

## **Guidance for School Aged Immunisation Services (SAIS) to support the administration and management of vaccination programmes delivered in schools**

### **Support for SAIS teams**

This guidance document will focus on the following to support SAIS teams in the provision of vaccination services to school aged children in a timely manner to ensure protection against vaccine preventable diseases:

- the role of schools
- legislation in place to support the administration of vaccination programmes in England and the sharing of pupil information for the purposes of vaccinations for school aged children.
- delivering vaccinations in schools
- the child's rights to access vaccination services as per the UN Convention (Article 3 and 6)
- application of the Gillick Competency Framework as a robust consent gaining process in exceptional circumstances
- escalation pathways when unable to deliver a commissioned school aged vaccination programme

### **Challenges encountered by SAIS teams**

Occasionally, SAIS teams may encounter some issues with accessing schools, students, or their parents for the purposes of administering school aged vaccinations such as flu vaccinations for primary and secondary school aged children, HPV, Tetanus booster and the Meningitis vaccine.

Issues may include:

- SAIS teams denied access to the school for the delivery of national NHS school aged vaccination programmes.
- School declines to provide SAIS teams with parents' contact details for consent forms to be sent or to facilitate a call between the healthcare professional and the parent.
- School declines SAIS teams access to children for whom no consent form has been returned.
- Schools may be reluctant or decline to allow SAIS teams to undertake an assessment of "Gillick" competency for young people to be able to provide consent for themselves.

## **The role of schools**

The SAIS team will try and keep disruption to a minimum and will only ask schools to do the things that the SAIS team cannot do themselves.

Schools will be asked to:

- work with the SAIS team to agree the best approach for implementing the programme in school
- nominate a named contact for the SAIS team to liaise with
- agree a date(s) for the vaccination session/s
- provide class lists with contact details to the SAIS team

See also [Supporting immunisation programmes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/supporting-immunisation-programmes), where providing a list of eligible children and young people and their parent or carer's contact details to the SAIS team is again listed as a key component by the UK Health Security Agency (UKHSA).

## **The legal context and background**

### **a) Statutory duties and delegations**

The Secretary of State for Health and Social Care has a duty to provide vaccination services, which is set out in section 2A of the National Health Service Act 2006<sup>1</sup> in that the Secretary of State must take such steps as the Secretary of State considers appropriate for the purpose of protecting the public in England from disease or other dangers to health. The steps that may be taken include (c) providing vaccination, immunisation, or screening services.

The Secretary of State has asked NHS England to fulfil this specific responsibility to commission services to vaccinate children and young people in schools<sup>2</sup>. This is documented in the annual NHS public health functions (section 7A) agreement and annex A lists the immunisations to be provided: [NHS public health functions agreement 2022 to 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/nhs-public-health-functions-agreement-2022-to-2023) and [Annex A: services to be provided 2022 to 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/annex-a-services-to-be-provided-2022-to-2023).

### **b) Lawful basis for processing personal data (including confidential patient information)**

The lawful bases identified under the UK General Data Protection Regulation (UK GDPR) for processing personal data in relation to young people's vaccinations are as follows:

- the exercise of official authority;<sup>3</sup>
- provision of healthcare;<sup>4</sup> and

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<sup>1</sup> As inserted by the Health and Social Care Act 2012, section 11

<sup>2</sup> See section 7A National Health Service Act 2006

<sup>3</sup> UK GDPR Article 6(1)(e) - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority

<sup>4</sup> UK GDPR Article 9(2)(h) - processing is necessary for medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems

- public interest in the area of public health.<sup>5</sup>

Section 2A of the National Health Service Act 2006 is the basis in law which provides justification for processing young people's information for vaccinations.

However, as confidential patient information is required to be processed, a legal gateway that sets aside the common law duty of confidentiality (CLDC) is required in addition to the lawful bases detailed above.

To be clear, consent is not the lawful basis under the UK GDPR or the CLDC for processing children's personal data for the purpose of vaccinations.

The CLDC is set aside by The Health Service (Control of Patient Information) Regulations 2002 regulation 3, which states that in relation to communicable disease and other risks to public health, subject to paragraphs (2) and (3) and regulation 7, confidential patient information may be processed with a view to (d) monitoring and managing (iii) the delivery, efficacy, and safety of immunisation programmes.

In addition, regulation 4 – Modifying the obligation of confidence states that anything done by a person that is necessary for the purpose of processing confidential patient information in accordance with these Regulations shall be taken to be lawfully done despite any obligation of confidence owed by that person in respect of it.

### **Delivering vaccinations in schools**

Agreement to be vaccinated is different to sharing information to invite pupils for vaccination. The legislation described above means that schools do not have to obtain the prior consent of children or their parents or guardians to lawfully share personal data from school rolls with SAIS teams providing vaccinations.

In other words, consent is not relied on in order to process children's personal data.

The schools' privacy notices provided to parents and pupils should set out the lawful bases for processing personal data and which other organisations process personal data and why. The sharing of contact details and medical information with the NHS, local authorities and other government bodies including public health agencies (related to the provision of vaccination services) should be covered in such privacy notices.

There are specific roles for schools for example, as stated in the guidance contained in the following link for example: [Flu vaccination programme 2022 to 2023: briefing for primary schools - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/614441/Flu_vaccination_programme_2022_to_2023_briefing_for_primary_schools_-_GOV.UK.pdf):

### **UN convention on the rights of the child and access to vaccinations -** <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

Article 3 – Best interests of the child

Article 6 – Life, survival and development

### **Application of the Gillick Competency Framework**

Where immunisations are routinely offered in the school setting, consent differs depending on the age and competence of the individual child or young person. For secondary school aged children, information leaflets should be available for the young person's own use and

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<sup>5</sup> UK GDPR Article 9(2)(i) - processing is necessary for reasons of public interest in the area of public health

shared with their parents prior to the date that the vaccination is scheduled. Where someone aged 16- or 17-years consents to vaccination, a parent cannot override that consent.

Young people who understand fully what is involved in the proposed procedure (referred to as 'Gillick competent') can also give consent, although ideally their parents will be involved. If a Gillick-competent child consents to treatment, a parent cannot override that consent. If the health professional giving the immunisation felt a child was not Gillick competent then the consent of someone with parental responsibility should be sought. If a person aged 16 or 17 years or a Gillick-competent child refuses treatment that refusal should be accepted.

Schools should allow SAIS teams to use their clinical judgement for the purposes of assessment of "Gillick" competency to allow children who are competent to consent for themselves.

If a parent wishes to complain that their child was vaccinated following an assessment of their Gillick competency, they should contact the SAIS provider to discuss their concerns.

### **Suggested escalation pathways**

- If any issues are not resolved directly with the school, the SAIS team or another senior member of the provider organisation should contact the NHSE Regional Public Health Commissioning Team/ Director of Public Health and the Children's Services lead in the relevant Local Authority to seek their help and support.

If the issues are still not resolved the SAIS team should:

- Record this as an incident: due to factors outside of the control of the SAIS team, children have been left unprotected against serious and potentially life-threatening infections and this is therefore an incident. Ensure this risk is documented in their organisation's risk register.
- Inform the commissioner (NHSE) that this may have implications for them to adhere to contract
- Ensure their organisation, and/or NHSE raise this with ICB colleagues.