

# **No right to know for parents**

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A mother claimed a “right to know” if a healthcare professional sought to treat her children in respect of sexual matters, including abortion. The court upheld a teenager’s right to confidentiality, and to receive treatment in the absence of parental knowledge if certain conditions are fulfilled – upholding the principles enshrined in the 1986 House of Lords Gillick decision.

In 2004 the Department of Health published guidance which said that doctors and other health professionals may provide contraception, sexual and reproductive health advice and treatment to those under the age of 16 without parental knowledge or consent, provided that the young person understood the advice and its implications, and his or her physical or mental health would otherwise be likely to suffer.

Sue Axon, a mother of five children including two daughters, challenged the Department of Health guidance. She argued before the court that a healthcare professional should be obliged to advise parents if they proposed to treat a child under the age of 16 in respect of their sexual health specifically contraception, sexually transmitted infections and abortion. She did not argue that the treatment could not be provided: but she asserted a “right to know” on behalf of parents. Such a right does not currently exist although healthcare professionals will, when treating somebody under the age of 16, particularly in the context of sexual health, recommend and seek to persuade the young person that they should involve their parents. However, if the young person does not wish their parents to be consulted their confidentiality must be respected, and treatment given if it is in their best interests, and that was the judgment of the House of Lords in the Gillick case.

## **The judgment**

While the Gillick case was concerned with the provision of contraceptive advice to under 16s the court confirmed its principles were of wider application. In particular, in the context of this challenge the principles were applicable to the provision of treatment and advice in relation to sexually transmitted diseases and abortion.

## **What to do**

The approach of a healthcare professional to a young person seeking advice and treatment without notifying his or her parents should be in accordance with Lord Fraser’s guidelines in Gillick.

Therefore the healthcare professional is obliged to provide advice and treatment on sexual matters without parental knowledge or consent provided they are satisfied that: - the young person cannot be persuaded to involve his or her parents; if the treatment/advice is not provided their physical or mental health are likely to suffer; it is in the best interests of the young person to receive advice and treatment on sexual matters without parental consent or notification.

This decision maintains the status quo. The judgment should be welcomed for its clarity. Guaranteeing teenagers the right to confidential healthcare will hopefully encourage them to continue to seek the advice of healthcare professionals.

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