possible standards of protection to the public and to promote the best standards of personal and professional conduct within the Play Therapy profession. The establishment of BAPT Consent Policy is part of the continuing commitment of BAPT to ensure the professional practice of its members. It is expected that all registered play therapists adhere to BAPT consent policy which should be read in conjunction with BAPT Professional Code of Conduct policy. Having regard to the current statutory and case law, and to relevant government guidance, we recommend that:

When making decisions in relation to therapy for children and young people, practitioners should keep the following points in mind:

- the welfare and best interests of the child or young person must always be a significant consideration
- everyone who works with children has a responsibility for keeping them safe and to take prompt action if welfare needs or safeguarding concerns are identified
- all practitioners and agencies are expected to contribute to whatever actions are needed to safeguard and promote a child or young person's welfare
- children and young people should always be kept as fully informed as possible and should receive clear and detailed information concerning their care and treatment, explained in a way they can understand and in a format that is appropriate to their age

- the child or young person's views, wishes and feelings should always be sought, their views taken seriously and professionals should work with them collaboratively in deciding on how to support that child or young person's needs.
- children and young people have as much right to expect their dignity to be respected as anyone else, and
- children and young people have as much right to privacy and confidentiality as anyone else. Where a child who is competent, or a young person who has capacity to make a decision regarding their therapy does not wish their parent (or others with parental responsibility) to be involved in decision-making about their treatment, their decision should be respected unless the disclosure can be justified; for example, if there is cause to suspect that the child or young person is suffering or is likely to suffer, serious harm. In certain circumstances confidential information may be disclosed without the child or young person's consent; for example, if there is reasonable cause to believe that the child or young person is suffering, or is at risk of suffering, significant harm. Practitioners should be familiar with the Department of Health's Information Sharing: guidance for practitioners and managers 2008, which includes guidance on assessing a child or young person's ability to make decisions about sharing information.
- Where possible and appropriate, practitioners should encourage the child or young person to involve their parents (unless it is considered that to do so would not be the best interests of the child or young person). They should also be proactive in discussing with the child or young person the consequences of their parent(s) not being involved.
- In obtaining consent for therapy for a child or young person under the age of 18, we will have regard to the following:
 - Young people under the age of 18 and over the age of 16 may give consent for their own therapy, provided that they have the mental capacity to do. The test of mental capacity for them will be the same as that for an adult under the Mental Capacity Act 2005.
- Children under the age of 16 may give consent for their therapy, and request confidentiality, provided that they are competent to give consent within the guidelines of the Gillick case.

- When considering whether a child has the competence to decide about the proposed intervention, practitioners may find it helpful to consider the following questions.
- Does the child understand the information that is relevant to the decision that needs to be made?
- Can the child hold the information in their mind long enough so that they can use it to make the decision?
- Is the child able to weigh up that information and use it to arrive at a decision?
- Is the child able to communicate their decision (by talking, using sign language or any other means)?

3. In relation to Children under the age of 16 who are not competent to give consent, the following principles apply:

All decisions regarding therapy and consent are subject to the overriding principle of the welfare of the child, and decisions should be made with regard to the best interests of the child.

Subject to this overriding principle:

- Those with parental responsibility have a central role in relation to decisions about the treatment of their child, and it is therefore essential that those proposing the therapy identify who has parental responsibility for the child.
- Where the parents of a child or young person both have parental responsibility and are separated, and the child or young person is living with one parent in accordance with a child arrangements order (formerly known as a residence order), practitioners should be aware that the parents continue to share parental responsibility and both should be involved in making decisions about their child.
- In some cases, it may not be possible or practical to obtain consent for therapy from all who have parental responsibility for the child, e.g. where a parent is unavailable or cannot be traced, or where a parent may be unable to make a

decision focusing on the best interests of the child, or in cases where it would not be in the best interests of the child.

It is also recognised that sometimes, where there are serious safeguarding concerns, informing a parent with parental responsibility may place a child in danger and/or might compromise an investigation within Children's Social Care and or a police enquiry.

It is the expectation of BAPT, that registered members take individual responsibility for ensuring and remaining up to date with current legislation.

Refer to:

Department of Health's Information Sharing: guidance for practitioners and managers 2008

Mental Health Act 1983 Code of Practice (DoH 2015) Chapter 19: page 167 for, guidance and measuring competency in a child

Government Website:

<https://www.gov.uk/parental-rights-responsibilities/who-has-parental-responsibility>

DfE (2015) Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children. <http://www.education.gov.uk>

Gillick competency and Fraser guidelines:

<https://www.nspcc.org.uk/preventing-abuse/child-protection-system/legal-definition-child-rights-law/gillick-competency-fraser-guidelines/>

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Registered Charity Number: 1115673

1 Beacon Mews, South Road, Weybridge, Surrey, KT13 9DZ

01932 82638