



20 September 2021

Consent and COVID-19 vaccinations

When can a child or young person provide consent for their own vaccination??

Young people with sufficient maturity and understanding of their medical situation and the proposed treatment, are legally able to consent to, or refuse treatments, including the COVID-19 vaccines.

Determining when a child is competent to consent to or refuse medical treatment is a complex issue and is an assessment for a medical practitioner.

A child or young person can consent to their COVID-19 vaccination at a state vaccination centre where an experienced immuniser will determine their competency as a mature minor.

The powers of the Secretary* provided for under the *Children, Youth and Families Act 2005* (CYFA) do not displace the ability of a competent child to consent to or refuse the vaccine.

If there is an instance where a child or young person is subject to an order of the Children's Court or in care for their protection, and the treating doctor believes the child's or young person's decision to receive (or decline) the vaccine will place their health at risk, the medical practitioner should be asked to consult child protection.

Consent where the Secretary has parental responsibility or legal custody of a child

Where a child or young person is the subject of a:

- family reunification order;
- care by Secretary order;
- long-term care order;
- therapeutic treatment (placement) order; or
- in the legal custody of the Secretary (under s.483),

on the advice of a registered medical practitioner, Child Protection (case planner) or the CEO of an out-of-home care service (provided the authorisation is current) may consent to COVID-19 vaccination.

Where the permanency objective for the child is family reunification, parents should be engaged to the fullest extent possible and their consent sought before making the decision. Child protection (case planner) can make the decision to provide consent if deemed in the best interests of the child or young person.

In other circumstances parents should be kept informed where this is compatible with the circumstances of the case.

Where out-of-home care services providers make the decision, it is important that there is an appropriate level of consideration. For example, while it may be appropriate for an authorised person within the service provider to make a decision where a child has been with a particular foster carer for five years, the same would not apply where a child is in placement for a short period of time and may have experienced multiple placements.

Consent where a child is placed in out-of-home care as a result of having been placed in emergency care or an Interim Accommodation Order (IAO)

When a child or young person is placed in out-of-home care as a result of having been placed in emergency care or an IAO, parents should be engaged and their consent should be sought.

Where a parent cannot be contacted or refuses to give consent, the CYFA allows for a Child Protection practitioner or CEO of an out-of-home care service (provided the authorisation is current) to provide consent if a registered medical practitioner has advised that the vaccine is necessary to avoid a serious threat to the health of the child.

Involving and informing parents

The Best Interest Case Practice Model requires that professionals work with families in a relationship-based, child-focussed and family-centred way, and that we build partnerships with, and empower children,



Kinship Care in the time of Coronavirus

young people and their families, including through Care Teams. This includes involving parents, and, where appropriate, young people in key decisions relevant to them.

Immunisations and health interventions are some of these key decisions. It is acknowledged that for some people, COVID-19 vaccine hesitancy may influence their decision-making about whether to consent to vaccination for themselves or their children.

Parents should be supported to be involved in considerations and decision-making for their children in relation to COVID-19 vaccinations where possible, unless this is contrary to the child's best interests. Where parents are reluctant to consent, they should be supported to obtain medical advice from a GP, the 24/7 Coronavirus Hotline, or the COVID-19 vaccines website to be as informed as possible. The risks for their children if they are not vaccinated should also be explained to them by a health professional.

In relation to involving parents in medical issues for a child in out-of-home care, including vaccines, as always, the paramount consideration is the best interests of the child. This includes considering and giving the child's views and wishes weight appropriate to the circumstances.

Where a child is in out-of-home care under an interim accommodation order, a family reunification order, or a therapeutic treatment (placement order), child protection has an obligation to, to the fullest extent possible, engage any parent with whom the child is intended to be reunified in case-planning decisions for their child. This means parents would usually be informed, consulted and appropriately involved in any medical treatment as soon as possible, including administration of medication needed by their child.

For children in out-of-home care under any of the protection orders or a therapeutic treatment (placement) order (that is, not under an IAO), child protection has a responsibility to provide information to parents about the child.

However, child protection is not required to provide information to a parent about the child, including the provision of personal information if:

- a child over 12 years does not consent and their refusing consent is considered reasonable;
- it is not in the child's best interests to provide the information; or
- an order dispensing with service of all documents to that parent has been made.

The provision or disclosure of children's health information also needs to be consistent with the health information sharing principles in the *Health Records Act 2001*. For further information see Information Sharing in child protection practice.

Involving and informing parents

Where appropriate consent has been provided for a child to receive the vaccine, it's important to note that at no time is a child or young person to be forced to receive the vaccine.

Carers should discuss with the child their concerns and support them to understand why the vaccine is recommended or has been prescribed. There are a range of materials to assist:

<https://www.health.gov.au/initiatives-and-programs/covid-19-vaccines/getting-vaccinated-for-covid-19/>.

* The Secretary of the Department of Families, Fairness and Housing (DFFH).