



2021/22

Children and Young People Competency
(for Therapeutic Support) Policy

Clean Slate Policies

CHILDREN AND YOUNG PEOPLE COMPETENCY (FOR THERAPEUTIC SUPPORT) POLICY

CONTENTS

- 1. PURPOSE.....2
- 2. SCOPE2
- 3. AUDIENCE2
- 4. RELATED DOCUMENTS2
- 5. DEFINITIONS2
 - 5.1 Service User2
 - 5.2 Therapeutic Support2
 - 5.3 Practitioner.....3
 - 5.4 Capacity.....3
 - 5.5 Competence3
 - 5.6 Responsible Adult3
 - 5.7 The Organisation3
- 6. BACKGROUND.....3
- 7. PRINCIPLES4
- 8. PROCESS4
- 9. COMPETENCY ASSESSMENT5
- 10. CONSENT.....6
- 11. RECORDING.....6
- 12. APPENDIX A: COMPETENCY ASSESSMENT FORM.....7
- 13. FURTHER READING.....8
- 14. VERSION HISTORY8

1. PURPOSE

This policy sets out a framework for assessing the competency required in delivering therapeutic support for children and young people. In particular, the policy establishes the principles and procedures through which the organisation will seek consent from under 16's to participate in therapeutic support and protect the confidentiality of the client-practitioner relationship.

2. SCOPE

This policy refers to Children and Young People under the age of 16. Service users over the age of 16 are presumed to be competent to give consent for themselves, unless there are explicit reasons why this is not the case.

3. AUDIENCE

This policy is intended for:

- All members of the workforce working with children and young people
- Services users
- Agents working with children and young people
- Responsible adults of children and young people

4. RELATED DOCUMENTS

This policy should be read alongside this organisations:

- confidentiality policy
- data sharing policy
- child protection/safeguarding policy

5. DEFINITIONS

For the purposes of this policy, the following definitions apply:

5.1 Service User

The individual who receives support from the organisation. This includes survivors and their family or friends. The terms 'person', 'client' and 'victim' are included also in this definition.

5.2 Therapeutic Support

The range of psychological and emotional counselling, therapeutic approaches and support provided to service users. This includes group work.

5.3 Practitioner

A professional providing therapy and support to a service user. This includes Therapists, Counsellors, Group Facilitators and the individuals completing the competency assessment.

5.4 Capacity

The ability to understand and give legal consent to an action or arrangement.

5.5 Competence

A child or young person's ability to understand information about the proposed treatment and make a decision based on that understanding.

5.6 Responsible Adult

All adults who take on a parenting role in relation to a particular child or young person, including biological, adoptive, and foster parents; extended family and other professional care-givers such as staff from group/care homes.

5.7 The Organisation

For the purposes of this policy 'the organisation' refers to Clean Slate

6. BACKGROUND

In 1982 Victoria Gillick took her local health authority (West Norfolk and Wisbech Area Health Authority) and the Department of Health and Social Security to court in an attempt to stop doctors from giving contraceptive advice or treatment to under 16-year-olds without parental consent.

After being heard in the lower courts the case was sent to the High Court, where in 1984 Mr Justice Woolf dismissed Mrs Gillick's action stating:

"...whether or not a child is capable of giving the necessary consent will depend on the child's maturity and understanding and the nature of the consent required. The child must be capable of making a reasonable assessment of the advantages and disadvantages of the treatment proposed, so the consent, if given, can be properly and fairly described as true consent."

However, Mrs Gillick appealed and the following year the Court of Appeal overturned the original judgement in her favour.

In 1985 the case went to the House of Lords and the Law Lords (Lord Scarman, Lord Fraser and Lord Bridge) ruled in favour of the original judgment delivered by Mr Justice Woolf:

Lord Scarman's comments are often referred to as the test of "Gillick competency".

"...it is not enough that she should understand the nature of the advice which is being given: she must also have a sufficient maturity to understand what is involved."

Clean Slate Policies

"parental right yields to the child's right to make his own decisions when he reaches a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision."

Whilst the case specifically involved the issue of medical treatment, the judgement had a broader implication. It established that a responsible adult's authority and power to make decisions for a child or young people is not absolute. The rights of the responsible adult reduce as the child or young person reaches the necessary maturity required to have a sufficient understanding and intelligence around the specific matter requiring a decision. When applied to medical records and treatment, if a child or young person is deemed Gillick Competent, then there is no such thing as a parent's "right to know".

7. PRINCIPLES

The organisation will support children and young people as far as possible to make their own choices and decisions regarding their own therapeutic support and responsible adult involvement. We believe strongly that children and young people will, in the main, have better outcomes if they are supported throughout their therapeutic support journey, although we recognise that for some people this is not possible. It is not always in the best interests of the child or young person to involve the adults around them.

The Service recognises that children and young people have the right to confidentiality in therapeutic support, and that this is essential for maintaining trust with the practitioner, but accepts that confidentiality is not absolute and safeguarding must always be at the forefront of the work.

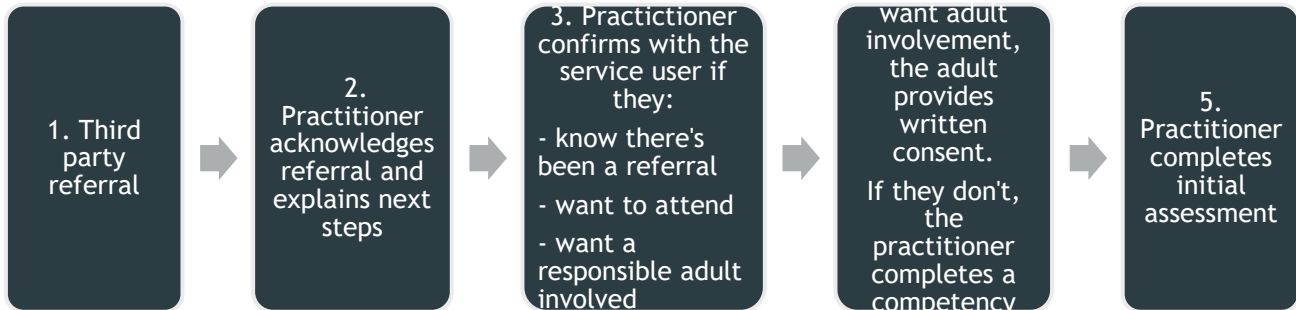
8. PROCESS

When a child or young person refers themselves, we will ascertain whether they want a responsible adult involved. If they do, then the responsible adult can provide the consent to therapeutic support. If they do not then we will assess their competence.



When a child or young person is referred by a third party, we will ascertain whether they are aware of the referral, whether they want to attend therapeutic support, and whether they want a responsible adult involved or not. If they do, then the responsible adult can provide the

consent to therapeutic support. If they do not, we will assess their competence. The responsible adult is then advised about if therapeutic support is going ahead.



9. COMPETENCY ASSESSMENT

When a child or young person want to provide their own consent, a competency assessment will be carried out by a practitioner who has the knowledge and skills to do so. They will be checking the following in their assessment:

1. The child or young person has explicitly requested that the responsible adult have no knowledge about them receiving therapeutic services.
2. The child or young person can communicate their decision and reasons for it, and this is recorded in writing.
3. The service has done everything it can to encourage the child or young person to involve the responsible adult.
4. The child or young person understands the advice/information they have been given and have sufficient maturity to understand what is involved and what the implications are. They can comprehend and process information relating to therapeutic support.
5. Without the service, would the child or young person's physical or emotional health be likely to suffer?
6. The child or young person is making the decision for themselves and not being coerced or influenced by another person.

If the practitioner can answer YES to these questions, then this will enable the service to believe the child or young person is competent to make their own decisions about consenting to and taking part in the therapeutic support.

In all cases it is preferable if a responsible adult is involved with the child or young person's therapeutic support process. However, if using the above guidelines the organisation has assessed a child or young person to be competent to give consent on their own then this cannot be overridden by a responsible adult.

10. CONSENT

Children and young people shall have adequate knowledge and understanding of the counselling process, including confidentiality, to give 'informed consent'.

Service users over the age of 16 are presumed to be competent to give consent for themselves, unless there are explicit reasons why this is not the case.

Consent can be withdrawn at any time. Children and young people with capacity to consent have the legal right to withdraw consent and or refuse treatment without the need to offer reasons for their decision.

11. RECORDING

Once a competency assessment has been completed this should be recorded in writing. An example template is provided in [appendix A](#).

If the child or young person is consenting for themselves, they need to complete a written agreement which includes a section about information sharing. For all young people who access the service we need to record:

- who we can contact in an emergency; and
- whether we can share any information about attendance, appointments, full disclosure or nothing at all to anyone who asks.

If the responsible adult is providing consent, they need to sign a written agreement.

12. APPENDIX A: COMPETENCY ASSESSMENT FORM

Assessment		Detail	
1	What are the reasons that the child or young person does not want to inform/include a responsible adult?		
2	Has the child or young person considered the benefit of involving a responsible adult?		
3	Is the child or young adult aware of the circumstances in which the responsible adult or other agencies would need to be informed? (i.e. child protection issues, when an individual is at risk of serious harm etc)		
4	Does the child or young person understand the information/advice given about the services that are offered to them (i.e. what will happen in a 1-1 session, the time scales involved, likely outcomes, what information will be recorded etc)?		
5	What physical or mental harm is likely to occur if the child or young person does not receive a service from us?		
6	Are you satisfied that the child or young person is making the decision for themselves and not being coerced or influenced by another person?		
Outcome			
Child or young person comments			
Action/next steps			
Practitioner name and signature			
		Date	
Child or young person name and signature			
		Date	

13. FURTHER READING

- [Article 8 of the Human Rights Act 1998](#) which affords young people the right to privacy
- The [UN Convention on the Rights of the Child 1989](#)
- The [Children Act 1989](#)
- [Green Paper Every Child Matters 2003](#)
- [Working Together to Safeguard Children](#) (HM Government, 2015), made under s.7 of the [Local Authority Social Service Act 1970](#), Revised 2018
- [NSPCC Learning](#)

14. VERSION HISTORY

It is recommended that this document is reviewed at minimum every 3 years. However, legal updates may need to be incorporated more frequently.

Version	Date	Approved by
1.0	02/02/2021	Nadia Brown - Project Manager