

- 3.21 If there is a significant change in the use to which the information will be put compared to that which had previously been explained, or a change in the relationship between the agency and the individual, consent should be sought again. Individuals have the right to withdraw consent at any time.

### Whose consent should be sought – children and young people

- 3.22 You may also need to consider whose consent should be sought. Where there is a duty of confidence, it is owed to the person who has provided the information on the understanding it is to be kept confidential. It is also owed to the person to whom the information relates, if different from the information provider.
- 3.23 A child or young person, who has the capacity to understand and make their own decisions, may give (or refuse) consent to sharing. Children aged 12 or over may generally be expected to have sufficient understanding. Younger children may also have sufficient understanding. As explained in paragraph 3.30, this is presumed in law for young people aged 16 and older. When assessing a child's understanding you should explain the issues to the child in a way that is suitable for their age, language and likely understanding. Where applicable, you should use their preferred mode of communication.
- 3.24 The following criteria should be considered in assessing whether a particular child or young person on a particular occasion has sufficient understanding to consent, or to refuse consent, to sharing of information about them:
- Can the child or young person understand the question being asked of them?*
- Do they have a reasonable understanding of:*
- what information might be shared;
  - the main reason or reasons for sharing the information; and
  - the implications of sharing that information, and of not sharing it?
- Can they:*
- appreciate and consider the alternative courses of action open to them;
  - weigh up one aspect of the situation against another;
  - express a clear personal view on the matter, as distinct from repeating what someone else thinks they should do; and
  - be reasonably consistent in their view on the matter, or are they constantly changing their mind?
- 3.25 Considerations about whether a child has sufficient understanding are often referred to as Fraser guidelines, although these were formulated with reference to contraception and contain specific considerations not included above. For more details see the Glossary.

- 3.26 In most cases, where a child cannot consent or where you have judged that they are not competent to consent, a person with parental responsibility should be asked to consent on behalf of the child. If a child or young person is judged not to have the capacity to make decisions, their views should still be sought as far as possible.
- 3.27 Where parental consent is required, the consent of one such person is sufficient. In situations where family members are in conflict you will need to consider carefully whose consent should be sought. If the parents are separated, the consent would usually be sought from the parent with whom the child resides. If a care order is in force, the local authority will share parental responsibility with parent(s) and practitioners should liaise with them about questions of consent.
- 3.28 If you judge a child or young person to be competent to give consent, then their consent or refusal to consent is the one to consider, even if a parent or carer disagrees. Where parental consent is not required, you should encourage the young person to discuss the issue with their parents. However, you should not withhold the service on the condition that they do so.
- 3.29 These issues can raise difficult dilemmas. Wherever appropriate you should try to work with all involved to reach an agreement or understanding of the information to be shared. You must always act in accordance with your professional code of practice where there is one and consider the safety and well-being of the child, even where that means overriding refusal to consent. You should seek advice from your manager or nominated advisor if you are unsure.

