

## **Information special medical treatment - for people under 16 years**

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### **Consent of the Tribunal is required**

The Guardianship Tribunal has power under the *Children and Young Persons (Care and Protection) Act 1998* to consent to special medical treatments for people under 16.

Previously this jurisdiction was exercised by the Supreme Court.

The consent of the Guardianship Tribunal must be sought before the following special medical treatments can be given to someone under 16 years of age:

- sterilisation
- vasectomy or tubal occlusion
- any medical treatment used for contraception or menstrual regulation but only if the treatments are prescribed in the *Children and Young Persons (Care and Protection) Regulation 2000*.

These treatments require the consent of the Tribunal because of the age of the person who is proposed to receive the treatment, regardless of whether or not the young person has a disability.

There as yet, are no medications for contraception or menstrual control prescribed in the *Children and Young Persons (Care and Protection) Regulation 2000*.

### **The treatment must be needed to save life or prevent serious damage to health**

Before the Tribunal can consent to the treatment, it must be satisfied that it is necessary to carry out the treatment on the young person in order to:

- **save the young person's life, or**
- **to prevent serious damage to the young person's psychological or physical health.**

### **Urgent treatment**

If the treating medical practitioner is of the opinion that it is necessary, as a matter of urgency, to carry out the special medical treatment on the young person in order to save their life or to prevent serious damage to their health then consent is not required.

In practice the need to carry out these treatments with that degree of urgency is unlikely to arise except in the most exceptional circumstances. The Tribunal can hear applications on a 24 hour basis.

### **Entitlement to legal representation**

The young person is entitled to legal representation at the hearing before the Guardianship Tribunal. This does not mean that legal aid must grant aid to the person.

The Tribunal will appoint a representative where:

- it considers that the person the hearing is about needs to be represented by a lawyer and the person cannot instruct a lawyer,
- the application is for treatment that will render the person permanently infertile, or
- the Tribunal considers the matter raises other issues requiring separate representation for the person.

### **Guardianship Tribunal hearings**

When an application is made for consent to special medical treatment, a Tribunal staff member will discuss preparing for a hearing with those involved.

Relevant views about the application will be heard at the hearing. A decision will then be made as to whether consent will be given.

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Only the Tribunal can consent to special medical treatments when the person cannot give a valid consent to their own treatment. When hearing applications for consent to medical treatment, each Tribunal always consists of three members — a legal member, a professional member, such as a doctor or other professional person, and a community member.

The young person, their close relatives and friends or other people providing care to them should attend the hearing whenever possible and appropriate. The Tribunal will want to speak with the person's treating doctor and other relevant people, either in person or by telephone during the hearing.

People involved, particularly the person's close friends, family and other carers, may want to express their views in writing before the hearing, especially if they are unable to attend.

The Tribunal will try, if possible, to hear cases concerning people who live in country areas in regional centres near them.

### **Views of the young person**

One of the principles of the *Children and Young Persons (Care and Protection) Act 1998* is that when a child or young person is able to form views about a matter affecting their welfare, their views should be taken into account in accordance with their age and developmental capacity.

When the young person is able to indicate or express views, they should attend the hearing whenever possible so that the Tribunal can hear their views directly. Attempts should have been made to explain the proposed treatment and alternatives before the hearing. Information about the person's views about the treatment should be provided to the Tribunal.

### **Other information to be provided**

The Tribunal's staff may also seek reports from the doctor proposing to carry out the treatment or other health professionals about what issues led to the proposal to give special

medical treatment to the young person.

The Tribunal will want to know whether other treatments, education or counselling have been provided to the person and to what extent this has worked to address the issues. For example, the young person may have been referred to FPA Health (previously called Family Planning).

The Tribunal should be provided with any medical reports or assessments about:

- any disability the young person has, if they have a disability
- why the proposed treatment is the recommended treatment for this young person
- the benefits, risks and side effects (if any) of the proposed treatment
- the benefits, risks and side effects (if any) of any alternative treatments
- whether any other treatments have been tried in the past and the outcomes of such treatment
- why the proposed treatment would save the person's life or prevent serious damage to the person's physical or psychological health.

### **Views of others**

The Tribunal will also consider the views of other people closely involved with the person. These will usually include the person's family and those providing support services to the person.

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### **For more information contact**

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