



CHUMS

**Mental Health and
Emotional Wellbeing
Service for Children
and Young People**

Parental Consent Policy

Implementation Date: July 2016

Reviewed: January 2022

Review Date: January 2025

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Introduction

The law around parental responsibility (PR) is focussed on the rights of children, designed to protect their best interests, making a base assumption that every child has the right to a relationship with both parents.

A biological mother automatically has PR for her child. A father has PR if he is married to the child's mother when the child is born or has adopted the child. As of December 2003 unmarried fathers automatically obtain PR if the birth was registered on or after this date and they are named on the birth certificate. A father will also have PR if he enters into a parental responsibility agreement with the mother or has been given this responsibility by order of the court. Living together does not give PR to the father. Unless the couple are married PR does not automatically pass to the natural father if the mother dies unless she has made a Will appointing him sole guardian.

CHUMS Policy

CHUMS will endeavour to include all persons with PR when a referral is made by suggesting, that where parents are separated and both have PR, the primary carer should share information with any other parties who have PR. CHUMS does not hold responsibility for informing all persons with PR that a referral has been made.

If the parent who is not the primary carer does not wish the referral to go ahead they will need to take advice from a solicitor in order to deactivate a referral.

It should be noted that any young person over the age of 16 who is deemed to have good mental capacity can self consent and in most cases those over the age of 14 are able to consent for themselves.

If a child has been placed for adoption, PR will in most cases be held by the adopting parents. However, if the adoption placement has yet to be confirmed a child may be under a 'placement order'. PR at this stage is likely to reside with the Local Authority and consent needs to be gained from the appropriate person. It is also important to check whether the child/young person has a care package as part of the adoption process and whether CHUMS support would be accepted as part of this package.

Safeguarding

It is important that we always take into consideration 'safeguarding children'. With this in mind there will be occasions when it is clear that it is not in the best interests of the child for one parent to contact another with regards a referral, e.g., where there has been recorded domestic or other abuse. All conversations in this regard should be recorded accurately.

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Consent to access clinical notes and confidentiality

Parents do not have an automatic right to view their child's records. Children over the age of twelve are usually considered competent to make a decision regarding giving permission to view records.

Where parents ask for copies of notes all requests need to be made in writing with evidence of who they are and that they have PR. This should include proof of identity and current address with photographic evidence such as a passport or driving licence.

When agreement has been made by the Operational Director that information can be shared, relevant information will be copied or scanned and any third party information removed. Copies should preferably be made onto a disc or memory stick rather than on paper. This process should be completed within 28 days of receipt of the written request.

It is the responsibility of all clinicians to ensure all notes are completed accurately, legibly and in a timely fashion. Each entry should be dated and signed (not initialled) and any paper based chronology sheets must have the child's name and reference number at the top.

Parental Disputes

Disputes between parents can be difficult for everybody involved in the child's care. Health professionals must take care to concern themselves only with the welfare of the child and to avoid being drawn into extraneous matters such as marital disputes. Discussion aimed at reaching consensus should be attempted.

The legal definition of a child is 0 to 18 years of age; however young people may be able to make independent decisions from as young as 12, depending on the circumstances. Section 11 of the Children Act 2004 places a statutory duty on organisations to safeguard and promote the welfare of children. The Victoria Climbié Enquiry Report 2003 (9.104) stresses the importance of knowing the identity of those registering the child and their relationship to that child.

Where parents are separated and one of them applies for access to the medical record, doctors and clinicians are under no obligation to inform the other parent, although they may consider doing so if they believe it to be in the child's best interests. Parents have equal responsibility irrespective of whether the child lives with them unless there is clear guidance from the courts to the contrary.

Acquired parental responsibility

* An **unmarried father** can acquire parental responsibility by;

- applying for and getting a Residence order
- applying to the court for a Parental Responsibility order

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- making a parental responsibility agreement (in a set procedure) with the mother
- being appointed the child's guardian (once the appointment takes effect)
- subsequently marrying the mother of the child.

Step-parents do not acquire parental responsibility on marriage, but they do have a responsibility to safeguard the welfare of any step-children in their care, and are responsible for the maintenance of a step-child where a marriage means the step-child is a "child of the family." (ie a child who has been treated as a member of the family).

A **step-parent** may acquire parental responsibility by:

- obtaining a Residence order
- adopting the child.

Children in long term care, e.g. foster care or residential placement

The local authority will have PR in those circumstances and depending on the circumstances of their care, whether under Section 20 or full care order, professionals will need to liaise with the local authority in terms of consent.

Sharing Information without consent

Information can be shared with other agencies and appropriate health care professionals if it poses a risk to the patient or somebody else. These risks could be physical or mental health risks. It is important when information is being shared without the parent or child informed that it is documented why the information was being shared.

ie. Due to a safeguarding issue or risk of self inflicted injury.

Should you require further advice assistance should be sought from the Data Protection Officer.

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Governance Committee Authorisation

Signature *

Name Print: Dee Hogman

Position/Role: Head of Quality, Interim Chair of Governance Committee

Date: 31st January 2022

Date of Review: January 2025

☐ Authorised signatory must be the chair (or deputising chair) of Governance Committee