Are there limits to what interventions a competent young person can consent to?

As with other medical interventions, a competent young person may give valid consent to abortion, contraception and treatment for a sexually transmitted infection, regardless of age or parental involvement, although every reasonable effort must be made to persuade the child to involve their parents or guardians. The courts have also confirmed that a parent’s refusal to give consent for an abortion cannot override the consent of a competent young person. With respect to providing contraceptives, doctors should take into account whether the patient is likely to have sexual intercourse without contraception; assess whether the patient’s physical or mental health or both are likely to suffer if the patient does not receive contraceptive advice or supplies; consider whether the patient’s best interests would require the provision of contraceptive advice or methods or both without parental consent.

Sexual activity in someone under the age of 13 will always be a cause for concern (see later question). The need to share information without consent to protect the young person must be balanced against the need to provide a service that encourages young people to seek help when they need it. Where health professionals believe that children may be subject to coercion or exploitation, existing
child protection guidelines must be followed. Health professionals with concerns should seek advice and help, anonymously if necessary, from colleagues with expertise in child protection, such as named and designated professionals (see Card 11 on child protection).

**What if the young person lacks capacity?**
If a young person lacks competence, somebody with parental responsibility can legally give consent for the provision of contraception and abortion (provided the legal requirements of abortion legislation are met). If a young person lacks competence to consent validly to the provision of contraceptives (for the purpose of providing contraception) and termination of pregnancy, this raises the question over the ability of the young person to consent to sexual intercourse. In cases of doubt or difficulty, doctors should seek legal advice. If there are concerns that a child is being sexually abused, doctors should act in accordance with child protection guidelines.

**Does a doctor need to inform the police or social services of all underage sexual activity?**
No, only when there are concerns that the young person is being abused. The GMC’s *0-18 years* guidance states that doctors ‘should usually share information about sexual activity involving children under 13, who are considered in law to be unable to consent’. Doctors ‘should discuss a decision not to disclose with a named or designated doctor for child protection and record [your] the decision and the reasons for it’ (GMC. *0-18 years: guidance for all doctors*, paragraph 67). While reporting to social
services or the police should always be considered where the individual is very young, the obligation of health professionals is to act in the best interests of the patient and this requires flexibility. Where a health professional decides to disclose information to a third party against a child’s wishes, the child should generally be told before disclosing the information. The discussion with the patient and the reasons for disclosure should also be documented in the patient’s record.

**Does a doctor need to inform the parents of a young person?**

In most cases no. If children under 16 are competent to understand what is involved in the proposed treatment, the health professional should, unless there are convincing reasons to the contrary, for instance abuse is suspected, respect the patient’s wishes if they do not want their parents or guardians to know. However, every reasonable effort must be made to persuade the child to involve their parents or guardians, and explore the reasons if the patient is unwilling to do so, particularly for important or life-changing decisions.

Occasionally, young people seek medical treatment, for example contraception but are judged to lack the capacity to give consent. An explicit request by a patient that information should not be disclosed to parents or guardians, or indeed to any third party must be respected save in the most exceptional circumstances, for example where the health, safety or welfare of the patient or another individual would be at risk. Therefore, even where the health professional considers that a child is too immature
to consent to the treatment requested, confidentiality should still be respected concerning the consultation, unless there are very convincing reasons to the contrary.

**Is it legal to provide contraception, sexual and reproductive health care without parental involvement?**

Many of these above principles are supported by statute. For example, the Sexual Offences Act 2003 provides a legal framework aimed at protecting children from sexual abuse. Under the Act, young people under the age of 16 still have the right to confidential advice on contraception, sexual and reproductive health. The bulk of the Act applies to England and Wales, with a small number of provisions applicable in Scotland and Northern Ireland. Furthermore, the Sexual Offences (Northern Ireland) Order 2008 lowered the age of consent to sexual activity in Northern Ireland from 17 to 16; and in addition, it established that the provision of sexual health services to individuals under the age of 16 will not constitute an offence.

**What if a doctor disapproves of young people being sexually active?**

Doctors must not allow any personal views held about a patient to prejudice their assessment of the patient’s clinical needs or delay or restrict the patient’s access to care. Doctors should not impose their beliefs on patients. Where doctors exercise a conscientious objection, within the limits set by the GMC, doctors should be aware that children and young people in particular may have difficulties making alternative arrangements and
must, therefore, make sure that arrangements are made for another suitably qualified colleague to take over as quickly as possible (GMC. 0-18 years, paragraph 72).

**What if a GP doesn’t provide contraceptive services?**

GPs who do not provide contraceptive services must advise young people seeking those services of colleagues whom they could consult. It is acceptable for another GP to offer contraceptive advice and treatment to a competent young person in such circumstances. It must, however, be explained to the patient that it is in her medical interests for her GP to be informed if contraception has been prescribed and of any medical condition discovered, which requires investigation or treatment. This is particularly important if the patient is at the same time under the active clinical care of her own GP or that of another doctor. Providing that young people trust that their confidentiality will be respected by their GP and the Primary Care Team, they are unlikely to refuse a request that information be passed to their usual doctor.

**Can sterilisation be performed on children and young people?**

Sterilisation is occasionally requested for young women with serious learning difficulties. Although considerably rarer, it may also be suggested as an option for a young man with learning difficulties. Sterilisation for contraceptive purposes should not normally be proposed for young people aged under 18 given that there are other options available. In the exceptional circumstances in which there is
agreement that sterilisation is the best option for a young person, doctors should seek legal advice in order to obtain a court declaration.

**Key advice**

- Department of Health. *Best practice guidance for doctors and other health professionals on the provision of advice and treatment to young people under 16 on contraception, sexual and reproductive health.* Available at www.dh.gov.uk/assetRoot/04/08/69/14/04086914.pdf
- GMC. *0-18 years: guidance for all doctors.* Available at www.gmc-uk.org