

15 June 2021

C A

By email: fyi-request-15584-3c56a97e@requests.fyi.org.nz
Ref: H202106590

Dear C A

Response to your request for official information

Thank you for your request under the Official Information Act 1982 (the Act) on 27 May 2021.
You asked:

"I would like to know what the legal definition of informed consent will be for the children in the age bracket 12-15yrs old in New Zealand. Will you be assessing for Gillick Competence? Will New Zealand follow Australia and create a new category of Mature Minor? Or can you assure me Parents will still have to give parental consent for a child to be given a vaccine and that no vaccination will occur without parental consent?"

Informed consent will be in accordance with the existing law. In New Zealand, this includes the Care of Children Act 2004, the Code of Health and Disability Services Consumers Rights (the Code) and the common law, which includes regard to *Gillick*.

The Care of Children Act (2004) interprets a child meaning a person under the age of 18 years. Section 36(3) provides:

If the consent of any other person to any medical, surgical, or dental treatment or procedure (including a blood transfusion) to be carried out on a child is necessary or sufficient, consent may be given:

- by a guardian of the child; or
- if there is no guardian in New Zealand or no guardian of that kind can be found with reasonable diligence or is capable of giving consent, by a person in New Zealand who has been acting in the place of a parent; or
- if there is no person in New Zealand who has been so acting, or if no person of that kind can be found with reasonable diligence or is capable of giving consent, by a District Court Judge or the chief executive.

This can be publicly accessed here:

www.legislation.govt.nz/act/public/2004/0090/latest/DLM317462.html.

Currently there are no proposals to amend the law relating to consent in New Zealand.

I trust this information fulfils your request. Under section 28(3) of the Act you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: info@ombudsman.parliament.nz or by calling 0800 802 602.

Yours sincerely



Phil Knipe
Chief Legal Advisor
Health Legal